

AN ORDINANCE No. 313.2017

AUTHORIZING KERSHAW COUNTY, SOUTH CAROLINA TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE SCHOOL DISTRICT OF KERSHAW COUNTY AND THE KERSHAW PUBLIC FACILITIES CORPORATION; AUTHORIZING THE DELIVERY, EXECUTION AND ACKNOWLEDGMENT OF A SUBLEASE BETWEEN THE SCHOOL DISTRICT AND THE CORPORATION; AUTHORIZING THE EXECUTION AND DELIVERY OF A LIMITED WARRANTY DEED FOR CERTAIN REAL PROPERTY WHEREUPON THE SCHOOL DISTRICT INTENDS TO CONSTRUCT ITS NEW APPLIED TECHNOLOGY FACILITY; DELEGATING AUTHORITY TO THE COUNTY ADMINISTRATOR TO DETERMINE, AUTHORIZE AND APPROVE CERTAIN MATTERS; AND OTHER MATTERS RELATED THERETO.

The County Council of Kershaw County (the "Council"), the governing body of Kershaw County, South Carolina (the "County"), has made the following findings of fact:

- (A) The County is a political subdivision created pursuant to the laws of the State of South Carolina (the "State"); and
- (B) The County has heretofore entered into a Base Lease Agreement dated July 2, 2014, as amended by a Supplemental Base Lease Agreement dated December 17, 2015 (as so amended, the "Base Lease"), with Kershaw Public Facilities Corporation (the "Corporation"), pursuant to which the County leased certain land to the Corporation (the "Land"); and
- (C) Pursuant to a Bond Agreement dated July 2, 2014, as supplemented by a Supplemental Bond Agreement dated December 17, 2015 (as so supplemented, the "Bond Agreement"), each between Regions Bank and the Corporation, the Corporation issued two series of its installment purchase revenue bonds (the "Corporation Bonds"), in order to finance certain capital improvements for the use and benefit of the County (the "County Projects"); and
- (D) Pursuant to an Installment Purchase and Use Agreement dated July 2, 2014, as amended by a Supplemental Installment Purchase and Use Agreement dated December 17, 2015 (as so amended, the "Purchase Agreement"), each between the County and the Corporation, the County agreed to make annual payments (subject to appropriation) to the Corporation to acquire installment interests in the Facilities (as more particularly defined in the Purchase Agreement), which includes the County Projects and improvements to the Land; such annual payments are equal to the annual principal and interest requirements on the Corporation Bonds; and
- (E) The County and the School District of Kershaw County, South Carolina (the "School District") intend for the School District to finance, construct and equip an approximately 110,000 square foot facility, including parking lots, sidewalks, fire lanes, bus loop and loading docks, to serve its Applied Technology Education Campus (the "ATEC Building"), on a portion of the Land (the "ATEC Land"); and

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2017 OCT 5 PM 2:13
JANE C. HASKY
CLERK OF COURT
KERSHAW COUNTY, S.C.

(F) The ATEC Land is encumbered by and subject to the Trust Estate (as defined in the Bond Agreement) under the Bond Agreement; and

(G) The Corporation and the School District desire to enter into a Sublease Agreement in substantially the form attached hereto as Exhibit A (the "Sublease"), pursuant to which the Corporation would sublease the ATEC Land to the School District in order to facilitate the construction and operation of the ATEC Building, and which Sublease may not be entered into without the consent of the County; and

(H) After due investigation, the Council has determined that it is in the best interests of the County to consent to the Sublease; and

(I) After due investigation, the Council has determined that it is in the best interests of the County to enter into an Intergovernmental Agreement with the School District and the Corporation in substantially the form attached hereto as Exhibit B (the "Intergovernmental Agreement") in order to reflect the intentions of the parties thereto with respect to the sublease of the ATEC Land and ATEC Building, the provisions of the Corporation Bonds and certain undertakings in connection therewith; and

(J) After due investigation, the Council has determined that it is in the best interests of the County to execute and deliver a Limited Warranty Deed in the form attached hereto as Exhibit C (the "Limited Warranty Deed") to the School District for the ATEC Land; such Limited Warranty Deed shall be held in trust and may not be recorded or filed in the appropriate land records of the County until the ATEC Land is released from the Base Lease.

NOW THEREFORE, BE IT ORDAINED, by the Council as follows:

Section 1. The County hereby agrees to and accepts the provisions of the Intergovernmental Agreement and further authorizes the execution and delivery of the Intergovernmental Agreement.

Section 2. The County hereby authorizes and acknowledges the delivery and execution of the Sublease by the Corporation and the School District, and further authorizes the execution and delivery of its consent to the Sublease in connection therewith.

Section 3. The County hereby agrees to and accepts the provisions of the Limited Warranty Deed and further authorizes the execution and delivery of the Limited Warranty Deed. However, the Limited Warranty Deed shall be should to the covenants and restrictions recited in the Intergovernmental Agreement and by its express terms.

