NOTICE OF

Spartanburg County Water & Sewer Advisory Committee Meeting

The Spartanburg County Water and Sewer Advisory Committee will hold a meeting on **Tuesday, November 21, 2017 at 4pm** in Conference Room #2 of the Spartanburg County Administration Building located at 366 North Church Street, Spartanburg, SC 29303. You will find the Agenda below:

**AGENDA**

SPECIAL CALLED WATER & SEWER ADVISORY COMMITTEE MEETING
TUESDAY, November 21, 2017
4PM
SPARTANBURG COUNTY ADMINISTRATION BUILDING
366 NORTH CHURCH STREET
CONFERENCE ROOM #2

1. **Call to Order**
   Trey Blackwood, Chairman

2. **Executive Session**: Receipt of legal advice subject to attorney-client privilege related to committee policy and procedures.

3. **Old Business**: None

4. **New Business**:
   a. Request from CRG/CRG Acquisition LLC's for the *Sanitary Sewer Service provider to the Inland 85 Project to be the Town of Duncan / Town of Lyman as an alternative to the designated provider of Greer CPW*. (Mr. Chip Bentley, Planning and Economic Service Director, Appalachian Council of Governments, to present.)

5. **Miscellaneous Committee/Administrative Matters**
   a. November monthly meeting

6. **Approval of Minutes**

7. **Adjourn**
AGENDA

SPECIAL CALLED WATER & SEWER
ADVISORY COMMITTEE MEETING
Tuesday, November 21, 2017
4PM
SPARTANBURG COUNTY ADMINISTRATION BUILDING
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   a. November monthly meeting

6. Approval of Minutes

7. Adjourn
Spartanburg County

Policies and Procedures

Site specific requests for sewer service from non-designated providers in a designated sewer service area

Purpose

The purpose of this policy is to provide general guidelines for the review of site specific requests for sewer service from non-designated providers in a designated sewer service area in an effort to address situations where existing 208 Plan boundaries may not be the best solution due to the location of existing infrastructure, political boundaries, and topographic realities among other issues.

Background

Establishing definable boundaries for proposed service areas for each regional sewer agency provides clarity for both sewer providers and developers when seeking service to sites throughout the County. Several factors were used as a basis when the Water and Sewer Advisory Committee recommended and County Council approved service area designations for regional providers in the County. The first factor was to have boundaries follow watershed boundaries and topography as much as possible. This approach helps to ensure that future collection infrastructure can take advantage of gravity flow as much as possible and limits the need to construct and operate conveyance infrastructure that requires the pumping of sewage. It also helps to ensure that the cost of infrastructure construction as well as future operation and maintenance costs are minimized and systems are installed as efficiently as possible.

In some cases, watershed boundaries may not be the best solution due to location of existing infrastructure, political boundaries, and topographic realities among other issues that create a need for boundaries that deviate from watershed boundaries. In these instances, the boundaries were established using other existing features that would help create clear boundaries. The Committee utilized roadways, property boundaries, and localized topography to establish boundaries in those areas where the watershed boundary was not effective. The established boundaries were generally agreed upon by the sewer providers and established to delineate the service provider that would be the first option to provide service to property in those designated areas.

Alternative Provider – Parties in Agreement

The County acknowledges that on occasion there may be additional options for service to a site in addition to the designated service provider. In these cases, the designated service provider should be the first option for serving a particular site. However, in those cases when another provider is a logical choice based on proximity to existing infrastructure, the County recognizes the need for alternative solutions to be considered. In these cases, the designated service provider, property owners, and any
other service provider who might serve the site should work towards an agreement for an alternative provider to serve the site. At a minimum, any agreement will need to establish:

- Agreement for an alternative provider to serve a specific site in a designated service area;
- The conditions that must be met for the project to proceed;
- An agreement on how long the alternative provider would serve the location. This could be a temporary solution or a permanent solution depending on the situation; and
- An agreement on a method of service provider compensation for collection and treatment of sewage for the site in question. It should be clear from the agreement what the rates for compensation should be, who will collect the fees, and how they will be distributed to the service provider.

When an agreement has been established between the sewer providers for temporary operations that do not alter sewer boundaries, it will need to be submitted to the 208 Planning Administrators for approval. The role of the 208 Plan Administrator (Appalachian Council of Governments) in these instances is to determine if the agreement is consistent with the intent of the existing 208 Plan in the short term.

