

Mayor
ISAIAH SCIPIO
City Council
DANNY ADAMS, Mayor Pro-Tem
ROBERT NEALY
CAMERON RIVERS
FLOYD ROGERS
ALLIE WINTER



Administrator
TIM O'BRIANT
City Clerk
DONNA F. OWEN

City of Pickens

www.cityofpickens.com

AGENDA
CITY COUNCIL MEETING
Monday August 12, 2024
6:00 P.M.
CITY HALL
219 PENDLETON STREET
PICKENS, SOUTH CAROLINA

1. WELCOME AND CALL TO ORDER:
2. INVOCATION AND PLEDGE OF ALLEGIANCE:
3. COMMENTS FROM THE MAYOR:
4. COMMENTS FROM CITIZENS:
5. ADMINISTRATOR'S REPORT:
6. APPROVAL OF MINUTES:
 - A) July 9, 2024, special called meeting
 - B) July 22, 2024, regular council meeting
7. SECOND READING OF ORDINANCE NO. 2024-09 TO AMEND CHAPTER 15.5 (TAXATION) TO INSTITUTE A THREE PERCENT LOCAL ACCOMMODATION TAX:
8. APPROVAL OF INTERIM AGREEMENT BETWEEN GREENVILLE WATER AND THE CITY OF PICKENS:
9. EXECUTIVE SESSION- 30-4-70 (a) (1) – DISCUSSION OF PERSONNEL/APPOINTMENT MATTERS:
10. RECONVENE BACK INTO PUBLIC SESSION:
11. ACTION AS IT RELATES TO EXECUTIVE SESSION:

12. COMMENTS FROM COUNCIL MEMBERS:

13. ADJOURNMENT:



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TO: Mayor and Council
FROM: Tim O'Briant, City Administrator
DATE: July 12, 2024
RE: Administrator's report

Prior year IRS issue resolved

The City Administrator and Finance Director are very pleased to report that we've had news from the IRS that a judgement against the City related to employee withholding from 2020 has been resolved in the City's favor. The IRS had demanded \$212,000 from the City, not including interest, based on what they alleged was underpayment of employee tax withholdings in the 2020 tax year. That huge liability has now been reduced to just \$300 and the City can breath several deep sighs of relief.

With the exception help of CPA David McCallister with Manley-Garvin, the City was able to prove the underpayment was not a significant amount. Many thanks to David for his finew work appealing the original IRS assertion.

The repainting of the historic downtown water tower has been successfully completed, marking a significant milestone in the ongoing efforts to preserve and enhance our city's heritage. In addition, an air raid siren has been installed and will begin sounding each Saturday at noon, reviving a cherished local tradition.

Water Tower Repainting:

- The historic downtown water tower has been fully repainted, restoring it to its original splendor.
- The project not only preserves the structural integrity of the tower but also revitalizes its appearance, maintaining its role as a prominent symbol of our city's history.

Air Raid Siren Replacement:

- As part of our efforts to honor local traditions, an air raid siren has been added to the tower.
- Beginning in the coming weeks, the siren will sound every Saturday at noon, reestablishing a long-held practice that has been a part of our community's identity.

Celebration Event:

- A special event is being planned to celebrate the completion of the water tower repainting and the reinstatement of the air raid siren tradition.
- This event will be an opportunity to recognize and thank all those who contributed to these projects, including city officials, contractors, and community members.
- Details of the event will be shared with the council and the public as soon as they are finalized.

The successful completion of these projects reflects our commitment to preserving the historical character of Pickens while fostering a sense of community pride. The restored water tower and the renewed siren tradition are testaments to our city's rich heritage and our collective efforts to honor it.

**City of Pickens Work Session
Special called meeting.
Tuesday, July 9, 2024
3:00 P.M.**

The Mayor and City Council met in special session at City Hall 219 Pendleton Street, Pickens S.C. Agendas were posted and sent to media on July 3, 2024.

Council Members in attendance:

Mayor, Isaiah Scipio
Council Member, Danny Adams
Council Member, Robert Nealy
Council Member, Cameron Rivers
Council Member, Floyd Rogers
Council Member, Allie Winter

Staff:

Administrator Tim O'Briant
Mandy Hess, Finance Director

CALL TO ORDER AND INVOCATION:

Mayor Scipio called the meeting to order. Council Member Floyd Rogers gave the invocation followed by the Pledge of Allegiance.