Section 4. The form, provisions, terms, and conditions of the Intergovernmental Agreement, the Sublease and the Limited Warranty Deed presented to this meeting and filed with the Clerk to the County Council are hereby approved, and all of the provisions, terms, and conditions thereof are hereby incorporated herein by reference as if such documents were set out in this Ordinance in their entirety. The County Administrator is hereby authorized, empowered, and directed to execute the Intergovernmental Agreement, the Limited Warranty Deed and the Consent to Sublease in the

name and on behalf of the County; the Clerk to the County Council is hereby authorized, empowered and directed to attest the same; and the County Administrator is further authorized, empowered, and directed to deliver such documents as set forth herein and therein. Such documents are to be in substantially the form now before this meeting and hereby approved, or with such changes therein as shall not materially adversely affect the rights of the County thereunder and as shall be approved by the official or officials of the County executing the same, upon the advice of counsel, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form such documents now before this meeting.

Section 5. The Chairman of the County Council, the County Administrator of the County, and the Clerk to the County Council, for and on behalf of the County, are hereby each authorized, empowered, and directed to do any and all things necessary or proper to effect the performance of all obligations of the County under and pursuant to Intergovernmental Agreement, the Sublease and the Limited Warranty Deed. The Chairman of the County Council and the County Administrator, or either one of them acting alone, are hereby authorized to execute and deliver on behalf of the County all deeds and other certificates and documents as they deem necessary, upon advice of counsel, to accomplish the foregoing.

Section 6. The provisions of this Ordinance are hereby declared to be separable and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

Section 7. All orders, ordinances, resolutions, and parts thereof in conflict herewith are to the extent of such conflict hereby repealed. This Ordinance shall take effect and be in full force from and after its passage and approval.

[Remainder of Page Left Blank]

DONE AND ENACTED IN COUNCIL ASSEMBLED, this 26th day of September, 2017.

KERSHAW COUNTY, SOUTH
CAROLINA

(SEAL)
Attest:

Merri M. Seigler

Merri M. Seigler
Clerk to County Council

[Handwritten signature]
great!

First Reading: August 22, 2017
Second Reading: September 12, 2017
Public Hearing: September 26, 2017
Third Reading: September 26, 2017

EXHIBIT A
FORM OF SUBLEASE

SUBLEASE AGREEMENT

between

**KERSHAW PUBLIC FACILITIES CORPORATION
as sublessor**

and

**SCHOOL DISTRICT OF KERSHAW COUNTY, SOUTH CAROLINA
as sublessee**

Dated _____, 2017

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SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT dated _____, 2017 (this "Sublease") is made and entered into by and between Kershaw Public Facilities Corporation, a nonprofit corporation duly organized under the laws of the State of South Carolina (the "Corporation"), as sublessor, and the School District of Kershaw County, South Carolina, a school district and body corporate and political subdivision of the State of South Carolina (the "School District"), as sublessee.

WITNESSETH

WHEREAS, the Corporation is a nonprofit corporation formed under the provisions of Title 33, Chapter 31 of Code of Laws of South Carolina 1976, as amended; and

WHEREAS, the School District is a school district and a body politic and corporate and a political subdivision of the State of South Carolina and is authorized under the provisions of Sections 59-17-10, and 59-19-10 through 59-19-190, inclusive, Code of Laws of South Carolina 1976, as amended to enter into this Sublease; and

WHEREAS, the Corporation heretofore entered into a Bond Agreement dated July 2, 2014, as supplemented by a Supplemental Bond Agreement dated December 17, 2015 (as so supplemented, the "Bond Agreement"), with Regions Bank, as trustee (the "Trustee"), pursuant to which it has issued two series of its installment purchase revenue bonds (collectively, the "Corporation Bonds"), in order to provide funds, among other things, for the acquisition, construction, improvement, renovation and equipping of certain capital improvements for the benefit of Kershaw County, South Carolina (the "County"); and

WHEREAS, the County and the Corporation heretofore entered into a Base Lease Agreement dated July 2, 2014, as amended by a Supplemental Base Lease Agreement dated December 17, 2015 (as so amended, the "Base Lease"), pursuant to which the County leased certain real property (defined therein as the "Real Property") to the Corporation; and

WHEREAS, the School District intends to finance, construct and equip an approximately 110,000 square foot facility, including parking lots, sidewalks, fire lanes, bus loop and loading docks, to serve its Applied Technology Education Campus (the "ATEC Building"), on a portion of the Real Property (the "ATEC Land"), a description of which is provided in Exhibit A attached hereto; and

WHEREAS, pursuant to Section 3.3 of the Base Lease and Section 2.1 of an Installment Purchase and Use Agreement dated July 2, 2014, as amended by a Supplemental Installment Purchase and Use Agreement dated December 17, 2015 (as so amended, the "Purchase Agreement"), the Corporation is permitted to sublease portions of the Real Property upon satisfaction of certain conditions; and

WHEREAS, pursuant to Section 3.3 of the Base Lease, the County must consent to any sublease of the Real Property, and an acknowledgment and consent of the County is included with this Sublease.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements, the Corporation and the School District do hereby covenant and agree as follows:

**ARTICLE I
RULES OF CONSTRUCTION**

SECTION 1.1. Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words importing the singular number shall include the plural and vice versa, and words importing person shall include firms, associations and corporations, including public bodies, as well as natural persons.

