



THE TOWN OF  
***Irmo***  
GATEWAY TO LAKE MURRAY

## TOWN COUNCIL MEETING

May 16, 2023 @ 7:00pm

Irmo Municipal Building – 7300 Woodrow Street, Irmo, South Carolina

Live streaming will be available from our YouTube channel at:

<https://www.youtube.com/c/TownofIrmo>

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## AGENDA

- I. Call to Order
- II. Pledge of Allegiance
- III. Invocation
- IV. Reading of Minutes – April 18, 2023 & May 2, 2023
- V. Report of Standing
  - A. Administrative Briefing
  - B. New In-Town Businesses

Salon 7711 Sheila Reames- 7711 St. Andrews Rd  
Carolina Conservation LLC- 7740 Broad River Rd  
Extravagant Beauty Bar- 7715 St. Andrews Rd  
Grandma's Girls Believes In Dreams LLC- 931 Chadford Rd  
Kalm Kreation- 931 Chadford Rd  
Key Blendz Barber Studio- 7777 St. Andrews Rd  
Khepera Beauty- 7500 Woodrow St  
Lake Murray Tobacco & Vape- 952 Lake Murray Blvd Unit A  
Styles By Sarah- 7001 St. Andrews Rd  
Seafood Express of SC- 7522 Woodrow St  
Tungsten Cross LLC- 106 Minehead Ct  
SoundPlug Recording Studio- 7801 St. Andrews Rd



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Styles by Fran – 100 Hunter Village Dr  
Cola Bear Express Ice Cream LLC – 413 Charing Cross Rd  
Palmetto Trinity Holdings LLC- 7163 St. Andrews Rd

VI. Amendments to the Agenda

VII. Consideration of Communication

- A. Recognition of Blush Facial Studio as the May 2023 Small Business of the Month.
- B. School Showcase:
  - 1. Nursery Road Elementary School – Arts Magnet Principal Karey Fisher and Magnet Lead Teacher Lisa Brooks (Waldman)
- C. Community Connections:
  - 1. American Red Cross Blood Drive – May 18<sup>th</sup> (Waldman)
  - 2. Story Walk Premiere at the Green Iceberg Community Garden in Rawls Creek Park – May 20<sup>th</sup> (Waldman)
  - 3. Irmo Alive After 5 – May 25<sup>th</sup> (Waldman)
  - 4. Silent Disco Festival – May 27<sup>th</sup> (Waldman)
  - 5. Juneteenth Celebration – June 19<sup>th</sup> (Waldman)

VIII. Presentation by Citizens (Agenda Items IX and X only)

IX. **UNFINISHED BUSINESS**

NONE

X. **NEW BUSINESS**

- A. **FIRST READING of ORDINANCE 23-07** to adopt the operating and capital budgets for FY23/24, including the Master Fee Schedule exhibit with amounts (Staff). The proposed FY23/24 budget is \$9,178,321.
- B. **FIRST READING of ORDINANCE 23-08** Designating Allocations for Funding through the Coronavirus State and Local Recovery Funds (Staff). This ordinance will allocate \$3,419,243 in American Rescue Plan funds for specific projects with any remaining funds being allocated to the general fund.
- C. **FIRST READING of ORDINANCE 23-09** to grant Lumos Fiber of South Carolina a Nonexclusive Franchise Agreement (Staff). This will grant Lumos an agreement to install fiber internet in the Town of Irmo.