If the 208 Plan Administrator approves the agreement as a temporary solution for operations, the 208 Plan Administrator will notify the County Administrator that the agreement is considered as in conformance with the designated 208 Water Quality Plan.

If the sewer providers propose an agreement that will alter sewer service boundaries, the proposed change will need to be presented to the Committee for consideration. Changes to the sewer service boundaries require a recommendation from the Water & Sewer Advisory Committee to County Council for their consideration and approval.

Alternative Provider – Parties Not in Agreement

The County also acknowledges that there will be other instances where the designated service provider and property owner may not reach an agreement for service. In some cases, the property owner may seek relief from the Water & Sewer Advisory Committee to allow service from another service provider to be considered. In these instances, the Water & Sewer Advisory Committee will consider the request and make a determination if there should be consideration for amending the established boundaries; additional discussion about an alternative solution; or the current boundary should not be changed. In these situations, the Water & Sewer Advisory Committee will review the situation to determine the best path forward. In these instances, the person or entity requesting the relief from the existing boundary must provide a written explanation of why the existing situation is unreasonable and how a change in the current boundaries would benefit the area in question. The information provided will need to include at a minimum:

- The proposed alternative provider that will serve the site and a proposed service agreement with the alternate provider;
- A map showing the proposed site and surrounding area including any topographic features that should be considered as a reason for the request;
• Cost estimates for service options for the designated provider and the alternate provider. This should include both the capital cost for infrastructure required to connect to both providers as well as the proposed treatment costs for service from both providers; and
• Any additional information that the applicant feels is pertinent to the request for an alternate provider.

The Water & Sewer Advisory Committee will consider requests for alternative service providers only after this information has been provided to the Appalachian Council of Governments 208 Plan Administrator for review with the applicant, designated service agency and alternative service agency. Following this review, the Water & Sewer Advisory Committee will hold a meeting to receive the request and provide the applicant, designated service agency, and alternative service agency an opportunity to make a presentation to the committee on the matter.

The Water & Sewer Advisory Committee will take all information submitted to them into consideration when determining the best solution. Issues to be considered will include cost, efficiency, integrity of the boundaries, and the role of a regional sewer provider. Additional issues brought up by the parties involved or the public can also be considered. Any recommendation to change the 208 Plan will require a recommendation by the Water & Sewer Advisory Committee to County Council for their consideration and approval.
Inland 85 Logistic Center Service Area Change Request

The petitioner, Mr. Keith Hornsby of CRG/CRG Acquisition LLC is requesting that the Spartanburg County Water & Sewer Committee consider recommending the proposed Inland 85 Logistic Center to be served by the Town of Duncan/Town of Lyman for wastewater treatment an area previously identified by the County as part of the Greer CPW preferred service area. The site is located at Genoble and Robinson Road in Spartanburg County, South Carolina. Please see the attached map.

The applicant submitted a request for an alternative provider on October 26th. Since that time additional information has been provided by the applicant that is attached. The site in question was designated as part of the Greer CPW service areas in the maps adopted in December of 2016. As you recall, those maps represented the preferred designated regional provider for service in unincorporated portions of the County. The Policy that was adopted along with these maps did include options for seeking alternative treatment providers in instances where an agreement could be reached between the regional providers up front or when the applicant felt they had a compelling reason to request an alternative provider.

In this instance the applicant is seeking an alternative provider siting the additional cost of services and tax burden from annexation into the City of Greer. The applicant has provided additional information to support their case that is attached. They have not reached any type of agreement with Greer CPW on the alternate provider.

Greer CPW has also provided a response to the initial request and has asked some questions about some procedural issues as well as providing some additional information on the investment they have made in infrastructure in this portion of the service area based on the initial designation in December of 2016. The attached maps and tables are information provided by the developer to support their request.

The issue before the Committee is whether to recommend granting the request for an alternate provider to serve the site without consent of the currently designate provider.
November 16, 2017

Chip Bentley
Deputy Director
Appalachian Council of Governments

Re: CRG / CRG Acquisition LLC’s Request to Change Designated Service Provider

Dear Mr. Bentley:

This letter is submitted in response to the request of CRG / CRG Acquisition (“Developer”) to have The Town of Duncan / Town of Lyman serve its project located in the portion of the Tyger River Basin that Spartanburg County designated and assigned to Greer CPW on December 19, 2016.

Greer CPW objects to Developer’s request to have a third-party provide sewer service within Greer CPW’s designated service territory. Greer CPW offers the following reasons for objecting to Developer’s request.