The table of contents hereto and the headings and captions herein are not a part of this document.

**ARTICLE II
REPRESENTATIONS**

SECTION 2.1. Representations by the School District. The School District represents, warrants and covenants as follows:

(a) The School District is a school district and a body politic and corporate and a political subdivision of the State. By proper corporate action, the officers of the School District have been duly authorized to execute and deliver this Sublease.

(b) The School District has full power and authority to enter into the transactions contemplated by this Sublease and to carry out its obligations hereunder.

(c) Neither the execution and delivery of this Sublease, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of terms, conditions or provisions of any restriction or any agreement or instrument to which the School District is now a party or by which the School District is bound.

SECTION 2.2. Representations by the Corporation. The Corporation represents, warrants and covenants as follows:

(a) The Corporation is a nonprofit corporation duly incorporated under the laws of the State and has the corporate power to enter into this Sublease. By proper corporate action, the officers of the Corporation have been duly authorized to execute and deliver this Sublease.

(b) The Corporation has full power and authority to enter into the transactions contemplated by this Sublease and to carry out its obligations hereunder.

(c) Neither the execution and delivery of this Sublease, nor the fulfillment of or compliance with the terms and conditions hereof, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of terms, conditions or provisions of

any restriction or any agreement or instrument to which the Corporation is now a party or by which the Corporation is bound.

(d) The Corporation has a valid leasehold interest on the ATEC Land existing on the date hereof. There are no improvements on the ATEC Land existing on the date hereof, and the ATEC Land is free and clear of all liens, encumbrances and restrictions (including, without limitation, leases) other than the pledge and lien of the Trust Estate (as defined in the Bond Agreement) and other Permitted Encumbrances (as defined in the Purchase Agreement).

ARTICLE III SUBLEASE OF THE ATEC LAND

SECTION 3.1. Sublease of the ATEC Land. For the rentals and other consideration set forth in Section 3.3 hereof and in accordance with the provisions of this Sublease, the Corporation hereby subleases to the School District, and the School District hereby subleases from the Corporation, the ATEC Land for a term of one year from the date hereof. Unless terminated in the sole discretion of the School District by written notice provided to the Corporation and the County not less than 30 days prior to the expiration of the term hereof, to include subsequent renewals, this Sublease shall automatically renew each year for a term of one year for so long as the Base Lease is in effect or until the ATEC Land is released from the Trust Estate (the "Sublease Term"). Per the Base Lease, the term of the Base Lease expires on the earlier of (i) December 31, 2050, or (ii) the date on which the Corporation Bonds are discharged within the meaning of the Bond Agreement. The parties acknowledge that this Sublease shall constitute a sublease of the ATEC Land as permitted in Section 3.3 of the Base Lease.

SECTION 3.2. Assignments, Subleases and Mortgages. The School District may not (a) mortgage or otherwise encumber or assign its rights under this Sublease, (b) lease, assign, transfer or otherwise dispose of its interest in the ATEC Land, or (c) remove, modify or alter the ATEC Land, without the consent of the Corporation and the County; for the avoidance of doubt, nothing herein shall prevent the School District from constructing or using the ATEC Building under the provisions of Section 4.2 hereof.

SECTION 3.3. Rent and Other Consideration. As and for rental hereunder and in consideration for the leasing of the ATEC Land to the School District hereunder, the School District agrees to pay to the Corporation the sum of One Dollar (\$1.00) per year.

SECTION 3.4. Granting of Easements, Rights of Way, Releases and Substitutions of Property. From time to time during the term hereof, the School District may execute such instruments as are necessary to provide for the granting of such permanent and temporary easements or rights of way for construction, use or maintenance of the ATEC Land or ATEC Building, including but not limited to non-exclusive easements for ingress, egress, vehicular and pedestrian traffic and parking over, on and across all of the now existing, or to be constructed, drives, roads, loops, parking lots, sidewalks or other general thoroughfares on the Land. However, any such property rights provided to the School District shall not affect use or enjoyment of the Facilities by the County or the Corporation.

**ARTICLE IV
TERMINATION**

SECTION 4.1. Termination. This Sublease shall terminate upon the completion of the Sublease Term or, if an Event of Default or an Event of Nonappropriation (as each such term is defined in the Purchase Agreement) occurs under the Purchase Agreement, this Sublease shall automatically and immediately terminate.

SECTION 4.2. Quiet Enjoyment. Subject to the Purchase Agreement, the School District at all times during the term of this Sublease shall peaceably and quietly have and enjoy the ATEC Land and the ATEC Building; provided, that the School District is not permitted to use the ATEC Land in such a manner that interferes with the use of the Real Property by the County for the purposes for which it was designed or then being used.