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- D. **FIRST READING of ORDINANCE 23-10** to amend the Zoning and Land Development Appendix A – Article 3, Table 2 (Planning Commission). This will correct the table and add appropriate table references.
- E. **FIRST READING of ORDINANCE 23-11** to rezone TMS# R03202-01-16 at the corner of Muskrat Run and Emerald Cove from General Residential (RG) to Fringe Agricultural (FA) (Planning Commission).
- F. **Approval of Resolution 23-03** to accept donation of TMS# 001922-02-003 located at 7317 Childs Street from the Irmo Fire District (Staff).
- G. Approval of extension to the Intergovernmental Agreement between the City of Columbia and the Town of Irmo to maintain the I-26 interchange at Lake Murray Boulevard (Staff). This will extend the agreement for an additional 4 years.
- H. Approval of road closure for Carlisle Street on May 27<sup>th</sup>, 2023, from 6am-4pm (Staff). This request is from Young's Chapel AME Church to hold their Community Yard Sale.
- I. Approval to install the electrical needed at the Rawls Creek Park through ESI in the amount of \$29,975 (Staff). This will place the electrical in the park needed for the security gates and retrofit existing lights to LED.
- J. Approval to install access controls/security locks at the new Rawls Creek Park through Irmo Lock in the amount of \$19,894 (Staff). This will install the security locks and controllers needed for access control of the dog park.
- K. Approval to replace aging playground parts at the Irmo Community Park in the amount of \$11,750 through Barrs Recreation using Hospitality Funds (Public Works). This will replace the aging parts on the two (2) playgrounds in the Community Park.
- L. Approval of new branding for the Town of Irmo (Staff).

XI. Presentation by Citizens

XII. Discussion

XIII. Executive Session – Council may act on items discussed in executive session after returning from the executive session.

- A. Personnel Matter §30-4-70(A)(1) – Employee turnover and retention.



#### XIV. Adjournment

*In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 (ADA), the Town of Irmo will not discriminate against qualified individuals with disabilities based on disability in its services, programs, or activities. If you need accommodations to attend the meeting, please contact the Town Administrator or Municipal Clerk for assistance at (803)781-7050, M-F between the hours of 8:30 – 5:00 (closed most Federal and State Holidays).*

STATE OF SOUTH CAROLINA)  
)  
TOWN OF IRMO)

**ORDINANCE 23-07**  
AN ORDINANCE TO ADOPT THE OPERATING  
AND CAPITAL BUDGETS FOR FY 23/24

**WHEREAS**, the Town Council of the Town of Irmo, South Carolina, in council duly and lawfully assembled and by the authority thereof enacts this Ordinance to comply with the laws of the State of South Carolina.

**WHEREAS**, as part of this Ordinance, the Council also wishes to adopt and establish a master fee schedule for certain fees and charges for town services, along with amounts for existing fees.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED** that budgets for the fiscal year commencing on July 1, 2023, through June 30, 2024, in amounts below are hereby established:

**EXPENDITURES**

I. GENERAL FUND:

A. Operating/Capital Expenses:

Administrative Department	\$ 862,331
Court	\$ 393,119
Confiscated Funds	\$ 5,000
Legislative Department	\$ 59,556
Non-Departmental	\$1,494,189
Public Safety	\$3,996,544
Public Services Department	\$ 987,582
Sanitation	<u>\$1,380,000</u>

**TOTAL OF ALL OPERATING GENERAL FUND  
EXPENDITURES:** **\$9,178,321**

II. PROPRIETARY FUND:

A. Okra Strut \$ 171,750

**TOTAL OPERATING EXPENDITURES OF  
ALL FUNDS:** **\$9,350,071**

**TOTAL EXPENDITURES** **\$9,350,071**

**REVENUES**

**I. GENERAL FUND REVENUES**

A. Operating revenues	\$7,793,321
B. Sanitation collections	\$1,385,000
C. Appropriation from reserves	\$ 0

**II. PROPRIETARY FUNDS**

A. Okra Strut	\$ 171,750
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**TOTAL REVENUE ALL FUNDS** **\$9,350,071**

**Section 1.** The tax levy for the fiscal year 2023/2024 shall be 0 millage.

**Section 2.** The Town Administrator shall administer the budget and, in doing so and to achieve the goals of this Budget, may, among other things, do the following:

- a. Transfer appropriated funds within and between departments and funds as necessary.
- b. Implement controls by fund appropriation.

**Section 3.** Department Heads may transfer from one line item to another up to \$1,500 with approval from the Town Administrator. Amounts over \$5,000 require Town Council approval.

**Section 4.** All transfers between departments and in/out of personnel must be approved by the Town Administrator and the Town Council.

**Section 5.** Expenditures approved by Council shall automatically carry amendments to fund appropriations where necessary.

**Section 6.** All authorized purchase orders issued prior to July 1<sup>st</sup> incumber funds to be expended in the following year.