CONVENE INTO EXECUTIVE SESSION: 30-4-70 (A) (2) - To Seek Legal Advice and Contractual Matters pertaining to City of Pickens Utilities. And 30-4-70 (A) (1)- Discussion of employment:
>>Motion was made by Council Member Allie Winter, seconded by Council Member Floyd Rogers and unanimously passed.

RECONVENE INTO PUBLIC SESSION:

>>Motion was made by Council Member Floyd Rogers, second by Council Member Robert Nealy and unanimously passed to be reconvened in public session.

ACTION AS IT RELATES TO EXECUTIVE SESSION: NONE

Council Member Danny Adams recused himself from any discussions that pertained to the recent resumes regarding the position of Public Works Director and discussion of employment. Council Member Danny Adams left the council chambers and was not involved in any debate.

COMMENTS FROM COUNCIL: None

ADJOURNMENT:

Hearing no further business, Mayor Scipio called for the motion to adjourn. Motion was made by Council Member Robert Nealy, seconded by Council Member Danny Adams, and unanimously approved to adjourn. Pickens City Council stood adjourned at 6:00 p.m.

Respectfully Submitted:

Donna F. Owen, City Clerk

Approved:

Isaiah Scipio, Mayor

**City of Pickens Regular Meeting
Monday, July 22, 2024
3:00 p.m.**

The Mayor and City Council met in regular session at City Hall 219 Pendleton Street, Pickens S.C. Agendas were posted and sent to media on July 17, 2014. (the time of the meeting was changed due to conflicts of schedules)

Council Members in attendance:

Mayor, Isaiah Scipio
Council Member, Danny Adams
Council Member, Robert Nealy
Council Member, Cameron Rivers
Council Member, Floyd Rogers
Council Member, Allie Winter

Staff:

Administrator Tim O'Briant (Absent, available via phone)
Randal Beach, Chief of Police
Mandy Hess, Finance Director
Jon Morris, Recreation Director
Director CWS, Trey Adams

(The minutes are a synopsis of the meeting, and they are not a verbatim discussion. a full viewing and recording of the meeting is available on the City of Pickens Web-page and Facebook. Also, the full agenda packet with all departmental reports are available in the City Clerk's office).

CALL TO ORDER AND INVOCATION:

Mayor Scipio called the meeting to order. Mayor Scipio gave the invocation followed by the Pledge of Allegiance.

COMMENTS FROM MAYOR:

Mayor Scipio thanked all council members and staff for their service. Mayor Scipio stated he will need to amend the agenda to place "Citizen Comments" as this was left off by mistake.

>>Motion was made by Council Member Allie Winter, seconded by Council Member Floyd Rogers and unanimously passed to amend the agenda.

COMMENTS FROM CITIZENS:

- 1) Pam Winters-Ms. Winters spoke about social media and the harm it can have when individuals post items that are untrue and unkind. Ms. Winters referred to a post that was made about people in Pickens being small-minded and uneducated. Ms. Winters stated she would urge people to be kind and compassionate.
- 2) Zane Clarkson-Mr. Clarkson wanted to know about the agenda item as it relates to the City of Pickens withdrawing from the Joint Water Authority. Mr. Clarkson also asked if the City was influenced by Greenville Water because they have been against the joint water plant. Mr. Clarkson inquired about funds, and communication with Six Mile Water.

>>Mayor Scipio addressed Mr. Clarkson and stated the fact is the City of Pickens cannot afford the debt that will be levied on the utility customers. Mayor Scipio stated Greenville Water did not approach the Council and further stated he, as Mayor he entered conversations with Greenville Water and all information has been communicated with Council. Mayor Scipio stated he has not consulted with any other municipality because his focus is on the City of Pickens.