First, review is premature at this time in accordance with Spartanburg County’s approved Policies and Procedures for requests for sewer services from non-designated providers (“Policies and Procedures”). The Policies and Procedures recognize the significance of established service areas and any deviation therefrom. The alternative provider process is only commenced in limited circumstances.

However, in those cases when another provider is a logical choice based on proximity to existing infrastructure, the county recognizes the need for alternative solutions to be considered. In these cases, the designated service provider, property owners, and any other service provider who might serve the site should work towards an agreement for an alternative provider to serve the site.

The Developer has skipped over this preliminary requirement that Developer first discuss with Greer CPW and the alternate service provider in an effort to reach an agreement regarding the matter.

The Policies and Procedures further provide that if an agreement cannot be reached, the process moves to the second stage as follows:

In these instances, the person or entity requesting relief from the existing boundary must provide a written explanation of why the existing situation is unreasonable and how a change in the current boundaries would benefit the area in question. The information will need to include at a minimum:

Focusing our Energy on You.
• The proposed alternative provider that will serve the site and a proposed service agreement with the alternative provider;
• A map showing the proposed site and surrounding area including any topographic features that should be considered as a reason for the request;
• Cost estimates for service options for the designated provider and the alternate provider. This should include both the capital cost for infrastructure required to connect to both provider as well as the proposed treatment costs for service from both providers; and
• Any additional information that the applicant feels is pertinent to the request for an alternative provider.

The Water & Sewer Advisory Committee will consider requests for alternative service providers only after this information has been provided to the Appalachian Council of Governments 2008 Plan Administrator for review with the applicant, designated service agency and alternative service agency."

This information has not been provided to ACOG or Greer CPW. The Policies and Procedures expressly require the ACOG Administrator to review this information with Greer CPW.

Second, Developer’s objection to Greer CPW’s annexation requirement is not grounds for changing service providers. As with other commissions of public works and municipalities, Greer CPW has required annexation as a condition for service for years. See Recharge v. City of Greenville, 382 S.C. 406, 408, 675 S.E.2d 788, 789 (Ct. App. 2009) (upholding validity of a requirement for the execution of an annexation covenant as a condition for receiving water service from the Greenville Commission of Public Works). The County did not include annexation as a reason for changing service providers in the Policies and Procedures. In fact, in order to resolve a lawsuit related to annexation and service districts, the County executed a settlement agreement with Greer CPW where the County agreed: “That the County agrees that the County has no interest in controlling municipal annexations. The County agrees that the County has no legal right to interfere with municipal annexations.” Settlement Agreement, Paragraph 2(a), (b).

Spartanburg County did not list annexation requirements as a reason for allowing alternative providers in its Policy and Procedures and it is improper for ACOG to use this requirement as a factor. Developer has

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1 You asked for a copy of any agreement between the City of Greer and Greer CPW regarding annexation. There is no such agreement because the City of Greer and Greer CPW are uniquely intertwined. As noted by South Carolina Attorney General opinions: “Board of commissioners of public works are unique, hybrid entities the CPW is an agency of the City, but it is also a distinct entity created by the Legislature and endowed by the Legislature with a limited corporate purpose.” Op. S.C. Att’y Gen., 2008 WL 2324818 (May 30, 2008).

2 Annexation of properties within Greer’s designated service area has broad implications. After assignment of this area, Greer CPW commenced substantial investment for electric service including acquisition of right of way. Greer CPW recently completed construction of a $3.5 million substation that can serve this area. Electric service in this area is unlikely without the ability to serve with wastewater and obtain annexation into the City of Greer.
failed to set forth any other reasons for its request. A review of the facts quickly reveals that Greer CPW is the most logical choice to serve the project site. Greer CPW has infrastructure including a pump station across the street from the project site. Moreover, Duncan does not have any service lines in the vicinity.

Finally, the request does not comply with the 208 Plan. Developer’s by-passing the cooperative agreement process is contrary to the 208 Plan goal “[t]o develop, adopt, and implement programs that encourage and promote coordinated and unified planning and development of water and sewer facilities in the urban and rural growth areas.” 208 Plan, ¶1.4(2). Removing large projects from designated service areas makes it difficult for service providers to “[p]lan for adequate sewer infrastructure to accommodate development over the next twenty years.” 208 Plan, ¶1.2(2).