**ARTICLE V
CONTROL OF ATEC LAND
AND ATEC BUILDING DURING SUBLEASE TERM**

SECTION 5.1. Control of ATEC Land and ATEC Building During Sublease Term. Subject to the Purchase Agreement, during the Sublease Term, the School District shall have complete control over the ATEC Land and the ATEC Building and their operation; provided, however, that the School District hereby covenants that the ATEC Land shall not be used for any purpose which would adversely affect the exclusion from federal income taxation of any interest on the Corporation Bonds issued as tax-exempt obligations, or which would violate the Constitution, statutes or laws of the State of South Carolina, and the School District further covenants that it will assist the County in monitoring the use of the ATEC Land to ensure continued compliance with the provisions of the Federal Tax Certificate (as defined in the Purchase Agreement).

**ARTICLE VI
MISCELLANEOUS**

SECTION 6.1. Binding Effect. This Sublease shall inure to the benefit of and shall be binding upon the School District, the Corporation and their respective successors and assigns.

SECTION 6.2. Severability. In the event any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

SECTION 6.3. Amendment, Changes and Modifications. This Sublease may not be effectively amended, changed, modified, altered or terminated without the prior written consent of the School District, the Corporation and the County.

SECTION 6.4. Execution in Counterparts. This Sublease may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same instrument.

SECTION 6.5. Applicable Law. This Sublease shall be governed by and construed in accordance with the laws of the State.

SECTION 6.6. Captions. The Section and Article headings herein are for convenience only and in no way define, limit or describe the scope or intent of any of the provisions hereof.

SECTION 6.7. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Sublease to be given to or filed with the Corporation, the County or the Trustee if the same is given or filed in the manner and at the addresses specified in the Bond Agreement. Notices to the School District shall be given according to the following address:

School District of Kershaw County
Attn: Chief Financial Officer
2029 West DeKalb Street
Camden, South Carolina 29020

SECTION 6.8. Successors and Assigns. All covenants, promises and agreements contained in this Sublease by or on behalf of or for the benefit of the School District or the Corporation, shall bind and inure to the benefit of their respective successors and assigns, whether so expressed or not.

[Signature page follows]

IN WITNESS WHEREOF, the Corporation has caused this Sublease to be executed and effective as of the date first above written.

SUBLESSOR:

(SEAL)

KERSHAW PUBLIC FACILITIES
CORPORATION

By: _____
President

Attest: _____
Secretary

IN WITNESS WHEREOF, the School District has caused this Sublease to be executed and effective as of the date first above written.

SUBLESSEE:

(SEAL)

SCHOOL DISTRICT OF KERSHAW COUNTY,
SOUTH CAROLINA

WITNESS:

By: _____
Chair, Board of Trustees

Attest: _____
Secretary, Board of Trustees

ACKNOWLEDGMENT AND CONSENT OF KERSHAW COUNTY

Kershaw County, South Carolina (the "County") is a body politic and corporate and a political subdivision of the State of South Carolina. By proper action of the County Council of Kershaw County, as the governing body of the County, the County Administrator has been duly authorized to acknowledge receipt of and consent to the provisions of the foregoing Sublease.

In keeping with such authorization, the undersigned County Administrator acknowledges receipt of the executed Sublease, and, on behalf of the County, approves of and consents to the provisions of the Sublease in accordance with the provisions of the Base Lease and the Purchase Agreement.

KERSHAW COUNTY, SOUTH CAROLINA

By: _____
County Administrator

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)

PROBATE

Personally appeared before me the undersigned witness who on oath says, that (s)he is not a party or beneficiary of the transaction and that (s)he saw the within named Kershaw Public Facilities Corporation, by its duly authorized representatives, sign and seal the within Sublease, and that (s)he, together with the other witness whose signature appears above, witnessed the execution thereof.

Witness

SWORN TO AND SUBSCRIBED BEFORE ME
this ____ day of _____, 2017.

Notary Public for South Carolina
Name: _____
My Commission Expires: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF KERSHAW)

PROBATE

Personally appeared before me the undersigned witness who on oath says, that (s)he is not a party or beneficiary of the transaction and that (s)he saw the within named School District of Kershaw County, South Carolina, by its duly authorized representatives, sign and seal the within Sublease, and that (s)he, together with the other witness whose signature appears above, witnessed the execution thereof.

Witness

SWORN TO AND SUBSCRIBED BEFORE ME
this ____ day of _____, 2017.

Notary Public for South Carolina
Name: _____
My Commission Expires: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE ATEC LAND

LEGAL DESCRIPTION –

23.29 acres shown on that plat prepared for Kershaw County by Robert H. Lackey Surveying, Inc. dated September 14, 2017 recorded in Plat Book _____ at page _____, on September _____, 2017 (the “2017 Survey”) in the office of the Register of Deeds for Kershaw County, which is incorporated herein by this reference.

(The final plat to be recorded and description can include a metes and bounds description.)