- 3) Joe Dunn-Mr. Dunn introduced himself as the Chairman of the Six Mile Water Commission and a member of the Joint Water Authority. Mr. Dunn Stated the Resolution to withdraw from the Water Authority is a surprise, the Joint Water Authority has worked hard on this plan for over (5) years. Mr. Dunn stated as far as he knew the project was on schedule for financing to be approved and the design is at completion. Mr. Dunn expressed concern that if Pickens withdraws, the entire project could be in jeopardy. Mr. Dunn requested that the City of Pickens table this issue until all the parties involved could meet and discuss these options moving forward.

ADMINISTRATIVE REPORT: (Administrator O'Briant was absent due to sickness, he joined Council via phone to give the following report)

- CWS- as instructed by Council, Clear Water Solutions was notified on 7/12/24 of the City's cancellation to the contract for outsourced water and sewer utility management. The contract will end on 11/8/2024. Mr. O'Briant stated that CWS would like to accelerate the management of the water distribution, and that will likely be under City jurisdiction by mid-August. (see full memorandum in agenda packet)
- Water Tower Project – Mr. O'Briant updated Council on the water tower repainting and stated completion should be in the next few weeks.

PRESENTATION FROM GREENE FINNEY, REGARDING THE FY/2022 AUDIT REPORT:

Mayor Scipio stated that Greene Finney is not present, they have requested to be in attendance by 4:00 p.m.

>>Motion was made by Council Member Floyd Rogers, seconded by Council Member Danny Adams to amend the agenda and expect the presentation by 4:00 p.m.

>Ben Owen with Greene Finney Cauley, LLP presented the FY/2022 Audit and gave each Council Member and the Mayor a full 59-page report.

(the full Audit can be viewed by the public, and a copy is available in the Clerk's office)

The summary was:

- Unmodified opinion on the financial statements from Greene Finney Cauley, LLP (this is a best opinion, as the financial statements were found in good order)
- City Staff were good to work with.
- Reasonable financial condition as of June 30, 2022

>>Council asked questions about our accounting practices. Mr. Owens stated in smaller municipalities it is important to have more oversight with internal controls.

APPROVAL OF MINUTES:

- A) June 10, 2024
- B) June 24, 2024

>>Motion was made by Council Member Robert Nealy, seconded by Council Member Allie Winter and unanimously passed to approve the minutes of June 10, and June 24, 2024.

A RESOLUTION (NO. 2024-R8) OF THE CITY COUNCIL OF THE CITY OF PICKENS AUTHORIZING AND NOTICING THE CITY OF PICKENS' WITHDRAWAL FROM THE JOINT AUTHORITY WATER AND SEWER SYSTEM UNDER TITLE 6, CHAPTER 25, SECTION 70 OF THE CODE OF LAWS OF SOUTH CAROLINA 1976, AS AMENDED, AND MATTERS RELATED THERETO:

>>Motion was made by Council Member Allie Winter and seconded by Council Member Cameron Rivers to approve Resolution No. 2024-R8.

>>Council Member Floyd Rogers stated he had many concerns about this resolution. He stated that his beliefs concerning the law and ethics leads him to want to understand and negotiate in fairness and respect. Mr. Rogers stated this was a contract that was entered into with others, and before the City withdraws, he would like to hear from everyone involved with this contract. Mr. Rogers stated that what the Mayor said was correct, the City is burdened with debt that is being created within this contract. Council Member Floyd Rogers further made a motion to table this resolution for a month in order to speak with all involved. The motion failed due to lack of a second.

>>Council Member Cameron Rivers stated he felt as a council this item had been addressed several times, we have spoken to attorneys, and Mr. Rivers said he has come in and talked to the administrator numerous times about this issue.

>>Mayor Scipio called for the question. Motion carried 5-1 with Floyd Rogers opposing.

APPROVAL OF ADDENDUM TO EMPLOYER RESOLUTION FOR PARTICIPATION IN THE STATE INSURANCE BENEFITS PROGRAM REGARDING COUNTY/MUNICIPALITY COUNCIL MEMBER COVERAGE:

>>Motion was made by Council Member Floyd Rogers, seconded by Council Member Allie Winter and unanimously passed to extend benefits to elected officials.