Greer CPW has made substantial investments in reliance on serving this area. A pump station is located just across the street from Developer’s property for the project and Greer CPW is moving forward with plans to serve this entire area with a replacement regional pump station and gravity sewer. Allowing Developer to obtain service from Duncan/Lyman will not only result in the loss of this customer but likely result in the loss of efficient service to this entire region. This is contrary to the planning process and provision of efficient wastewater collection and treatment service. It is bad precedent to allow one Developer to change public policy.

Developer has attempted to rush the process and skipped many of the requisite steps that may lead to an amicable resolution. The request does not comply with the Policies and Procedures or the 208 Plan. Greer CPW requests that ACOG defer action until Developer has complied with the requirements to seek an alternative provider or recommend denial of service by Duncan/Lyman.

With regards,

Mike Richard

Michael D. Richard, P.E.
General Manager

cc: Ed Driggers, Greer City Administrator
    Katherine O’Neill, Spartanburg County Administrator,
    Jeffrey A. Horton, Spartanburg County Council Chairman
    Keith Hornsby, Director of Development – CRG Real Estate Solutions
    Chaplin Spencer, GCPW Attorney
171117Inland 85-Sewer Service Provider_Committee meeting scheduled_additional info-toACOG(cb)
Keith Hornsby <hornsbyk@realcrg.com>
Sent: Fri 11/17/17 12:05 PM
To: Chip Bentley
Cc: Larry Chapman; Mike Demperio; Stacey Grote; Scott Garrett; Barry Frost (bfrost@bfrost.com); Scott Miller (smiller@ymarcc.gov); JPrice@nexenpruet.com; Hannah Kem

As requested, the additional information is as follows:

Cost estimates for service options for the designated provider and the alternate provider. This should include both the capital cost for infrastructure required to connect to both providers as well as the proposed treatment costs for service from both providers;
Attached please find Sanitary Sewer Service Comparison dated 11/16/17, which includes capital and treatment costs.

1. 171116Inland 85_Sanitary Sewer Service Comparison_CRG

Any additional information that the applicant feels is pertinent to the request for an alternate provider. (The issues of the tax burden of annexation would be something that you could include to help support your request)
Attached please find Greer Tax Burden dated 11/16/17, which indicates both the millage rate and business license fee burdens on the project.

1. 171116Inland 85_Greer Tax Burden__CRG

Please call/email with questions of if you need additional information.

Thanks
Keith Hornsby
Director of Development, Southeast Region

CRG // mobile 770.317.9635
email hornsbyk@realcrg.com // www.realcrg.com
<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
<th>Greer CPW</th>
<th>Unit</th>
<th>Comments</th>
<th>Duncan-Lyman</th>
<th>Unit</th>
<th>Comments</th>
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<td>1</td>
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<td>LS</td>
<td>New pump station offsite, and new force main.</td>
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<td>New pump station onsite and new force.</td>
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<td>Treatment Costs</td>
<td>...</td>
<td>Greer CPW Sewer Service Schedule - Industrial Service - effective 1/1/17</td>
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<td>...</td>
<td>Duncan - Lyman Sewer Service Schedule fees</td>
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<td>a.</td>
<td>Tap Fees</td>
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<td>No Tap Fees</td>
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<td>b.</td>
<td>Capacity Fees</td>
<td>$650.00</td>
<td>yearly</td>
<td>Low volume discharge; Significant discharger w/o pretreatment = $1,500/year; Significant discharger w/pretreatment = $2,000/year; No Capacity Fees</td>
<td>unless high water usage over 100,000 gallons/day if high water usage, yearly fee of $3,600 billed @ $900/quarter</td>
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<td>c.</td>
<td>Facilities Charge</td>
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<td>$20.18</td>
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<td>$5.650</td>
<td>over 2,500, per 1,000 gallons</td>
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<td>e.</td>
<td>Rehabilitation Surcharge</td>
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<td>f.</td>
<td>Application Fee</td>
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<td>Direct cost of CPW's consultant review</td>
<td>No Charge</td>
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Inland 85
Spartanburg County, SC
Greer Annexation Tax Burden
By: CRG / CRG Acquisition LLC
Updated: 11/16/17

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<tr>
<th>Taxing District</th>
<th>Town Levy</th>
<th>County Levy</th>
<th>Total Levy</th>
<th>Difference Outside Greer</th>
<th>Increased Taxes per $1,000,000 Assessed Value</th>
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Notes:
1. The cost of adding the City of Greer millage rate on the Inland 85 buildings is estimated to add an addition tax of about $.22 per square foot of building per year based on the on approximately 3,000,000 SF of buildings planned equals an added tax of $660,000 per year.

