

**Mayor**  
ISAIAH SCIPIO  
**City Council**  
CAMERON RIVERS, MAYOR PRO-TEM  
ALLIE WINTER  
FLOYD ROGERS



**Administrator**  
TIM O'BRIANT  
**City Clerk**  
DONNA OWEN

**Public Forum**

**Hagood Community Center "Senior Center"**

**129 Schoolhouse Street**

**Pickens, SC 29671**

**September 16, 2024, 6:00 P.M.**

**THIS IS A PUBLIC FORUM REGARDING WATER QUALITY IMPROVEMENT PLAN:**

- 1. WELCOME, INVOCATION AND PLEDGE OF ALLEGIANCE.**
- 2. VIDEO PRESENTATION OUTLINING IMPROVEMENTS UNDERWAY AND IN THE NEAR FUTURE.**
- 3. UPDATE ON DETAILS OF THE TRANSITION TO LAKE KEOWEE WATER SOURCE. PROVIDED UNDER THE AGREEMENT WITH GREENVILLE WATER.**
- 4. COMMUNITY DISCUSSION.**

**Question related to the PJRWS will not be addressed during the public forum. The summary below and copy of the Council withdrawal resolution will serve as the City's sole comment of the PJRWS issue. The forum will focus on the City's chosen path to improve water quality and service to residents quickly and affordably.**

There is the potential for litigation related to the City's withdrawal from the Pickens Joint Regional Water System. Beyond this summary of the reasons stated in the withdrawal resolution passed July 22, making it part of the public record, Council will not participate in further public discussion of the issue. This prohibition is meant to avoid any jeopardy to the City's case if any legal action takes place.

### **Summary of Resolution No. 2024-R8**

Resolution No. 2024-R8 by the City Council of Pickens authorizes the city's withdrawal from the Pickens Regional Joint Water System. Based on legal advice and the City's opinion that the PJRWS faces long odds against being able to actually permit and complete construction of the planned duplicative water treatment facility on Lake Keowee, City Council feels it has a very strong case supporting the decision to withdraw.

Here are the key reasons outlined in the resolution:

1. **Formation and Purpose of the Joint System:** The Joint System was established on October 7, 2019, by Pickens and several other water entities to develop and manage water infrastructure. Liberty joined later on December 29, 2021.
2. **Project Participation Agreement:** The agreement, executed on January 11, 2022, outlined the development of a water treatment plant and associated facilities. It required obtaining various permits, including environmental and water withdrawal permits.
3. **Failure to Obtain Permits:** As of the resolution date, the Joint System had not secured critical permits from Duke, the Federal Energy Regulatory Commission, or the South Carolina Department of Environmental Services. This delay has impeded the progress of the project.
4. **Contractual Obligations and Financial Issues:** The Project Participation Agreement stipulated that bonds could only be issued after securing a fixed-price contract for construction, which had not been achieved.
5. **City Council Decision:** The Council determined that remaining in the Joint System no longer serves the best interests of the city and its residents due to these delays and contractual issues.
6. **Authorized Withdrawal:** The resolution authorizes the City Council to formally notify the Joint System of the city's immediate withdrawal and manage any related finalization tasks, including settling outstanding financial obligations. (Estimated to be as much as \$4 Million)

The resolution underscores the City Council's decision to exit the Joint System due to unmet requirements, budget overruns, and project delays, with immediate effect upon notification.

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**A RESOLUTION 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**

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Resolution Approving, Authorizing, and Noticing  
the Withdrawal of the City of Pickens from  
the Joint System

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**RESOLUTION NO. 2024-R8**

Incident to the adoption of this resolution (this ***“Resolution”***) by the City Council of the City of Pickens (the ***“Council”***), the governing body of the City of Pickens, South Carolina (the ***“City”***) finds the facts set forth in this Article exist, and the statements made with respect thereto are in all respects true and correct.

**Section 1 Findings.** The Council makes the following findings of fact in connection with the enactment of the Resolution:

(a) The City is a political subdivision of the State of South Carolina, and is authorized to provide water service pursuant to Article VIII, § 16 of the Constitution of the State of South Carolina, a referendum authorizing such service, and Title 5, Chapter 31 of the Code of Laws of South Carolina 1976, as amended.