SECOND READING OF ORDINANCE NO. 2024-06, TO AMEND CHAPTER 14 SOLID WASTE, SECTION 14-4, GARBAGE CONTAINERS, AND 14-10, SEPARATE FEE FOR COMMERCIAL AND RESIDENTIAL TRASH COLLECTED FROM DUMPSTER AND ADDING SECTION 14-11. MANDATING SOLID WASTE FOR INSIDE CITY WATER ACCOUNTS:

>>Motion was made by Council Member Danny Adams, seconded by Council Member Floyd Rogers and unanimously passed that this constitutes a second and final reading of Ordinance No. 2024-06.

FIRST READING OF ORDINANCE NO. 2024-09 TO AMEND CHAPTER 15.5 (TAXATION) TO INSTITUTE A THREE PERCENT LOCAL ACCOMMODATION TAX:

>>Motion was made by Council Member Floyd Rogers, seconded by Council Member Danny Adams and unanimously passed. This constitutes first Reading of Ord. 2024-09.

COMMENTS FROM COUNCIL:

Council Member Floyd Rogers – Mr. Rogers reiterated his thoughts about the Joint Water Authority. He stated that Council has executive session and discusses items like this, however, he cannot discuss those sessions publicly. Also, Council cannot meet as a group for discussion unless it is a public meeting. Mr. Rogers stated he is conflicted about the process for making these extremely important decisions.

Council Member Robert Nealy -Mr. Nealy questioned why there was a job opening in the City for a Utility Clerk. Mr. O'Briant stated that during the decision to no longer contract with CWS, that we would need additional staff for purchasing and accounts receivable/payable. Mr. O'Briant further stated there would be transition from CWS staff to City staff, and a budget amendment would be forthcoming. Mr. Nealy stated the City had always had water, distribution, and wastewater in-house with the same number of staff. He further stated the census has shown a decline in population.

Mayor Scipio read into record the following statement:

Today, we stand at a crossroads, faced with a critical decision that will shape the future of our community and our access to one of our most precious resources—water. The choice before us is clear: do we continue our commitment to the Pickens Joint Regional Water System and bear the financial burden of a \$100 million construction project, or do we seize the opportunity to buy into the Greenville Water System for a significantly lower cost? Do we act now and get Keowee water flowing through our taps by the end of this years, or do we wait 4 to 5 years for a new plant to come online?

Let's break this down in a way that leaves no room for doubt. Our share of costs for constructing and operating the new water plant with the regional group over the next 20 years would be an eye-watering \$43 million. In contrast, buying into Greenville Water comes at a far more manageable \$17 million over that same time frame. This stark difference is not just a matter of a few dollars; it's a difference of 153%. That's right, the cost with the regional group is more than 2.5 times more than the cost of joining Greenville Water.

Now, we must ask ourselves: what are we getting for that extra 153%? More debt, higher taxes, far higher water rates for our customers and a heavier financial burden on our citizens. This is not the kind of legacy we want to leave for our children and grandchildren. They deserve a future where our city is financially stable and prosperous, not one shackled by unnecessary debt.

By choosing the more economical option, we are not just saving money. We are investing in our future. Greenville Water is a proven provider, known for its reliability and quality. We can ensure that our citizens have access to clean, safe, and affordable water without the excessive cost of constructing a new plant ... and we can do it quickly.

My friends, this is about more than just numbers. It's about making the right choice for our community, our families, and our future. Let's take the prudent path, the path that ensures a better tomorrow for Pickens. Let us withdraw from the Pickens Joint Regional Water System and embrace a brighter, more financially secure future with Greenville Water.

>>During discussion, Mayor Scipio stated he wanted to make the statement to be clear, and he believes this is the best for the Citizens of Pickens. Council Member Floyd Rogers stated he is of the opinion that it would be better to wait 30 days in order to discuss the issue further. Mr. Rogers also stated he thought that hiring an attorney so the contract can be resolved rather than breached is more economical for the tax payers.

ADJOURNMENT:

>>Motion was made by Council Member Robert Nealy, seconded by Council Member Floyd Rogers and unanimously passed. Pickens City Council stood adjourned at 4:24 p.m.