**Section 7.** The billing dates, the penalty dates, and the amount of penalty which shall be levied for delinquent taxes shall be the same as those established by Richland and Lexington counties, respectively, and pursuant to State Law.

**Section 8.** As a part of this Budget, the Council hereby establishes and adopts certain fees and charges, as identified, and set out as proposed fees and charges in the attached exhibits to this Ordinance. The attached Master Fee Schedule is hereby incorporated into and adopted as a part of this Ordinance. All fees and charge amounts set out therein or adopted shall continue in effect from year to year until revised or modified by subsequent Council action.

**Section 9.** If for any reason any sentence, clause or provision of this ordinance shall be declared invalid, such shall not affect the remaining provisions hereof.

**DONE IN MEETING DULY ASSEMBLED,** this Ordinance shall become effective July 1, 2023, after Second and Final Reading by Council.

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Barry A. Walker, Sr., Mayor

ATTEST:

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Renee Caviness, Municipal Clerk

1st Reading: May 16, 2023

2nd Reading: June 27, 2023

Public Hearing: June 27, 2023



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TOWN OF IRMO  
 MASTER FEE SCHEDULE

DEPARTMENT/PROGRAM	DETAIL	FY 2023-2024 FEE
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ADMINISTRATION		
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FOIA Fee	First 30 minutes	\$ 4.00
	Each additional minute	\$ 0.40
	Additional for digital media burned to CD/DVD	\$ 5.00
	Per B/W printed copy	\$ 0.10
	Per color printed copy	\$ 0.25
Returned check fee	Per Check	\$ 25.00

POLICE DEPARTMENT		
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Administration	Collision & Incident Reports	FOIA Fee*
Officer	Security Services per Hour	\$ 50.00
Officer	Traffic Control per Hour	\$ 50.00
Officer	Holiday Rate (Traffic/Security) per Hour	\$ 100.00

\*Free to victims or those listed on the case file

**Tickets/Fines**

Handicapped Parking	\$ 500.00
No Parking Zone	\$ 50.00
Fire Lane	\$ 200.00
Parked on Yellow Curb	\$ 50.00
Blocking Street	\$ 200.00
Blocking Sidewalk	\$ 50.00
Parking within 15 ft of fire hydrant	\$ 200.00
Blocking Crosswalk	\$ 50.00
Blocking Driveway	\$ 50.00

\* Penalty of \$25 if Handicapped Parking fine not paid within 5 days; all others \$10 penalty if not paid within 5 days

PLANNING, ZONING , AND COMMUNITY DEVELOPMENT		
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Zoning	Zoning Permit	\$ 50.00
Zoning	Administrative Appeal	\$ 100.00
Zoning	Variance, Special Exception, or Annexation Application	\$ 100.00
Zoning	Verification Letters	\$ 25.00
Permitting	Special Events Permit	\$ 25.00
Permitting	Sign Permit	\$ 50.00
Permitting	Communication Tower Permit (New Construction or Co-Location)	\$ 200.00



Permitting	Moving a Building (No Construction)	\$ 150.00
Permitting	Moving a Mobile Home; New, Used or De-Title	\$ 165.00
Permitting	Appeals of Building Codes Application	\$ 75.00
Permitting	Tree Removal Application	\$ 25.00

Building Permit Fees - Through CC&I	
Value of Work	Permit Fee Amount
Less than \$5,000	\$ 55.00
\$5,001 to \$100,000	\$55.00 plus \$9.50/\$1,000
\$100,001 to \$1,000,000	\$955.00 plus \$4.25/\$1,000
\$1,000,001 to \$5,000,000	\$4,750.00 plus \$3.20/\$1,000
\$5,000,001 and Up	\$17,385.00 plus \$2.15/\$1,000

Value of work shall be determined by the construction cost or by using the latest ICC Building Valuation Date using the South Carolina Multiplier

Penalties: Permit fees shall be doubled if construction begins prior to obtaining permits

Plan Review Fees - Through CC&I	
Commercial	50% of Building Permit Fee
Residential	10% of Building Permit Fee

