

RESOLUTION NO.: R-2019-105

Authorizing the City Manager to execute a Maintenance and Security Agreement between Richland County and the City of Columbia for Gills Creek Section A Greenway

ORIGINAL
STAMPED IN RED

BE IT RESOLVED by the Mayor and City Council this 3rd day of December, 2019, that the City Manager is authorized to execute the attached Maintenance and Security Agreement, or in a form to be approved by the City Attorney, between a Maintenance and Security Agreement between Richland County and the City of Columbia for Gills Creek Section A Greenway for the terms and conditions therein contained.

Requested by:

Assistant City Manager Gentry



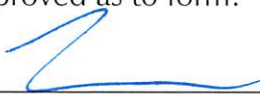
Mayor

Approved by:



City Manager

Approved as to form:



City Attorney

ATTEST:



City Clerk

Introduced: 12/3/2019

Final Reading: 12/3/2019

**MAINTENANCE AND SECURITY AGREEMENT BETWEEN RICHLAND COUNTY AND THE CITY OF
COLUMBIA FOR GILLS CREEK SECTION GREENWAY**

THIS AGREEMENT, entered into by and between the City of Columbia ("City"), a political subdivision of the State of South Carolina and Richland County ("Richland"), a political subdivision of the State of South Carolina, organized and existing under and by virtue of the laws of the State of South Carolina, collectively the "Parties."

WHEREAS, Richland intends to construct the Gills Creek Greenway Section A from the intersection of Fort Jackson Boulevard and Crowson Road to a point south or as far as funds allow for approximately 2 miles in Columbia, South Carolina ("Greenway"); and,

WHEREAS, the Parties desire to enter into this Maintenance and Security Agreement in order to allocate the respective long-term maintenance and security responsibilities for the designated items and areas between Richland and the City as specified in this Agreement;

NOW THEREFORE, in consideration of the mutual covenants provided herein, and other good and valuable consideration, the receipt of which is hereby acknowledged:

1. The Greenway.

Richland shall have designed and constructed the Greenway. The current proposed Greenway plan, which is subject to change, will adhere to the City of Columbia Engineering Standards for Trail System. Richland will secure and provide compensation for all property rights (i.e. deeds, easements, and rights-of-way) necessary for construction and maintenance of the Greenway. Said property rights will be conveyed to the City at the completion of Greenway construction upon the City's acceptance of the project. Such acceptance shall not be unreasonably withheld. The City will require the project comply with all applicable Codes. Richland will also provide all final as-built plans delineating changes to the project during construction for future use by the City. The Greenway with the following: The parties agree that in no event will the proposed Greenway alignment include any connection to the Hampton Estates neighborhood, nor will the Greenway alignment be located in whole or in part in the Hampton Estates neighborhood, with the entirety of the system germane on the west bank.

2. The City's Responsibilities.

a. City agrees to operate those portions of the Facilities and Greenway as are in the City limits in a non-discriminatory manner with regards to race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, gender identity, or on the basis of disability. The City further agrees to operate and maintain those portions of the Facilities and Greenway in the City limits in a safe and usable manner for their intended purposes throughout the term of this agreement. The City further agrees to provide sufficient and appropriate police patrol of the Greenway as a part of its normal police functions within the City, so long as the Greenway exists and is within the municipal limits of the City.

b. The City agrees to the following specific maintenance responsibilities for those locations within the City limits for the Greenway throughout the term of the agreement:

- i. Boardwalks: City will maintain all boardwalks that may be part of the Greenway. This responsibility includes maintaining the appearance and integrity of the boardwalks.
- ii. Retaining walls: City will maintain all retaining walls that may be part of the Greenway. This responsibility includes maintaining the appearance and integrity of the retaining walls.
- iii. Concrete sidewalks, curbs and ADA pavers: City will maintain all concrete sidewalks, curbs, ADA pavers and pavement markings along the Greenway. This responsibility includes maintaining the appearance and integrity of these items included in the greenway projectscope.
- iv. Landscaping, fencing and signage: City will maintain the full range of services required for the upkeep of all new plant material, greenscreen fencing and wayfinding signage as detailed and installed in the areas encompassed within the Greenway. For avoidance of doubt, this does not obligate Richland or the City to enter into negotiations for reallocation of this particular maintenance item nor does this obligate the City to accept reallocation of this particular maintenance responsibility.
- v. Bollards: City will maintain all bollards. This responsibility includes the maintaining the integrity and appearance of the bollards proposed and built for the project.