(b) On October 7, 2019, the City, the Easley-Central Water District, the Pickens County Water Authority, and the Six Mile Rural Community Water District (each an ***“Initial Member”*** and collectively the ***“Initial Members”***), incorporated the Pickens Regional Joint Water System (the ***“Joint System”***) pursuant to Title 6, Chapter 25 of the Code of Laws of South Carolina 1976, as amended (the ***“Act”***) for the purpose of planning, financing, developing, constructing, acquiring, improving, enlarging, selling, leasing, maintaining and operating water facilities within the service areas of such entities. On December 29, 2021, the City of Liberty, South Carolina (***“Liberty”***) joined the Initial Members (together Liberty and the Initial Members are the ***“Members”*** collectively and singularly the ***“Member”***) and became a Member of the Joint System.

(c) Pursuant to Title 6, Chapter 25, Section 128 of the Act, the Joint System and the Members were authorized to enter into limited contracts concerning the sale or purchase of capacity and output from a project based on certain conditions.

(d) On November 1, 2021, the Council enacted Ordinance No. 2021-17 approving the execution of a project participation agreement pursuant to Section 6-25-128 of the Act and made the required statutory findings (the ***“Approving Ordinance”***). The Approving Ordinance approved the project participation agreement and authorized the Chairman of the Council to execute the agreement on behalf of the City.

(e) On January 11, 2022, the Members and the Joint System entered into that certain Project Participation Agreement (the ***“Project Participation Agreement”***) and the Council found that such Project Participation Agreement ratified the Project Participation Agreement as executed.

(f) On August 15, 2022, the Council approved and ratified an ordinance to accept amendments to the Project Participation Agreement. Terms with initial capitals used herein and not otherwise defined have the meaning given such term in the amended Project Participation

Agreement, as amended and ratified, unless context clearly requires otherwise.

(g) Through the Project Participation Agreement, the Members sought to (i) develop and construct a water treatment plant on Lake Keowee; and, (ii) construct water transmission and storage facilities in Pickens County, South Carolina to connect with existing Members' systems (the "**Project**"). To accomplish the Project, the Project Participation Agreement required the Joint System to obtain certain financing and obtain initial Project permits. Such "**Initial Permits**" includes the following items:

- (1) Preliminary engineering report in compliance with Duke and USDA (if applicable) requirements as certified by the Engineer;
- (2) Environmental report in compliance with Duke and USDA (if applicable) requirements as certified by the Engineer;
- (3) All Duke agreements, permits, permissions, and licenses necessary for the Project;
- (4) All Federal Energy Regulatory Commission agreements, permits, permissions, and licenses necessary for the Project;
- (5) Surface water withdrawal permit issued by [South Carolina Department of Environmental Services]; and
- (6) Jar testing and pilot study.

(h) Despite having authorization since on or about January 11, 2022, the Council has determined that the Joint System has not obtained the Initial Permits items listed in Section 1(g)(3-5) as of the date of this Resolution.

(i) The Project Participation Agreement requires that the "Joint System . . . will obtain sufficient rights to withdraw water from Lake Keowee before commencing the Construction Phase of the Plant Project." As indicated by the Project Participation Agreement, pursuant to Title 49, Article 4, Section 1 *et seq.* of the South Carolina Code of Laws (the "**Surface Water Withdrawal, Permitting, Use, and Reporting Act**"), the Joint System is required to obtain the right, through permits, to withdraw water from Lake Keowee.

(j) The Council has determined that the Joint System has not yet obtained the rights required in Project Participation Agreement Article II, Section 1.01 (3) through (5) and/or Section 2.02. Nor have permits been obtained from the South Carolina Department of Environmental Services as required under Surface Water Withdrawal, Permitting, Use, and Reporting Act.

(k) Without obtaining the requisite permits from Duke, Federal Energy Regulatory Commission, and/or the South Carolina Department of Environmental Services, Construction Phase activities are stymied, preventing the Project from progressing, considering the express requirements in the Project Participation Agreement referenced *supra* as well as Article III, Section 3.01(d) of the same, which states in relevant part that "[t]he obligations of the Joint System hereunder are conditioned upon its securing and retaining all necessary rights-of-way, franchise, and permits for the delivery of such Potable Water."

