



**CITY OF COLUMBIA**  
**AGENDA MEMORANDUM**

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**MEETING DATE:** June 21, 2016

**DEPARTMENT:** Assistant City Manager for Operations

**FROM:** *Missy Gentry, Assistant City Manager*

**SUBJECT:** Lake Katharine Project Agreement

**PRESENTER:** Missy Gentry, Assistant City Manager of Operations  
Joey Jaco, Director of Utilities and Engineering

**FINANCIAL IMPACT:** This project will be funded by CIP SS7261.

**ORIGINAL BUDGET:** \$390,000.00

**CLEAN WATER 2020?:** Yes

**STRATEGIC GOALS:** Invest in Infrastructure

Recommend approval to enter into an agreement with Lake Katharine Home Owners Association for a partnership for the upcoming dredging and sanitary sewer projects. The Lake Katharine HOA is preparing to proceed with the dredging project in the near future. The City is in the process of obtaining easements for a sanitary sewer project for this area and will need the lake to be lowered at the time of construction. In return for the Lake Katharine HOA commitment to lower the lake levels during construction (at an agreed upon time of the year that minimizes the impact to recreational use of the lake) and assistance with obtaining the necessary easement documents and wetland jurisdiction letters, the City will provide additional funding in an estimated amount of \$260,000 (based on 25,000 CY of material with a not to exceed amount of \$390,000 if the volume increases to 30,000 CY) for the upcoming dredging project. In addition, Lake Katharine HOA and the City agree to work together during threats of inclement weather to identify opportunities to lower the lake and accommodate excess storage capacity within the drainage basin.

Funding for this additional commitment is available through SS7261, the Lake Katharine Sanitary Sewer project.

**ATTACHMENTS:**

- Lake Katharine Project Agreement\_SS7261\_dredging projectFINAL61616 (PDF)

## **PROJECT AGREEMENT**

This Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the City of Columbia, South Carolina (the “City”), a municipal corporation and political subdivision of the State of South Carolina, and The Home Owners Association of Lake Katharine, Inc. (the “LKHOA”), a South Carolina corporation.

### WITNESSETH THAT:

WHEREAS, Lake Katharine (the “Lake”) is a privately-owned lake within the city limits of the City, the owners of which are responsible for the maintenance and improvement of the Lake; and

WHEREAS, Lake Katharine is a key component in the City’s watershed management plan and affects downstream interests that impact tens of thousands of City residents; and

WHEREAS, recognizing the importance of the Lake to the public health and safety of the residents of the City, the City several years ago committed to provide \$338,000 toward a dredging project in the Lake (the “Project”); and

WHEREAS the importance of Lake Katharine to the management of the watershed was made more poignant by the October 2015 overtopping of the Lake Katharine dam during the historic flood; and

WHEREAS, the City and the LKHOA have agreed, for the benefit of the public-at-large and the City’s watershed management plan, to collaborate on a dredging project in the Lake and stormwater best management practices (the “Project”); and

WHEREAS, the City will also be replacing a sewer main located along the shoreline of the Lake either concurrently or most likely following the LKHOA dredging project; and

WHEREAS, due to the complicated ownership structure of the Lake and surrounding properties and the financial and logistical issues associated with a large dredging project, the City and LKHOA need to collaborate the financing and obtaining easements for the Project and other City projects in the area; and

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants herein set forth, the City and the LKHOA agree as follows:

1. The LKHOA shall seek funding sources, other than the City, for the Project, including but not limited to Richland County (the “County”). The City has previously provided letters of support to the LKHOA in its efforts to secure additional funding for the Project, the budget for which is attached as Attachment A.
2. In addition to its previous commitment to provide \$338,000 in funding for the Project, if the LKHOA fails to secure adequate additional funding from other sources, the City will provide funds for the Remaining Balance of the cost estimate in

Attachment A, currently estimated at \$260,000, but in no event shall the City's financial contribution for the Remaining Balance of the Project exceed \$390,000. An increase from the \$260,000 to \$390,000 is only allowed if the amount of material dredged from the Lake exceeds 25,000 cubic yards and will then be based on the increased cubic yardage up to the total additional contribution of \$390,000, which contribution is based on an amount of 30,000 cubic yards of material.