Together with a perpetual nonexclusive easement through, over, on and across property shown and designated as “ACCESS/UTILITY EASEMENT” on the 2017 Survey for the purpose of (a) vehicular and pedestrian ingress, egress, parking and access to Grantee’s property (the “Access Easement”) and (b) installation, construction, maintenance, repair and replacement of water, sewer, electrical, gas, telecommunications and other utilities relating to the Grantee’s property (together with the Access Easement, the “Easements”). The foregoing Easements are commercial in nature, assignable to successors in title to the property conveyed by this Instrument (the “Land”) and shall be deemed appurtenant easements running with the Land. The Easements shall extend not only to the owner of any portion of the Land but also its tenants and any invitees, guests and employees of the owner and its tenants.

Grantor reserves STORM WATER EASEMENT as shown and designated on the 2017 Survey over and upon the 23.29 acres. The STORM WATER EASEMENT is deemed as an appurtenant easement to the 18.31 acres and for the benefit of the 18.31 acres as shown on the 2017 Survey. The STORM WATER EASEMENT as shown and designated on the 2017 Survey is a nonexclusive easement for the benefit of the 18.31 acres parcel and the 23.29 acres parcel.

Derivation:

This being a portion of the same property conveyed unto Kershaw County by Mulberry Plantation, Inc. by deed dated December 28, 2006 and recorded on December 29, 2006 in the office of the Register of Deeds for Kershaw County in Book 2098, at page 90.

TMS: 299-00-00-085 (portion of)

EXHIBIT B

FORM OF INTERGOVERNMENTAL AGREEMENT

INTERGOVERNMENTAL AGREEMENT

This INTERGOVERNMENTAL AGREEMENT, dated as of _____, 2017 (the "Agreement"), by and between Kershaw County, South Carolina (the "County"), a body corporate and politic and a political subdivision of the State of South Carolina (the "State"), the School District of Kershaw County, South Carolina (the "School District"), a body corporate and politic, and Kershaw Public Facilities Corporation (the "Corporation"), a nonprofit corporation formed under the laws of the State.

WITNESSETH:

WHEREAS, the County has heretofore entered into a Base Lease Agreement dated July 2, 2014, as amended by a Supplemental Base Lease Agreement dated December 17, 2015 (as so amended, the "Base Lease"), with the Corporation, pursuant to which the County leased certain land to the Corporation (the "Land"); and

WHEREAS, pursuant to a Bond Agreement dated July 2, 2014, as supplemented by a Supplemental Bond Agreement dated December 17, 2015 (as so supplemented, the "Bond Agreement"), each between Regions Bank (the "Trustee") and the Corporation, the Corporation issued two series of its installment purchase revenue bonds (hereinafter referred to as the "Series 2014 Bonds" and the "Series 2015 Bonds" and, collectively, the "Corporation Bonds"), in order to finance certain capital improvements for the use and benefit of the County (the "County Projects"); and

WHEREAS, pursuant to an Installment Purchase and Use Agreement dated July 2, 2014, as amended by a Supplemental Installment Purchase and Use Agreement dated December 17, 2015 (as so amended, the "Purchase Agreement"), each between the County and the Corporation, the County agreed to make annual payments (subject to appropriation) to the Corporation to acquire installment interests in the Facilities (as more particularly defined in the Purchase Agreement), which includes the County Projects and improvements to the Land; such annual payments are equal to the annual principal and interest requirements on the Corporation Bonds; and

WHEREAS, the County and School District intend for the School District to finance, construct and equip an approximately 110,000 square foot facility, including parking lots, sidewalks, fire lanes, bus loop and loading docks, to serve its Applied Technology Education Campus (the "ATEC Building"), on a portion of the Land (the "ATEC Land"); and

WHEREAS, the ATEC Land is encumbered by and subject to the Trust Estate (as defined in the Bond Agreement) under the Bond Agreement; and

WHEREAS, subject to the authorizations in Section 2.1 of the Purchase Agreement, the Corporation and the School District, with the consent of the County and the Trustee, have executed a Sublease Agreement dated of even date herewith (the "Sublease"), pursuant to which the Corporation would sublease the ATEC Land to the School District; and

WHEREAS, the parties are entering into this Intergovernmental Agreement in order to reflect their good faith intentions with respect to the sublease of the ATEC Land, the construction of the ATEC Building and certain undertakings in connection with the Corporation Bonds; and

NOW, THEREFORE, for and in consideration of the mutual promises and agreements contained in this Agreement and the above recitals, which are incorporated herein by reference, the School District, the County and the Corporation hereby agrees as follows:

Section 1. Representations and Warranties

(a) The School District represents and warrants that:

(i) it has full legal right, power, and authority to enter into this Agreement and carry out and consummate all other transactions contemplated by this Agreement.

(ii) it has duly authorized the execution, delivery, and performance of its obligations under this Agreement and the taking of any and all actions as may be required on the part of the School District to carry out, give effect to, and consummate the transactions contemplated by this Agreement.

(iii) this Agreement constitutes a legal, valid, and binding obligation of the School District, enforceable against it in accordance with the terms hereof, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law.