Respectfully Submitted:

Approved:

Donna Owen, City Clerk

Isaiah Scipio, Mayor

PICKENS CITY ORDINANCE 2024-09

**AN ORDINANCE TO AMEND CHAPTER 15.5 (TAXATION) TO INSTITUTE A
THREE PERCENT LOCAL ACCOMMODATIONS TAX**

WHEREAS, the City of Pickens is authorized by S.C. Code §6-1-520 *et seq.* to impose a local accommodations tax by ordinance by a positive majority vote; and,

WHEREAS, the City of Pickens supports and encourages tourism in the City by budgeting city funds for operational costs and capital improvements to its infrastructure, as well as increased police and fire protection. By way of its ad valorem taxation, the city residents bear these operational and capital costs of service made necessary, in part, by visitors to the City's visitors; and,

WHEREAS, the City Council finds and determines that the cost of providing services should be apportioned more equitably between the resident taxpayers and those who visit our City and enjoy the City's programs, events, and municipal services.

NOW, THEREFORE, be it ordained by the Mayor and Council of the City of Pickens, South Carolina, that Chapter 15.5 (TAXATION) of the City of Pickens Code of Ordinances be amended to include Article III (Local Accommodations Tax) as follows:

Section 1.

Sec. 15.5-26. Authority.

The local accommodations tax is enacted pursuant to S.C. Code §§ 6-1-500 through 6-1-570, which provides in part that the city council may impose, by ordinance, a local accommodations tax, not to exceed three percent.

Sec. 15.5-27. Purpose and intent.

(a) This local accommodations tax is enacted to preserve the general health, safety, and welfare of the general public within the city and to specifically improve and increase tourism-related activities and facilities and to enhance the quality of life in the city for its citizens and its visitors. The revenue generated by the local accommodations tax must be used exclusively for the following purposes:

- (1) Tourism-related buildings, including, but not limited to, civic centers, coliscums, and aquariums;
- (2) Cultural, recreational, or historic facilities;
- (3) Highways, roads, streets, and bridges providing access to tourist destinations;
- (4) Advertisements and promotions related to tourism development; or
- (5) Water and sewer infrastructure to serve tourism-related demand; or,
- (6) development of workforce housing, which must include programs to promote home ownership.

(b) More specifically, the revenue generated by this tax shall be used for the construction of the improvements of tourism-related facilities, the continuing beautification of the city and the promotion of tourism.

Sec. 15.5-28. Imposition of tax.

A uniform tax equal to three percent is hereby imposed on the gross proceeds derived from the rental or charges for accommodations furnished to transients as provided in S.C. Code 1976, § 12-36-920(a), and is imposed on every person engaged in the business of furnishing accommodations to transients for consideration within the city. Included are gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, short term rental, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration. For purposes of this ordinance, a short-term rental is defined as a residential dwelling that is offered for rent for a fee and for fewer than twenty-nine consecutive days.

Sec. 15.5-28. Accounting for tax in separate fund.

All proceeds derived from the local accommodations tax must be kept in a separate fund segregated from the city general fund. This fund shall be known as the "local accommodations taxes fund." All interest generated by the local accommodations tax must be credited to the local accommodations taxes fund.

Sec. 15.5-29. Payment of tax.

Payment of the local accommodations tax shall be the responsibility of the consumer of the services described in this article. This tax shall be paid at the time of the delivery of the services or items to which the tax applies and shall be collected by the provider or seller of the service or item.

Sec. 15.5-30. Remittance to city.

The taxes collected by the seller or provider of the services or items as required in section 15.5-29 shall be remitted to the city business license administrator as set forth in this article along with such return or form as may be established by the city business license administrator for such purpose. When the established amount of average tax is more than \$50.00 per month, that seller or provider shall remit the amount due on a monthly basis. When the estimated amount of average tax is \$25.00 to \$50.00 per month, that seller or provider shall remit on a quarterly basis. When the estimated amount is less than \$25.00 per month, that seller or provider shall remit on an annual basis.

Sec. 15.5-31. Payment due dates.

Taxes and required reports shall be submitted to the city business license administrator by the 20th day of the month following the due date of the tax payment and shall cover sales of the previous month, quarter, and/or year depending on the seller's monthly average tax. Any taxes not timely remitted shall be subject to a penalty of five percent of the unpaid tax for each month or portion thereof after the due date until paid. The failure to collect from patrons the tax imposed by

this article shall not relieve any establishment subject to this article from making the required remittance.