- vi. Lighting and light fixtures: Richland's contractor to install all lighting, lighting fixtures, and call boxes, and the City shall maintain all lighting, all light fixtures and call boxes after the completion of construction and acceptance of the project.
- vii. Benches and garbage containers: City will maintain all benches, trash and garbage containers and provide regular collection of those. This responsibility includes maintaining the appearance and integrity of the benches and trash containers.
- viii. Crosswalk surface treatment: City will maintain the crosswalk surface treatment. This responsibility will include the appearance and integrity of the crosswalk surface treatment.
- ix. Parking lot: City will maintain the paved or gravel parking lot. This responsibility will include the appearance and integrity of the parking lot.
- x. Public toilet facilities: City will maintain all toilet facilities. This responsibility will include the appearance, servicing and integrity of the public toilets along the Greenway.
- xi. Drinking fountains: City will maintain all drinking fountains. This responsibility will include the appearance, servicing and integrity of the drinking fountains along the Greenway.
- xii. Bike racks: City will maintain all racks. This responsibility will include the appearance, and integrity of the bike racks along the Greenway.
- xiii. Kiosk: City will maintain any kiosks that have been planned and constructed for the project. This responsibility will include the appearance and integrity of such kiosks.

3. Miscellaneous Provisions.

a. The City's obligations shall commence upon completion of the Greenway project and acceptance by the City. It is intended that the Parties to this Agreement recognize and acknowledge that as governmental entities, their authority and capacity to perform the maintenance obligations identified herein is subject to each maintaining the respective legal authority to do so. In addition, the allocation of the maintenance obligations for the items identified will terminate with the end of the useful life of the project or the removal of a particular item being maintained.

b. This Agreement will not create any duty or responsibility to anyone other than the Parties to the Agreement, nor does it create any rights enforceable by anyone other than a party (third party beneficiary) to the Agreement.

c. This Agreement is to be governed, construed and interpreted by the laws of the State of South Carolina. The parties do not waive sovereign immunity except to the extent that litigation may be commenced in the Circuit Court for Richland County, South Carolina as may be necessary. The Parties to the Agreement will agree that litigation will not be commenced until notice is given and the parties have attempted through discussion and mediation to resolve any disputes.

d. The official executing this Agreement on behalf of the City of Columbia will represent and assert actual authority to bind the City to the obligations and commitments made in this Agreement. Similarly, the official executing this Agreement on behalf of Richland County will represent and assert actual authority to bind Richland County to the obligations and commitments made in this Agreement.

e. Waiver: The failure of either party to insist upon the strict performance of any provision of this Agreement shall not be deemed to be a waiver of the right to insist upon strict performance of such provisions or of any other provision of this Agreement at any time. Waiver of any breach of this Agreement by either party shall not constitute waiver of subsequent breach.

f. Notice: Written notice to the City shall be made by placing such notice in the United States Mail, Certified, Return Receipt Requested, postage prepaid and addressed to:

City of Columbia
City Manager
Post Office Box 147
Columbia, SC 29217

Written notice to the County shall be made by placing such notice in the United States Mail, Certified, Return

Receipt Requested, postage prepaid and addressed to:

Richland County Administrator
2020 Hampton Street
PO Box 192
Columbia, SC 29202

Written notice also may be made by personal hand-delivery to the City Manager or the County Administrator.

g. Agreement Interpretation: Ambiguities in the terms of this Agreement, if any, shall not be construed against the City of Columbia nor Richland County.

h. Severability: If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future law, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision were never a part hereof; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance, except to the extent such remaining provisions constitute obligations of another Party to this Agreement corresponding to the unenforceable provision determined to be void or unforeseeable, all other provisions shall remain in full force and effect.

i. Captions and Headings: The captions and headings throughout this Agreement are for convenience and reference only, and the words contained therein shall in no way be held or deemed to define, limit, describe, modify, or add to the interpretation, construction, or meaning of any provision of or scope or intent of this Agreement.

j. Entire Agreement. This document contains the entire agreement between the parties and no other representations, either written or oral shall have effect. Any modification of this Agreement shall be by a signed writing between the parties.

k. Term. The term of this Agreement is twenty (20) years from the date of execution.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, in original, as of the as of the date of the last signature hereinbelow.

WITNESSES:

CITY OF COLUMBIA

[Signature]
[Signature]

BY: Teresa B. Wilson
Teresa B. Wilson
ITS: City Manager
DATE: 12/13/2019

RICHLAND COUNTY

BY: Leonardo Brown
Leonardo Brown
ITS: County Administrator
DATE: 3/6/2020

Richland County Attorney's Office

[Signature] 2/12/20

Approved As To LEGAL Form Only
No Opinion Rendered As To Content

APPROVED AS TO FORM

[Signature]
Legal Department City of Columbia, SC