Demolition Fees - Through CC&I	
Commercial	\$ 155.00
Residential	\$ 105.00
Three Stories	\$ 225.00
Each Additional Story	\$ 30.00

Subtrade Fees - Through CC&I	
Electrical Permit	\$4.75/\$1,000 for jobs over \$1,000 plus \$50.00 base fee
Gas Permit	
Mechanical Permit	
Plumbing Permit	

\*Unit is defined as any structure having a separate electric meter

Re-Inspection Fees (All Inspection Types) - Through CC&I	
1st Re-inspection	\$ 65.00
2nd Re-inspection	\$ 65.00
3rd and Greater	\$ 65.00

Sediment Control & Drainage Plan Submittal	
1 acre or less	\$ 50.00
1+ to 2 acres	\$ 100.00
2+ to 5 acres	\$ 150.00
5+ to 10 acres	\$ 200.00
10+ to 20 acres	\$ 250.00
20+ to 50 acres	\$ 300.00
50+ to 100 acres	\$ 350.00
100+ acres	\$ 400.00

Solid Waste & Stormwater Fees*	
January	\$ 300.00
February	\$ 275.00
March	\$ 250.00
April	\$ 225.00
May	\$ 200.00
June	\$ 175.00
July	\$ 150.00
August	\$ 125.00
September*	\$ 400.00
October*	\$ 375.00
November*	\$ 350.00
December*	\$ 325.00
Annual Solid Waste/Stormwater Fee	\$ 300.00
Recycling Bin	\$ 50.00

This fee includes an \$8.00 annual stormwater fee; Fees listed beside month reflect first time fees for the remainder of the year prior to fees being placed on County property taxes. Annual fee of \$300 thereafter.

\* If fee is paid between September-December, it will appear on the following year's county tax bill.

Business License					
In Town Rate Class	Income: \$0-\$2,000 (Minimum)	Over \$2,000 per thousand	Out of Town Rate Class	Income: \$0-\$2,000 (Minimum)	Over \$2,000 Per Thousand
1	\$35.00	\$0.90	1A	\$70.00	\$1.80
2	\$40.00	\$1.00	2A	\$80.00	\$2.00
3	\$45.00	\$1.10	3A	\$90.00	\$2.20
4	\$50.00	\$1.20	4A	\$100.00	\$2.40
5	\$55.00	\$1.30	5A	\$110.00	\$2.60
6	\$60.00	\$1.40	6A	\$120.00	\$2.80
7	\$65.00	\$1.50	7A	\$130.00	\$3.00
8.1	\$30.00	\$1.00	8.1A	\$60.00	\$2.00
8	See additional class 8 rate details below				
9.3	\$200.00	\$0.65	9.3A	\$400.00	\$1.30
9.41	\$20.00	\$1.75	9.42A	\$100.00	\$3.50

**Declining Scale applies in all Classes for gross income in excess of \$1,000,000**

Gross Income in \$Millions	Percent in Class Rate for Each Additional
0-1	100%
1-2	90%
2-3	80%
3-4	70%
Over 4	60%

**Class 8 Additional Rates**

Rate Class	Description	Rate
8.2	Railroad - Set by State Statute	Set by State Statute
8.3	Telephone Companies	MASC Telecommunications
8.4	Insurance Companies and Brokers	MASC Insurance
8.51	Amusement Machines, Coin Operated (Except Gambling)	\$12.50 + \$12.50/Machine
8.52	Amusement Machines, Coin Operated (Non-Payout)	\$12.50 + \$12.50/Machine
8.6	Billiard or Pool Rooms, All Types	\$50.00 + \$5 or \$12.50/Table

Business Licenses expire April 30th. A 5% penalty accrues as of May 1st and each successive month thereafter.