Sec. 15.5-32. Suspension or revocation of business licenses for evasion of payment

If the city shall find that any person has willfully avoided payment of the fees imposed by this division, the city may suspend or revoke all city licenses held by such business in accordance with Chapter 9, Article II, pertaining to business licenses.

Sec. 15.5-33. Penalties for violations.

Any person violating any provision of this article, or by knowingly providing false information on any form or return submitted to the City, shall be deemed guilty of an offense and shall be subject to punishment under this Code upon conviction. Each day of violation shall be considered a separate offense. Punishment for a violation of this article shall not relieve the offender of liability for delinquent taxes, penalties, and costs provided for in this article.

Secs. 15.5.34-60. Reserved.

Section 2: Severability. Severability is intended throughout and within the provisions of this Ordinance. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

Section 3: This Ordinance shall be effective upon second and final reading.

CITY OF PICKENS, SOUTH CAROLINA

Isaiah Scipio, Mayor

ATTEST:

Donna Owen, Municipal Clerk

First Reading: July 22, 2024

Second and Final Reading: _____, 2024

Approved as to Form:

Daniel Hughes, City Attorney



Mayor
ISIAH SCIPIO

City Council
DANNY ADAMS, Mayor Pro-Tem
ROBERT NEALY
CAMERON RIVERS
FLOYD ROGERS
ALLIE WINTER

City of Pickens

www.cityofpickens.com

Administrator
Tim O'Briant
City Clerk
DONNA F. OWEN

TO: Mayor and Council

FROM: Tim O'Briant, City Administrator

DATE: July 12, 2024

RE: Summary of MPU between Greenville Water and the City of Pickens

Overview: A Memorandum of Understanding (MOU) has been negotiated between Greenville Water (GW) and the City of Pickens. This MOU outlines the temporary arrangement for water provision to the City while a long-term Water Capacity and Supply Agreement ("Buy-in Agreement") is being finalized. Below is a summary of the key provisions for Council consideration and approval:

1. Provided Capacity:

- GW will allocate 2.0 million gallons of water per day to the City.
- No infrastructure exclusively benefiting the City will be installed until the Buy-in Agreement is fully executed.

2. Consideration:

- The City will pay GW a base charge of \$372.36 per month plus \$0.92 per thousand gallons of water.
- If water usage exceeds the allocated capacity, the City will be charged \$1.83 per thousand gallons. This is still a discount below GW's wholesale rate of \$2.43.

3. Term:

- The MOU will expire either after six months or upon the finalization of the Buy-in Agreement, whichever comes first.
- GW may extend this period at its discretion.

4. Termination:

- Either party may terminate the MOU with or without cause, given 30 days' written notice.

5. Supply After Expiration or Termination:

- If the MOU expires without finalizing the Buy-in Agreement, GW will charge \$2.43 per thousand gallons of water.
- The City will also pay GW an additional \$1.51 per thousand gallons for water supplied during the MOU term.
- If the City is legally restrained from finalizing the long-term agreement, the MOU terms will remain until the issue is resolved.

6. Payment Terms:

- Payments are due within 30 days of the invoice date.
- Late payments are subject to a 10% annual interest rate, plus associated costs.

7. Notices:

- Notices must be delivered by hand or certified/registered mail to the specified addresses of each party.

8. Governing Law:

- The MOU is governed by the laws of the State of South Carolina.

Conclusion: This MOU ensures that the City of Pickens will be able to receive high quality water at a new low rate water during the interim period while the long-term Buy-in Agreement is being negotiated. It will allow the City to switch to high quality Pickens County-derived water from Lake Keowee in the very near term instead of years into the future. The terms set forth in the MOU are designed to protect both parties' interests and ensure the uninterrupted supply of water to the City's residents.

**MEMORANDUM OF UNDERSTANDING BETWEEN
GREENVILLE WATER AND THE CITY OF PICKENS**

This Memorandum of Understanding (“Memorandum”) made as of this ___ day of July, 2024, by and among the **BOARD OF COMMISSIONERS OF PUBLIC WORKS OF THE CITY OF GREENVILLE**, doing business as **GREENVILLE WATER (“GW”)**, and the **CITY OF PICKENS, SOUTH CAROLINA (“City,”** and together with GW, the “Parties”).