(iv) there is no action, suit, proceeding, inquiry, or investigation at law or in equity before or by any court, public board, or body, pending or, to the best of the knowledge of the School District threatened against the School District, nor to the best of the knowledge of the School District is there any basis therefor, which in any manner questions the validity of the powers of the School District referred to in paragraph (a)(i) above, or the validity of any proceedings taken by the School District in connection with this Agreement or wherein any unfavorable decision, ruling, or finding could materially adversely affect the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement (or of any other instrument required or contemplated for use in consummating the transactions contemplated thereby and hereby).

(b) The County represents and warrants that:

(i) it has full legal right, power, and authority to enter into this Agreement and carry out and consummate all other transactions contemplated by this Agreement.

(ii) it has duly authorized the execution, delivery, and performance of its obligations under this Agreement and the taking of any and all actions as may be required on the part of the County to carry out, give effect to, and consummate the transactions contemplated by

this Agreement.

(iii) this Agreement constitutes a legal, valid, and binding obligation of the County, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law.

(iv) there is no action, suit, proceeding, inquiry, or investigation at law or in equity before or by any court, public board, or body, pending or, to the best of the knowledge of the County, threatened against the County, nor to the best of the knowledge of the County is there any basis therefor, which in any manner questions the validity of the powers of the County referred to in paragraph (b)(i) above, or the validity of any proceedings taken by the County in connection with this Agreement or wherein any unfavorable decision, ruling, or finding could materially adversely affect the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement (or of any other instrument required or contemplated for use in consummating the transactions contemplated thereby and hereby).

(v) under the Purchase Agreement, the County has the exclusive right to occupy and use the Land and Facilities (as defined in the Purchase Agreement).

(vi) the County represents that the Sublease is authorized and permitted by the terms of the Purchase Agreement.

(c) The Corporation represents and warrants that:

(i) it has full legal right, power, and authority to enter into this Agreement and carry out and consummate all other transactions contemplated by this Agreement.

(ii) it has duly authorized the execution, delivery, and performance of its obligations under this Agreement and the taking of any and all actions as may be required on the part of the Corporation to carry out, give effect to, and consummate the transactions contemplated by this Agreement.

(iii) this Agreement constitutes a legal, valid, and binding obligation of the Corporation, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors' rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law.

(iv) there is no action, suit, proceeding, inquiry, or investigation at law or in equity before or by any court, public board, or body, pending or, to the best of the knowledge of the Corporation, threatened against the Corporation, nor to the best of the knowledge of the Corporation is there any basis therefor, which in any manner questions the validity of the powers of the Corporation referred to in paragraph (c)(i) above, or the validity of any proceedings taken

by the Corporation in connection with this Agreement or wherein any unfavorable decision, ruling, or finding could materially adversely affect the transactions contemplated by this Agreement or which, in any way, would adversely affect the validity or enforceability of this Agreement (or of any other instrument required or contemplated for use in consummating the transactions contemplated thereby and hereby).

(v) the Corporation represents that the Sublease is authorized and permitted by the terms of the Purchase Agreement.

Section 2. Sublease of and Covenants Relating to ATEC Land; Financing and Construction of ATEC Building

(a) The Sublease has a term of one year from its execution date. Unless terminated in the sole discretion of the School District by written notice provided to the Corporation and the County not less than 30 days prior to the expiration of the term of the Sublease, to include subsequent renewals, the Sublease shall automatically renew each year for so long as the Base Lease is in effect. Further, the Sublease shall automatically terminate upon the occurrence of an Event of Nonappropriation (as defined in the Purchase Agreement) or an Event of Default (as defined in the Purchase Agreement). The School District may elect to record the Sublease.

(b) The School District represents that it intends to finance the construction of the ATEC Building utilizing only its own funds, including the proceeds of general obligation bonds issued therefor. The parties represent that no portion of the Corporation Bonds was used or will be used to finance the acquisition of the ATEC Land or any portion of the construction of the ATEC Building.

(c) In keeping with the provisions of Section 2(b) above, the parties further represent that the ATEC Building was never and is not intended to constitute "Facilities" for purposes of the Purchase Agreement or the Bond Agreement. If an Event of Default or an Event of Nonappropriation (as each term is defined in the Purchase Agreement) occurs, the Corporation and the County will utilize their best efforts and shall negotiate in good faith with the Trustee that either: (1) the ATEC Building does not constitute "Facilities" under the Purchase Agreement and therefore is not considered a part of the Trust Estate, or (2) should the ATEC Building be determined by the Trustee to constitute "Facilities" for such purposes, then the ATEC Building shall be considered the partitioned assets to be purchased first by the County under the terms of the Purchase Agreement. Upon obtaining written confirmation from the Trustee as to either of the foregoing, the Corporation and the County shall take all actions necessary and desirable to release the ATEC Land from the Base Lease as soon as practicable.

(d) The County, in good faith, represents its current intention to avoid the occurrence of an Event of Default or Event of Nonappropriation but, upon any such occurrence, it shall promptly notify the School District thereof.

(e) The County and the Corporation agree to promptly grant such permanent and temporary easements and rights of way as may be necessary or desirable by the School District in connection with the construction, use or maintenance of the ATEC Land or ATEC Building,

including but not limited to non-exclusive easements for utilities, ingress, egress, vehicular and pedestrian traffic and parking over, on and across all of the now existing, or to be constructed, drives, roads, loops, parking lots, sidewalks or other general thoroughfares on the Land. However, any such property rights provided to the School District shall not affect use or enjoyment of the Facilities by the County or the Corporation.

(f) The County and the Corporation further agree to obtain the written consent of the School District prior to (1) the release of any property which is subject to the Base Lease prior to the release of the ATEC Land, as contemplated herein, (2) the sale, transfer or assignment of any interest in the ATEC Land other than to or for the benefit of the School District or (3) authorizing any further encumbrance, lien or mortgage upon the ATEC Land.

(g) Neither the Corporation nor the County has any present intent to issue Additional Bonds (as defined in the Bond Agreement). Should the Corporation and the County later determine to issue Additional Bonds under the terms of the Bond Agreement, the ATEC Land and the ATEC Building shall be excluded from the Trust Estate (as defined in the Bond Agreement); however, upon the prior written consent of the School District, the ATEC Land and ATEC Building may be retained and included in the Trust Estate.

Section 3. Deed Held in Trust

On the date hereof, the County has delivered an executed limited warranty deed relating to the ATEC Land (the "Deed"), transferring any and all of its rights, title and interest in the ATEC Land to the School District. The parties agree that the Deed will be held in trust by the School District or a third-party on its behalf (each, a "trustee") and may not be recorded or filed in the appropriate land records in the County, until the ATEC Land is released from the Base Lease. Upon the release of the ATEC Land from the Base Lease, the parties shall direct the trustee of the Deed to release the Deed to the School District. Thereafter, the School District shall be permitted to record or file the Deed in the appropriate land records in the County. Under no circumstances may the Deed be released from trust until such time as all conditions of Section 2(c) or Section 4(b) are met.

Section 4. Consents and Redemption Opportunities

(a) It is understood that the Series 2014 Bonds mature on June 1, 2024, and are prepayable prior to maturity at the option of the Corporation at any time at the redemption prices set forth in the Purchase Agreement, and that the Series 2015 Bonds mature on June 1, 2045, and are prepayable prior to maturity at the option of the Corporation, on or after December 1, 2020, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date. Further, it is understood that the ATEC Land could be formally released from the Base Lease, with the consent of each holder of the Corporation Bonds and any other outstanding bonds under the Bond Agreement.

(b) The Corporation and the County agree to take all actions necessary, to use their best efforts, and to cooperate with the Trustee, in order to: (1)(A) obtain the consent of the holders of any of the outstanding Series 2014 Bond (namely, First Tennessee Bank or its

successor, as holder of the Series 2014 Bonds) and any additional bonds issued under the Bond Agreement (whether for new money purposes or to refund the outstanding Bonds), to the release the ATEC Land from the Base Lease, or (B) effect the redemption of the Series 2014 Bond upon a determination, in its sole discretion, that it is advantageous to the County to do so; and (2) effect the redemption of the Series 2015 Bonds upon a determination, in its sole discretion, that it is advantageous to the County to do so; provided, however, that without binding any future County Council, the County currently determines that a net present value savings of three percent or greater arising from a refunding of the Series 2014 Bonds or Series 2015 Bonds is advantageous to the County.

(c) Upon the occurrence of obtaining consents or effecting the redemption of the Series 2014 Bond under Sections 4(b)(1) and effecting the redemption of the Series 2015 Bonds under Section 4(b)(2) above, the Corporation and the County agree to effect the release of the ATEC Land from the Base Lease as soon as practicable thereafter.

Section 5. Events of Default.

(a) Each of the following shall be an Event of Default under this Agreement:

(i) Any party shall fail to observe and perform any agreement, term, or condition contained in this Agreement, and the continuation of the failure for a period of thirty (30) days after written notice thereof shall have been given to such party by any other party hereto; provided, that if the failure is other than the payment of money and is of such nature that it can be corrected, but not within the applicable cure period, that failure shall not constitute an Event of Default so long as such party institutes curative action within the applicable period and diligently pursues that action to completion.

(ii) Any party shall (a) admit in writing its inability to pay its debts generally as they become due; (b) have an order for relief entered in any case commenced by or against it under the federal bankruptcy laws, as now or hereafter in effect; (c) commence a proceeding under any other federal or state bankruptcy, insolvency, reorganization, or similar law, or have such a proceeding commenced against it and, in the case of an involuntary proceeding, either have an order of insolvency or reorganization entered against it or have the proceeding remain undismissed and unstayed for ninety (90) days; (d) make an assignment for the benefit of creditors; or (e) have a receiver or trustee appointed for it or for the whole or any substantial part of its property.

Section 5. Remedies on Default Whenever an Event of Default shall have happened and be continuing, any one or more of the following remedial steps may be taken:

(a) Any of the parties hereto may have access to, inspect, examine, and make copies of the books, records, accounts, and financial data of the defaulting party pertaining to the ATEC Land, ATEC Building or the Facilities.

