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BEFORE THE

PUBLIC SERVICE COMMISSION

OF SOUTH CAROLINA

DOCKET NO. 2017-381-A

In Re:

Office of Regulatory Staff's Petition for an Order Requiring Utilities to Report the Impact of the Tax Cuts and Jobs Act	))))	SETTLEMENT AGREEMENT

This Settlement Agreement is made by and between Palmetto Utilities, Inc., Palmetto Wastewater Reclamation, LLC (collectively hereinafter referred to as the "Companies"), LandTech, LLC, Lake Carolina Development, Inc., Building Industry Association of Central South Carolina, Home Builders Association of South Carolina (collectively referred to hereinafter as the "Intervenors"), and the South Carolina Office of Regulatory Staff ("ORS"), all of which may hereinafter be referred to collectively as the "Parties" or sometimes individually as a "Party".

WHEREAS, on April 4, 2018, the Commission issued its Order No. 2018-252 in the above-referenced docket authorizing the Companies to include in their approved rate schedules a tax multiplier to be collected from future customers or others making contributions in aid of construction ("CIAC") so as to prevent existing customers of the Companies from bearing the burden of increased income taxes on CIAC resulting from the enactment of the Federal Tax Cuts and Jobs Act, P.L. 115-97, effective December 22, 2017 ("Tax Act"), specifically Section 13312(b) thereof; and

WHEREAS, the amount of the tax multiplier heretofore approved for the Companies is $33.24 per $100 worth of (1) cash paid by a future customer in the form of non-recurring charges

consisting of connection charges and plant impact fees ("Tap Fees") or (2) utility plant contributed by others ("CIAC Property"), but the collection of same has been suspended by virtue of Commission Order No. 2018-370 issued June 1, 2018, pending oral arguments in this matter to address, *inter alia*, Intervenors' contention that the tax effect of depreciation of CIAC Property which would be received by the Companies must be considered in determining the amount of the tax multiplier which must be paid by Intervenors; and

WHEREAS, the issue of how the depreciation expense deduction associated with CIAC Property was to be treated in the context of collecting a tax multiplier was previously considered by the Commission in its Order No. 88-237, issued March 18, 1988, in Docket No. 87-456-W/S, which provided that wastewater utilities could collect a tax multiplier using either the "full gross-up" method (whereby a contributor of CIAC Property pays the full amount of income tax paid by a utility and is later returned the future tax benefits associated with the depreciation of the CIAC Property when and as they accrue) or the "present value" method (whereby the difference between the tax cost to the utility of receiving CIAC Property, less the present value of future tax benefits of depreciation expense deductions associated with CIAC Property, is collected from the contributor of same); and

WHEREAS, both the "full gross-up" and "present value" methods of collecting a tax multiplier protect current customers from bearing any of the burden of taxes on CIAC as contemplated in Order No. 2018-252; and

WHEREAS, the Parties have engaged in discussions to determine whether a settlement in this proceeding would be in the best interests of the Companies, the Intervenors, and the public interest,

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NOW, THEREFORE, the Parties hereby stipulate and agree to the following terms, which, if adopted by the Commission in an Order in this proceeding, will allow the Companies to collect a tax multiplier from contributors of CIAC Property that shields existing customers from the burden of taxes imposed on CIAC, addresses the Intervenors' concern that the future tax benefit of depreciation expense deductions on CIAC Property be accounted for in a manner that effectively returns that benefit to the contributor of CIAC Property by deducting its present value from the amount of the tax multiplier, and will account for the impact of the Act.

1. The Parties stipulate and agree that the method used by the Companies to collect the tax multiplier from all contributors of CIAC Property, including Intervenors and/or their members, shall be the "present value" method approved by the Commission in Order No. 88-237.

2. The Parties further agree that (a) should Federal tax law change in the future such that depreciation on CIAC Property becomes non-deductible for income tax purposes, the Companies shall have no obligation to reduce the tax multiplier amount by the present value of the future tax benefit from depreciation of CIAC Property, it being understood and agreed that a contributor of CIAC Property is not entitled to receive the present value of income tax benefits which the Companies may not receive as a matter of Federal tax law: (b) should Federal or South Carolina tax law change in the future such that the Companies' total effective Federal and South Carolina tax rate ("effective tax rate") changes , the tax multiplier will be adjusted as appropriate to reflect the Companies' then-current effective tax rate; and (c) should Federal tax law change in the future such that CIAC is no longer considered income for purposes of taxation, the Companies will cease charging and collecting the tax multiplier as of the effective date of any such change in law .

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3. . The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution of the above-captioned proceeding as between the Parties. The Parties agree to use reasonable efforts to defend and support any Commission Order issued approving this Settlement Agreement and the terms and conditions contained herein.

4. The Parties agree that if the Commission should decline to approve the Settlement Agreement in its entirety, then it shall be null, void and of no effect.

5. This Settlement Agreement shall be interpreted according to South Carolina law.

6. Each Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of this Settlement Agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

7. The Parties acknowledge that this Settlement Agreement is intended solely to resolve the discrete issues identified herein. Accordingly, as to Intervenors, this Settlement Agreement fully, finally, and satisfactorily resolves all issues raised by Intervenors in their filings and pleadings in this matter. As to the Companies and ORS, there remain issues in dispute between them which will require determination by the Commission and this Agreement does not resolve any issues between them except as set forth herein.

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[PARTY SIGNATURES TO FOLLOW ON SEPARATE PAGES]

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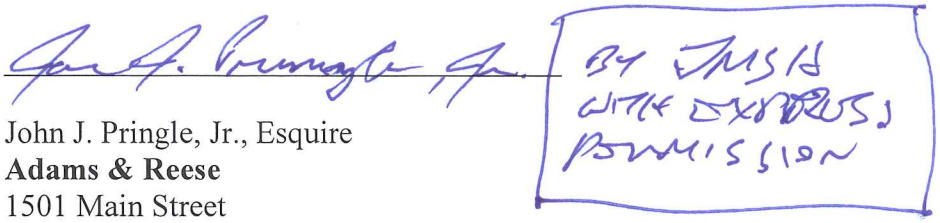
Representing LandTech, LLC, Lake Carolina Development, Inc., Building Industry Association of Central South Carolina, and Home Builders Association of South Carolina



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