**FACILITY RENTAL**

Amphitheater	Security Deposit	\$ 500.00
	Daily Rental Fee	\$ 1,500.00
Amphitheater (In-Town Church)	Security Deposit	\$ 200.00
	4-hour Rental Fee	\$ 100.00
	Per hour after 4 hours	\$ 25.00
Amphitheater (Out-of-Town Church)	Security Deposit	\$ 500.00
	4-hour Rental Fee	\$ 250.00
	Per hour after 4 hours	\$ 100.00
Gazebo (In-Town)	Security Deposit	\$ 150.00
	4-hour Rental Fee	\$ 75.00
	Per hour after 4 hours	\$ 25.00
Gazebo (Out of Town)	Security Deposit	\$ 250.00
	Rental Fee per Hour	\$ 125.00
Picnic Shelter (In-Town)	Security Deposit	\$ 150.00
	4-hour Rental Fee	\$ 85.00
	Per hour after 4 hours	\$ 25.00
Picnic Shelter (Out of Town)	Security Deposit	\$ 250.00
	4-hour Rental Fee	\$ 300.00
	Per hour after 4 hours	\$ 100.00

**OTHER CHARGES & FEES**

Town of Irmo - Hospitality Tax	Irmo Businesses in Richland County Irmo Businesses in Lexington County	1% of monthly gross receipts on sale of prepared foods 2% of monthly gross receipts on sale of prepared foods
Rental Registration		\$ 250.00
Rental Registration Late Fee		\$ 500.00
Set-Off Debt Collection		\$ 25.00
Replacement of Trees removed from Public Property		\$ 300.00
Request to close, acquire or use a municipal street right-of-way		\$ 100.00

STATE OF SOUTH CAROLINA )

)

ORDINANCE NO. 23-08

TOWN OF IRMO )

**AN ORDINANCE DESIGNATING ALLOCATIONS FOR FUNDING THROUGH THE CORONAVIRUS STATE AND LOCAL RECOVERY FUNDS (CSLRF) AND REDIRECTING PREVIOUS ALLOCATIONS FROM ORDINANCE 22-05**

**WHEREAS**, Congress adopted the American Rescue Plan Act (ARPA) of 2021, which included \$65 million in Coronavirus State and Local Fiscal Recovery Funds (SLFRF) to provide support to state and local governments; and

**WHEREAS**, the Town of Irmo has received \$5,056,297.44 through ARPA and the SLFRF with \$2,528,148.72 received as of October 2021 and the remaining \$2,528,148.72 received as of December 2022; and

**WHEREAS**, the Final Rule by the U.S Treasury allows for recipients of the SLFRF to elect to use a “standard allowance” instead of calculating actual lost revenue with total ARPA allocations of \$10 million or less to replace lost public sector revenue; and

**WHEREAS**, the Irmo Town Council agrees to elect the “standard allowance” to calculate the lost revenue for the Town of Irmo that will be used on government services; and

**WHEREAS**, the SLFRF program for replacing lost revenue provides flexibility to meet local needs and may be used to pay for government services including construction of roads and other infrastructure, provision of public safety and other services, and health and educational service; and

**WHEREAS**, the Council desires to maximize the public benefit and to adhere to the public purpose for any allocations of funds, with the attention to projects that will have a lasting effect on services provided by the Town of Irmo; and

**WHEREAS**, the Irmo Town Council has passed Ordinance 22-05 allocating ARPA funds for specific projects in the amount of \$2,269,125; and

**WHEREAS**, the Irmo Town Council approved allocating \$250,000 in ARPA funds to the Irmo Future Growth Corporation; and

**WHEREAS**, there remains \$717,000 approved to a Downtown Project, \$136,875 approved for Grant Projects, and \$36,000 approved for Court Projects through Ordinance 22-05 that will not be utilized totaling \$889,875 in funds to be redirected; and

**WHEREAS**, these redirected funds totaling \$889,875 from Ordinance 22-05 will be directed to this Ordinance and allocated towards the Community Park Pavilion Project; and

**WHEREAS**, the Council hereby designates the following direct allocations and amounts of project funding for the Town through the ARPA fund:

<i>1. Premium Pay to Essential Personnel</i>	<i>\$79,340</i>
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The Town of Irmo has distributed Premium Pay to town employees as previously approved by Town Council on 11/15/2022.

2. *Police Projects and Upgrades* \$95,000

The Police Department has demonstrated the need to continue improvements with software, hardware, and office space reconfiguration with facility upgrades.

3. *Administrative Projects and Upgrades* \$70,000

The Town Administrative Staff has demonstrated the need to upgrade their capabilities in preserving, scanning, and archiving council and other town records in accordance with standard practices and record retention regulations. Other projects include upgrades to computers and other IT components.