WHEREAS, GW is a Board of Commissioners of Public Works established August 1, 1918, pursuant to a referendum conducted by the City of Greenville, a municipal corporation of the State of South Carolina, chartered on December 18, 1831, located in Greenville County, South Carolina and, as such, possesses all powers granted by the Constitution and statutes of the State of South Carolina to boards of commissioners of public works;

WHEREAS, pursuant to the applicable provisions of law, GW operates a water system which provides water service both within and without the incorporated limits of the City of Greenville to a population in excess of 450,000 people;

WHEREAS, the City is a political subdivision and municipal corporation existing under S.C. Const. art. XIII and Title 5 of the Code of Laws of South Carolina;

WHEREAS, pursuant to the applicable provisions of law, the City has been acquiring water for distribution within its corporate limits from the Pickens Regional Joint Water System (“Joint System”);

WHEREAS, the City has withdrawn from the Joint System and wishes to purchase water capacity from GW under a Water Capacity and Supply Agreement (“Buy-in Agreement”); and

WHEREAS, the City and GW wish to enter into this Memorandum to provide for the provision of water to the City while the terms of the Buy-in Agreement are determined.

NOW, THEREFORE, it is agreed by and between the Parties that it is in the best interest of GW and the City to enter into this Memorandum to allow the City to continue providing water within its corporate limits while the Buy-in Agreement is finalized under the terms below.

1. **Provided Capacity.** GW will allocate 2.0 million gallons per day of water (“Allocated Capacity”) to the City. However, GW will not install any infrastructure which solely benefits the City until both parties have fully executed the Buy-in Agreement.

2. **Consideration.** The City will make monthly payments to GW in the amount of \$372.36 per month plus \$0.92 per thousand gallons of water supplied to the City’s system. Any supply over the Allocated Capacity during any 24-hour period will be charged at \$1.83 per thousand gallons. Any additional meters for water supply under this Memorandum will increase the base monthly charge. GW will provide the City 10 days’ notice of any increase to the base monthly charge.

3. **Term.** This Memorandum shall expire at the earlier of six months or the final execution of the Buy-in Agreement. GW may extend this period in its sole and absolute discretion.

4. **Termination.** Either party may terminate this Memorandum with or without cause upon 30 days' written notice to the other party.

5. **Supply After Expiration or Termination.** If this Memorandum terminates without the parties fully executing the Buy-in Agreement, GW will charge the City the wholesale rate of \$2.43 per thousand gallons of water going forward. In that event, the City shall also pay to GW an amount equal to \$1.51 per thousand gallons of water supplied during the term of this Memorandum, which represents the difference between the rate per gallon stated in Section 2 and the wholesale rate.

6. **Payment Date.** Payment under Sections 2 or 5 of this Memorandum shall be made to GW within 30 days of the invoice date. In the event that the City fails to make any monetary payment required by this Memorandum after 10 days from the date of written notice to the City of such failure, GW may institute such action as may be necessary to enforce payment of such amounts, including interest on past due amounts, from the date such amount becomes due until paid in full at a default interest rate of 10% per annum, plus all bank charges and attorney and other professional fees incurred by GW as a result thereof.

7. **Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given as follows: (i) on the date of delivery when hand-delivered to the parties named below; or (ii) three (3) days following the date when mailed by certified or registered mail, postage prepaid, and addressed as follows:

If to GW:

Chief Executive Officer
Greenville Water
P. O. Box 687
Greenville, South Carolina 29602

If to the City:

8. **Governing Law.** This Memorandum is prepared and entered into with the intention that the law of the State of South Carolina shall govern its construction.

9. **Captions.** The Section headings of this Agreement are inserted for convenience only and shall not constitute a part of this Agreement in construing or interpreting any provisions hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum to be signed in their names by their duly authorized officers as of the date first written above.

GREENVILLE WATER

WITNESS/ATTEST:

By:
Its: Chief Executive Officer

CITY OF PICKENS

By:
Its: