

COUNCIL DIRECTIVE

12-7

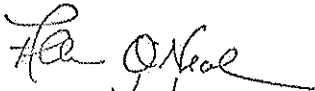
DATE: January 11, 2012
TO: County Administrator
FROM: Clerk of Council
RE: Mark Clark Project Request Decision

At a regular meeting of County Council held on January 10, 2012, Council authorized the Administrator and County Attorney to execute the Assignment of Intergovernmental Agreement among Charleston County, SCDOT and SCTIB sent by the South Carolina Transportation Infrastructure Bank.

**COUNCIL DIRECTIVE
FROM THE OFFICE OF THE COUNTY ADMINISTRATOR**

**To: Kurt Taylor
Keith Bustraan
Jennifer Miller
Walt Smalls
Mack Gile**

Posted on K: drive:


Date: 1/11/2012
Initial: HO

STATE OF SOUTH CAROLINA) ASSIGNMENT OF INTERGOVERNMENTAL
) AGREEMENT AMONG CHARLESTON COUNTY,
COUNTY OF CHARLESTON) SCDOT AND SCTIB

This **ASSIGNMENT OF INTERGOVERNMENTAL AGREEMENT AMONG CHARLESTON COUNTY, SCDOT AND SCTIB**, (hereinafter the "Assignment") made this ____ day of January 2012, by and between the **COUNTY OF CHARLESTON**, a body politic and corporate under the laws of the State of South Carolina, (hereinafter "Charleston County" or the "County") and the **SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION** (hereinafter the "SCDOT"), and consented to by the **SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK** (hereinafter the "Bank"), in consideration of the mutual covenants herein contained and other good and valuable consideration, the sufficiency of which is hereby acknowledged.

WITNESSETH:

WHEREAS, Charleston County entered a three-party Intergovernmental Agreement (the "Agreement") with the SCOOT and the South Carolina Transportation Infrastructure Bank (the "Bank") as of June 8, 2007, following the Bank's approval of the County's Application to the Bank to provide financial assistance for the I-526 Mark Clark Expressway Extension Project ("I-526 Project" or "Extension Project") in an amount not to exceed \$420 million subject to certain conditions; and

WHEREAS, the Agreement requires the County to obtain or provide additional funding for the Extension Project if the financial assistance to be provided by the Bank was insufficient to complete the Extension Project; and

WHEREAS, the Extension Project has not completed the necessary federal regulatory review process because the County Council has unanimously rejected the Recommended Preferred Alternative G for the Extension Project, Alternative G being designated and described in _____, and the County has determined that it does not have the ability to obtain or provide additional funding for the difference in the \$420 million in financial assistance to be provided by the Bank and the current estimated cost of the Extension Project; and

WHEREAS, the current estimates for the completion of the Extension Project exceed the financial assistance to be provided by the Bank in the amount of \$420 million pledge; and

WHEREAS, the SCDOT is willing to assume full responsibility for the Extension Project and release the County from the same; and

WHEREAS, the Agreement allows the County to assign the Agreement to the SCDOT with the prior written consent of the Bank,

NOW THEREFORE, the County and the SCDOT agree, and the Bank consents,

as follows:

SECTION I. FINDINGS

The above recitals and findings are incorporated herein by reference and made a part of this Assignment.

SECTION II. ASSIGNMENT

The County and the SCDOT hereby agree that the County shall, and it hereby does, assign its rights, interest, title, duties and obligations under the Agreement to the SCDOT. The SCDOT hereby accepts the Assignment of all of the County's obligations, responsibilities, and duties under the Agreement and all of the County's rights, title, and interest in and to the Agreement.

SECTION III. RELEASE

By executing this Assignment, both the SCDOT and the Bank by the Bank's consent to this Assignment, agree to release the County from any and all liabilities, responsibilities, obligations, claims or remedies it may have against the County under the Agreement except as otherwise provided in this Assignment between the Bank and County. The County shall remain liable to the Bank for all of its liabilities, obligations and responsibilities under Sections 3.2, 4.3, and 7 of the Agreement and the Bank's rights, claims, and remedies related thereto against the County under Article VIII of the Agreement shall remain in full force and effect. Provided, however, that the County's liabilities, obligations and responsibilities under Sections 4.3 and 7 of the Agreement shall be limited to occurrences or events that occurred or arose on or prior to the date of this Assignment. It is expressly understood and agreed to by and between the parties that all disbursements made by the Bank up to the date of this Assignment have been deemed Eligible Costs for the Extension Project pursuant to Section 4.3 of the Agreement.

SECTION IV. ENTIRE AGREEMENT

This Assignment constitutes the entire understanding and agreement between the Parties hereto and supersedes all prior and contemporaneous written and oral agreement and contracts between the Parties and their predecessors in interest regarding the subject matter of this Assignment. This Assignment may be changed, altered, amended, modified, or terminated only by a written instrument executed by the Parties hereto and consented to in writing by the Bank.

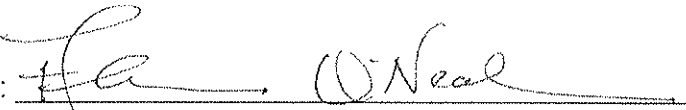
IN WITNESS WHEREOF, the parties set their hands and seals as of the date first above written by their duly authorized representatives.

[SIGNATURE PAGES TO FOLLOW]

SIGNATURE PAGE FOR CHARLESTON COUNTY

IN WITNESS WHEREOF, Charleston County has caused this Assignment to be executed on its behalf and its seal to be affixed hereto.

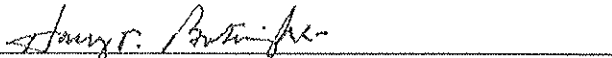
COUNTY OF CHARLESTON

By: 

Printed Name: Allen O'Neal

Title: Administrator, Charleston County, South Carolina

Attest:

By: 

Printed Name: HARRY T. BOATWRIGHT

Title: Notary II

SIGNATURE PAGE FOR
SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

IN WITNESS WHEREOF, South Carolina Department of Transportation has caused this Assignment to be executed on its behalf and its seal to be affixed hereto.

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

By: _____

Printed Name: _____

Title: _____

Attest:

By: _____

Printed Name: _____

Title: _____

SIGNATURE PAGE FOR
SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK

IN WITNESS WHEREOF, South Carolina Transportation Infrastructure Bank has consented to this Assignment to be executed on its behalf and its seal to be affixed hereto.

SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK

By: _____

Printed Name: _____

Title: _____

Attest:

By: _____

Printed Name: _____

Title: _____