4. *New Town Hall Facility* \$580,000

The Irmo Town Council desires to replace its aging Town Hall facility and construct a new facility to provide essential governmental services to its residents for years to come.

5. *Irmo Community Park Playground Project* \$185,000

Projects include the rehabilitation of the two (2) playgrounds.

6. *Irmo Community Park Pavilion Project* \$1,023,000

The Irmo Town Council desires to construct a pavilion style structure on the Community Park grounds to hold outdoor events.

7. *Rawls Creek Park* \$700,000

Projects include construction of dog parks, bathroom facilities, lighting, signage, and fencing.

8. *Grant Awards* \$200,000

The Town Council desires to issue Business Façade Grants to local businesses to improve their appearance and create a more welcoming atmosphere to shop and conduct business in the town.

9. *Municipal Building Upgrades* \$40,000

Projects include paint and furniture upgrades, audio upgrades, and repairs to the a/c units.

10. *Public Works Upgrades* \$326,903

The Public Works Department has demonstrated the need to replace aging equipment. Projects include replacing riding mowers, bucket truck, woodchipper, and tank sprayer.

11. *Comprehensive Plan* \$120,000

The Irmo Town Council desires to conduct a rewrite of the Irmo Comprehensive Plan to address the growth within the Town.

**Total ARPA Funds allocated for these listed projects: \$3,419,243**

**WHEREAS**, any remaining ARPA funds that are not allocated to specific projects, or any projects that are completed under budget, will be sent to the general fund to pay for governmental services; and

**WHEREAS**, the Town of Irmo has now designate the use of the ARPA funds received before the end of calendar year 2024 and the funds will be spent before the end of the calendar year 2026; and

**BE IT ORDERED AND ORDAINED, BY THE TOWN OF IRMO, SOUTH CAROLINA, IN COUNCIL DULY AND LAWFULLY ASSEMBLED AND BY THE AUTHORITY THEREOF.**

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_ 2022.

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Barry A. Walker, Sr., *Mayor*

ATTEST:

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Renee Caviness, *Municipal Clerk*

1<sup>st</sup> Reading – May 16, 2023

2<sup>nd</sup> Reading – June 27, 2023

Public Hearing – June 27, 2023

STATE OF SOUTH CAROLINA     )  
  )  
TOWN OF IRMO                                    ) LUMOS FIBER OF SOUTH CAROLINA, LLC.

**ORDINANCE 23 – 09**  
**NONEXCLUSIVE FRANCHISE AGREEMENT**

**AN ORDINANCE TO GRANT LUMOS FIBER OF SOUTH CAROLINA, LLC, ITS SUCCESSORS AND ASSIGNS THE RIGHT, POWER AND AUTHORITY TO CONSTRUCT, INSTALL, MAINTAIN, LOCATE, MOVE, OPERATE, PLACE, PROTECT, RECONSTRUCT, REINSTALL, RELOCATE, REMOVE, AND REPLACE FIBER OPTIC OR OTHER CABLE AND RELATED FACILITIES FOR THE PROVISION OF TELECOMMUNICATIONS SERVICE IN THE PUBLIC STREETS AND PUBLIC RIGHTS-OF-WAY IN THE TOWN OF IRMO.**

**TOWN OF IRMO, SOUTH CAROLINA NONEXCLUSIVE FRANCHISE AGREEMENT WITH LUMOS FIBER OF SOUTH CAROLINA, LLC**

This Nonexclusive Franchise Agreement (hereinafter "Agreement") is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_ 2023 ("Effective Date"), by and between the TOWN OF IRMO, a South Carolina municipal corporation (hereinafter "Town" or "Grantor") and LUMOS FIBER OF SOUTH CAROLINA, LLC, a South Carolina limited liability company, (hereinafter "LUMOS" or "GRANTEE"), having its principal office at 4100 Mendenhall Oaks Pkwy, Suite 300, High Point, NC 27265.