(l) The Council has further determined that: (i) Bonds in furtherance of the

Construction Phase of the Project may only be issued, pursuant to the Project Participation Agreement in Article III, Section 3.09(c)(ii), after such time as a Fixed-Price Contract for the Project has been entered into; and (ii) that the Joint System has not obtained such Fixed-Price Contract as of the date of this Resolution.

(m) After due investigation and consideration, the Council has determined that it is no longer in the best interests of the City, its citizens, and its customers to remain a Member of the Joint System.

(n) Pursuant to Title 6, Chapter 25, Section 70(B) of the Act, the Council provides authorized notice to the Joint System of the City's intent to withdraw its status as a Member of the Joint System, effective immediately upon notice of the Joint System and its Members.

### **Section 2 Specific Findings and Approvals.**

(a) The Council hereby finds that it is no longer in the best interests of the City, its citizens, and/or its customers and residents located within its service area to participate in the Project by participating as a Member of the Joint System and continuing under terms of the Project Participation Agreement, as so amended and adopted.

(b) Pursuant to Title 6, Chapter 25, Section 70(B) of the Act, the Council provides authorized notice to the Joint System of the City's intent to withdraw its status as a member of the Joint System.

**Section 3 Authorization of the Mayor.** The Mayor of the City is herein authorized to provide notice of the City's immediate withdrawal from the Joint System and to conduct such acts as he shall deem reasonably necessary to conclude, windup, and/or otherwise finalize such withdrawal under the Act, including without limitation, causing notice to be provided to the Secretary of State of the City's withdrawal as a Member and causing to be satisfied any outstanding payment obligations to the Joint System under the terms of the Project Participation Agreement as may be determined to be due and owing.

**Section 4 General Repealer, Severability.** To the extent any provision of a prior ordinance or resolution conflicts with any provision hereof of the Resolution, such provision is repealed and the provision or provisions of this Resolution shall control and be of force and effect. To the extent any portion of this Resolution shall be made inoperable in case any one or more of the provisions of this Resolution shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution, but this Resolution shall be construed and enforced as if such illegal or invalid provisions had not been contained therein.

**Section 5 Effective Date.** The provisions of this Resolution shall be effective immediately upon its adoption.

**NOW THEREFORE BE IT RESOLVED IN MEETING DULY ASSEMBLED** by the City Council of the City of Pickens, South Carolina, this 22 day of July 2024.

# *The State of South Carolina*



## *Office of Secretary of State Mark Hammond*

### **AMENDED CORPORATE CERTIFICATE Pickens Regional Joint Water System**

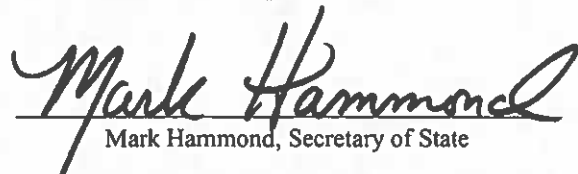
**WHEREAS**, on October 7, 2019, the Pickens Regional Joint Water System was duly incorporated as a public body corporate and politic under the Joint Authority Water and Sewer Systems Act, S.C. Code of Laws Section 6-25-5 et seq.; and

**WHEREAS**, the governing body of the City of Pickens has withdrawn its membership in the Pickens Regional Joint Water System, and has adopted a resolution or ordinance approving such withdrawal, as provided under S.C. Code of Laws Section 6-25-70; and

**WHEREAS**, on August 26, 2024, the City of Pickens filed the notice of its withdrawal from the membership of the Pickens Regional Joint Water System with the Secretary of State pursuant to S.C. Code of Laws Section 6-25-70;

**NOW**, therefore, I, Mark Hammond, Secretary of State of South Carolina, do hereby certify that the City of Pickens has withdrawn from the membership of the Pickens Regional Joint Water System. The voting members of the Pickens Regional Joint Water System now include Easley Central Water District, Pickens County Water Authority, Six Mile Rural Community Water District, and City of Liberty.

Given under my Hand and the Great  
Seal of the State of South Carolina this  
Twelfth day of September, 2024.

  
Mark Hammond, Secretary of State