2. Addition to the millage rate, the project would be burdened by the Business License Fees, which are not charged in the County.

*Part of Cullum GSP 081, LP property (8.93 acres)
#Robison & Part of Chatim (approx 40 acres)
^Rest of Properties
Assume 6% assessment ratio
STATE OF SOUTH CAROLINA
COUNTY OF SPARTANBURG
TOWN OF LYMAN

ORDINANCE NO.: 110413 - 2013

AN ORDINANCE AMENDING ORDINANCE NO. 06032013 - 2013
AND REQUIRING ANNEXATION AS A CONDITION OF SEWER
SERVICE TO PROPERTIES LOCATED IN UNINCORPORATED
AREAS

WHEREAS, the Mayor and Town Council desires to provide sewer service to its
residents and neighboring communities when it is beneficial to both parties; and,

WHEREAS, the Town of Lyman, as the designated Regional Sewer Provider, has the
capability to provide sewer service to those inside the corporate limits and in the surrounding
areas; and,

WHEREAS, the Town realizes that while providing sewer service to those outside the
corporate limits has the potential to encourage economic growth through industrial, commercial
and residential development, hereinafter defined below, there are significant costs associated
with providing these services;

a) Commercial is any facility engaged in the distribution of a finished product or
service, but does not engage in the manufacturing of said product. An example would
be large box stores, strip malls, gas stations, etc...

b) Industrial is any facility that engages in the manufacturing, storing or shipping of a
finished product. An example would be like SEW Eurodrive, Trimac, etc.

c) Residential is any single/ multi family dwelling, an example would be apartment
complexes; and,

WHEREAS, expanding the boundaries of the Town and tax base by requiring
annexation as a condition of sewer service promotes the public interest of the residents of Lyman
and property owners and owner's heirs and assigns, as well as current and future sewer customers; and,

WHEREAS, the Town has determined that it is in the best interest of the community to provide industrial users sewer service from the Town without requiring annexation in order to encourage economic growth; and,

WHEREAS, all capacity fees and impact fees will be assessed in accordance with the Town's Sewer Use Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Town of Lyman, South Carolina, that:

1. All potential commercial and residential sewer customers with properties in areas located outside the municipal boundaries of the Town of Lyman shall be required to sign the Sewer Service Agreement (Appendix A) and Restrictive Covenant (Appendix B) before any sewer service is provided by the Town; including but not limited to, (a) a new tap on an ongoing sewer service account, (b) a new service tie-in (tap) from an existing sewer main, (c) an extension of sewer mains, (d) any transfer of ownership of sewer lines currently owned by another sewer service provider or municipality to the Town of Lyman, or (e) the issuance of a letter of willingness and capability.

2. When contiguity is established, the residential or commercial customer will immediately sign a petition to annex into the Town of Lyman.

3. If contiguity is not currently established, the residential or commercial customer(s) agrees to sign an annexation petition when contiguity is established. The residential or commercial customer(s) also agrees to inform any subsequent owner of the Subject Property, that the obligations created by the Sewer Service Agreement and Restrictive Covenant continue and run with the land.

4. If the Subject Property is located in an unincorporated area the residential or commercial customer(s) acknowledges that the residential or commercial customer(s) may not petition any other municipality for annexation after signing the Sewer Service Agreement and Restrictive Covenant.

5. If the Subject Property is located inside the corporate limits of another municipality, the residential or commercial customer(s) agrees that if the property becomes unincorporated, said residential or commercial customer may not petition any other municipality for annexation per the Restrictive Covenant.
6. After the residential or commercial customer(s) sign the Sewer Service Agreement and Restrictive Covenant, the service will not be provided for a period of seven (7) days while the Agreement and Restrictive Covenant are recorded at the Register of Deeds.

7. Industrial property owners with properties located outside the municipal boundary will not be required to annex into the Town to receive sewer service.

8. This ordinance shall supersede any prior ordinance whose terms are inconsistent herewith.

APPENDIX A: Sewer Service Agreement

APPENDIX B: Restrictive Covenant

This Ordinance shall take effect immediately upon second reading approval by the Mayor and Council on this 4th Day of November, 2013.

Rodney D. Turner
Mayor

First Reading: 10/07/2013
Second Reading: 11/04/2013

Dennis P. Drozdak
Clerk-Treasurer

Approved as to Form:

John B. Duggan, Town Attorney