WHEREAS, GRANTEE is a limited liability company duly organized and existing under the laws of the Commonwealth of Virginia; and

WHEREAS, GRANTEE desires to use and occupy the streets and public rights-of-way (as hereinafter defined) located within the Town for the purposes of constructing, installing, and maintaining network facilities for telecommunications services within and through the Town; and

WHEREAS, pursuant to Title V, Chapter 7, Section 30 of the South Carolina Code, and Title LVIII, Chapter 9, Section 2230 of the South Carolina Code, the Town has the authority to grant franchises and other authorizations for the use and occupancy of the streets and public rights-of-way; and

WHEREAS, the Town is agreeable to allowing GRANTEE to use the streets and public rights-of-way, subject to the terms and conditions hereinafter set forth and subject to any lawful telecommunications regulatory ordinance that may be adopted by the Town in the future; and



NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the Town and GRANTEE agree as follows:

**Section 1. Grant of Authority.** (a) Subject to the terms of this Agreement, the Town hereby grants to GRANTEE the non-exclusive right to construct, install, maintain, locate, move, operate, place, protect, reconstruct, reinstall, relocate, remove, and replace fiber optic or other cable and related facilities for the provision of telecommunications service in the public streets and public rights-of-way in the Town of Irmo. GRANTEE shall be solely responsible for obtaining any required consents from State agencies or private parties to the extent that its operations affect State or private property. It is expressly agreed that this Agreement does not give GRANTEE the right to occupy any public rights-of-way with permanent aboveground cabinets, pads, and other similar structures, except pursuant to the express approval of the Town pursuant to the applicable provisions of Chapter 2 of the Town Code or any successor ordinance, and that nothing in this Agreement shall be construed as consent by the Town for GRANTEE to provide cable service television service within the Town.

(b) GRANTEE acknowledges that this grant of authority is for the benefit of GRANTEE only, and that GRANTEE is not authorized to lease, sublease, assign or otherwise allow other providers to use or occupy the public rights-of-way except in accordance with provisions of this Agreement.

(c) GRANTEE acknowledges that, to the extent allowed by State and Federal law, the Town has the authority, to adopt ordinances regulating the use of the public rights-of-way, so long as such ordinances apply equally to all certificated providers of telecommunications services and are related to using the public streets and public rights-of-way in the Town. GRANTEE agrees to be bound by all such future lawful ordinances so long as it operates telecommunication services or has property or equipment within the public streets or rights-of-way located in the Town.

(d) This Agreement is not a grant by the Town of any fee simple or other property interest except as expressly contemplated by this Agreement and is made subject and subordinate to the prior and continuing right of the Town of Irmo to use the public streets and public rights-of-way occupied by GRANTEE for the purpose of laying, installing, maintaining, repairing, protecting, replacing, and removing sanitary sewers, water mains, storm drains, gas mains, poles and other equipment for municipal uses and with the right of ingress and egress, along, above, over, across and in said public streets and public rights-of-way.

(e) This Agreement shall be in full force and effect from and after the date of its approval by the Town Council governing body; provided, however, that notwithstanding such approval, this Agreement shall not become effective until all required bonds, certificates of insurance and other instruments required by this Agreement have been filed with, and accepted and approved by the Town, which acceptance and approval shall not be unreasonably delayed, conditioned, or withheld.

**Section 2. Definitions.** For the purpose of this Agreement, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

*"Affiliate"* means a person or entity that directly, or indirectly, through one or more intermediaries, owns, controls, is owned or controlled by, or is under common ownership or control with another person or entity.

*"Cable service"* shall have the same meaning as in the 47 U.S. Code § 522 and shall be synonymous with the term "cable television service."

*"Town"* means the Town of Irmo, South Carolina, and where appropriate to the context, its officers, agents, employees, and volunteers.

*"Town Attorney"* means the Town Attorney of the Town of Irmo or his designee.

*"Town Council"* means the Town Council of the Town of Irmo.

*"Town Engineer"* means the Town Engineer or his designee.

*"Town Administrator"* means the Town Administrator of the Town of Irmo or his designee.

*"Town Property"* means and includes all real property owned by the Town, including all property held in a proprietary capacity by the Town.

*"Conduit"* means any materials, such as metal or plastic pipe, that protects wire, cable, lines, fiber optic cable, or other technology for the provision of telecommunications service.