3. The LKHOA shall be responsible for the following:
  - a. Obtaining any and all easements, rights of entry, permissions, permits, licenses and/or any official authority to commence and conduct the Dredging Project,
  - b. Contracting for the implementation of the Dredging Project in accordance with City procurement processes for full and open competition,
  - c. Supporting and assisting the City in obtaining any easements from property owners that are necessary for the City's sewer main construction project (CIP Project #SS7261) as identified in Attachment B,
  - d. Supporting and assisting the City in obtaining a Wetlands Jurisdiction letter and any other permissions, permits or required approvals for the City's sewer main construction project,
  - e. Lowering the Lake level to a mutually-agreed level suitable ~~for the~~ for the City's sewer line construction project at the time it is ready to proceed,
  - f. Upon request of the City, during threats of inclement weather predicting a 10-year storm level or greater, reducing the Lake level to allow for excess stormwater storage in the Lake, and
  - g. Once complete, maintenance of the beautification conducted by the City in the area around the S.C. Department of Transportation bridge on Shady Lane.
  
4. The City shall be responsible for the following:
  - a. With the LKHOA's assistance, obtaining any and all easements, rights of entry, permissions, permits, licenses and/or any official authority to commence and conduct the City's sewer main construction project and the beautification project around the S.C. Department of Transportation bridge on Shady Lane,
  - b. Designing, constructing and bearing the cost for the City's sewer main construction project along the Lake, to be constructed at an agreed upon time that minimizes the negative impact on the recreational use of the Lake while allowing for ample construction time to complete a project of this magnitude.
  
  - c. Designing, constructing and bearing the cost for the beautification project around the S.C. Department of Transportation bridge on Shady Lane.
  - d. Communicating with LKHOA in advance of inclement weather predictions to discuss the need for any changes to the water level in advance of a storm event.
  
5. The LKHOA hereby agrees to defend, indemnify, and hold the City harmless from and against any and all liability, loss, claims, suits, fines, penalties, actions, costs,

reasonable attorney fees, expenses, damages to property, persons or otherwise, judgments of any nature whatsoever, on account of death of or injury to any person whomsoever, and for damage to or loss of or destruction of any property whatsoever, caused by, resulting from or arising out of, directly or indirectly, the LKHOA's Dredging Project and maintenance of the beautification project constructed by the City around the S.C. Department of Transportation bridge on Shady Lane.

6. 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.
7. 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.
8. 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.
10. This Agreement represents the entire and integrated agreement between the LKHOA 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 first above written.

WITNESSES:

The Home Owners Association of Lake Katharine, Inc.

\_\_\_\_\_

By: \_\_\_\_\_

Timothy W. Kana

\_\_\_\_\_

Its: President

City of Columbia

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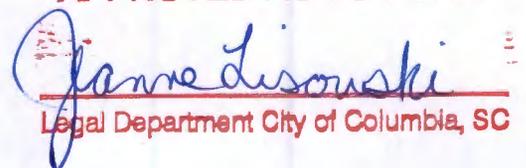
By: \_\_\_\_\_

Teresa B. Wilson

\_\_\_\_\_

Its: City Manager

**APPROVED AS TO FORM**

  
Janne Lisowski  
Legal Department City of Columbia, SC

# ATTACHMENT A

## Project Budget

### Lake Katherine Dredging Cost

Project Cost:	\$650,000	(Based on 25,000 CY of sediment)
City's Existing Commitment	\$338,000	(SD8409)
County Participation	\$ 52,000	(On County Council 5/3 agenda)
Remaining Balance	\$260,000	(High estimate adds add'l \$130,000)

*Note, the exact amount of material may fluctuate once work begins and the HOA has stated that the cost could increase based on actual CY of material. The high estimate is \$780,000 for a difference of \$130,000, which is based on 30,000 CY of sediment.*