(b) Any party may avail itself of any other remedies available at law or in equity.

No waiver of a breach of any of the covenants, promises or provisions contained in this Agreement shall be construed as a waiver of any succeeding breach of the same covenant or promise, or of any other covenant, promise or obligation contained in this Agreement.

Section 6. Miscellaneous

(a) All notices, certificates, requests, or other communications hereunder shall be in writing and shall be delivered personally, or sent by certified or registered mail, postage prepaid, return receipt requested or overnight delivery service, telex or telecopy to the party to whom they are directed at the following addresses, or at such other addresses as may be designated by notice from such party to all other parties:

If to the School District:

School District of Kershaw County
Attn: Chief Financial Officer
2029 West DeKalb Street
Camden, South Carolina 29020

If to the County:

Kershaw County, South Carolina
Attn: County Administrator
515 Walnut Street
Camden, South Carolina 29020

If to the Corporation:

Kershaw Public Facilities Corporation
Attn: President
515 Walnut Street
Camden, South Carolina 29020

The parties, by notice given hereunder, may designate any further or different address as to which subsequent notices, certificates, requests, or other communication shall be sent.

(b) No covenant, obligation, or agreement contained herein shall be deemed to be a covenant, obligation, or agreement of any present or future member, officer, agent or employee, of the County or the School District, in any other than his official capacity, and neither the members of the Board of Trustees of the School District, the members of the County Council if the County, nor any official executing this Agreement shall be personally liable thereon or be subject to any personal liability or accountability by reason of the covenants, obligations, or agreements of the School District or the County contained in this Agreement.

(c) This Agreement may not be effectively amended, changed, modified, altered or terminated, except in accordance with the express provisions of this Agreement or with the written consent of all parties hereto.

(e) 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.

(f) This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

(g) If any other provision of this Agreement, or any covenant, 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, covenant, 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, covenant, 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.

(h) This Agreement shall be deemed to be a contract made under the laws of the State and for all purposes shall be governed by and construed in accordance with the laws of the State.

[Signature Page follows]

IN WITNESS WHEREOF, the School District, the County and the Corporation have caused this Intergovernmental Agreement to be duly executed in their respective names, all as of the date first above written.

SCHOOL DISTRICT OF KERSHAW COUNTY,
SOUTH CAROLINA

By: _____
Chairman, Board of Trustees

Date Signed: _____

KERSHAW COUNTY, SOUTH CAROLINA

By: _____
Chairman, County Council

Date Signed: _____

KERSHAW PUBLIC FACILITIES CORPORATION

By: _____
President

Date Signed: _____

ACKNOWLEDGMENT OF TRUSTEE

I, as the undersigned representative of Regions Bank ("Regions"), acknowledge receipt of the foregoing Agreement. Regions acknowledges the intentions of the parties as recited in the Agreement and, to the extent necessary and practicable, Regions shall utilize its best efforts to conform its actions in accordance with provisions of the Agreement. Further, Regions acknowledges, approves of and consents to the Sublease.

REGIONS BANK

By: _____
Senior Vice President

Date Signed: _____

EXHIBIT A

LEGAL DESCRIPTION –

23.29 acres shown on that plat prepared for Kershaw County by Robert H. Lackey Surveying, Inc. dated September 14, 2017 recorded in Plat Book _____ at page _____, on September _____, 2017 (the “2017 Survey”) in the office of the Register of Deeds for Kershaw County, which is incorporated herein by this reference.

(The final plat to be recorded and description can include a metes and bounds description.)

Together with a perpetual nonexclusive easement through, over, on and across property shown and designated as “ACCESS/UTILITY EASEMENT” on the 2017 Survey for the purpose of (a) vehicular and pedestrian ingress, egress, parking and access to Grantee’s property (the “Access Easement”) and (b) installation, construction, maintenance, repair and replacement of water, sewer, electrical, gas, telecommunications and other utilities relating to the Grantee’s property (together with the Access Easement, the “Easements”). The foregoing Easements are commercial in nature, assignable to successors in title to the property conveyed by this Instrument (the “Land”) and shall be deemed appurtenant easements running with the Land. The Easements shall extend not only to the owner of any portion of the Land but also its tenants and any invitees, guests and employees of the owner and its tenants.

Grantor reserves STORM WATER EASEMENT as shown and designated on the 2017 Survey over and upon the 23.29 acres. The STORM WATER EASEMENT is deemed as an appurtenant easement to the 18.31 acres and for the benefit of the 18.31 acres as shown on the 2017 Survey. The STORM WATER EASEMENT as shown and designated on the 2017 Survey is a nonexclusive easement for the benefit of the 18.31 acres parcel and the 23.29 acres parcel.

Derivation:

This being a portion of the same property conveyed unto Kershaw County by Mulberry Plantation, Inc. by deed dated December 28, 2006 and recorded on December 29, 2006 in the office of the Register of Deeds for Kershaw County in Book 2098, at page 90.

TMS: 299-00-00-085 (portion of)