*"Duct"* means a pipe, tube, channel, or similar item for carrying wires, lines, cables, fiber optic cable, or other technology for the provision of telecommunications service.

*"Fiber optic or other cable and related facilities"* means fiber optic cables or other cables, facilities, conduits, converters, splice boxes, handholds, manholes, vaults, equipment, drains, surface location markers, appurtenances and related facilities located or to be located by GRANTEE in the public streets or rights-of-way of the Town used or useful for the transmission of telecommunications services.

*"GRANTEE"* or *"Lumos"* means Lumos Fiber of South Carolina, LLC.

*"Grantor"* means the Town of Irmo.

*"Public streets and public rights-of-way"* or *"public ways"* include the surface of, and the space above and below, any public street, road, highway, avenue, sidewalk, way, bridge, viaduct, alley or other public right-of-way, including unimproved surfaces, now or hereafter held by the Town for the purpose of public travel, communications, alarm, street lighting, power distribution, water or sewer service or other public use, whether present or future, to the extent of the Town's right, title, interest or authority to grant a franchise to occupy and use such streets and easements for the purpose of providing telecommunications services.

*"Public works project or public improvements"* include, without limitation, the construction, realignment, paving or repaving, or other work on any public street or public right-of-way, change of grade or alignment of any public street or public right-of-way, the construction or reconstruction of any water, sanitary sewer, storm sewer, force main, drainage or communications facility of the Town.

*"Telecommunications facilities"* means the plant, equipment, and property, including, but not limited to, the poles, pipes, mains, conduits, ducts, fiber optic and other cables, circuits, and wires, and any other equipment and property used by GRANTEE to provide telecommunications service.

*"Telecommunications service"* means the providing or offering for rent, sale, or lease, or in exchange for other value received, the transmittal of signals, including but not limited to, voice, data, image, graphic or video or other programming information, except cable television service, between or among points by wire, lines, cable, fiber optics, circuits, laser or infrared, microwave, radio, satellite, or other telecommunications facilities, but not including cable television service.

**Section 3. Term of Agreement.** The term of this Agreement shall be for an initial term of twenty years, commencing on the Effective Date (“Initial Term”). Unless either party gives ninety (90) days written notice of its intention to terminate the Agreement prior to the end of the Initial Term, the Agreement shall thereafter automatically renew for up to three (3) additional ten (10) year terms, for a maximum of fifty (50) years (each a “Renewal Term”); however, such renewal shall not automatically occur if a material, uncured breach has not been remedied and the non-breaching party provides ninety (90) days written notice prior to the end of a Renewal Term. Upon termination of this Agreement as herein provided, and unless the parties are in active good faith negotiation of a replacement agreement or otherwise agree in writing to an extension, GRANTEE shall be prohibited from further access to the public rights-of-way in the Town of Irmo.

**Section 4. Compliance With Applicable Law.** GRANTEE shall at all times during the term of this Agreement, including any renewal period, comply with all applicable federal, state, and local laws, ordinances, and regulations. Expressly reserved to the Town is the right to adopt, in addition to the provisions of this Agreement and existing laws, such additional ordinances and regulations as are necessary for the lawful exercise of its police power for the benefit and safety of the public.

**Section 5. Construction; Location or Relocation of Facilities.** All GRANTEE facilities shall be constructed, installed, and located according to the terms and conditions contained herein, unless otherwise specified by the Town.

5.1. Whenever all existing electric utilities, cable facilities or telecommunications facilities are located underground within a particular segment of a street or public right-of-way of the Town, GRANTEE shall also install its telecommunications facilities underground.

5.2. Whenever existing overhead electric utilities, cable facilities or telecommunications facilities are relocated underground within a particular segment of a street or public right-of-way of the Town, GRANTEE shall relocate its facilities underground within a reasonable amount of time after notification by the Town that such facilities must be relocated. Absent extraordinary circumstances or undue hardship as reasonably determined by the Town, such relocation shall be made concurrently to minimize the disruption of the public streets or public rights-of-way.

5.3. GRANTEE shall obtain all required permits for the construction or installation of its facilities as required in this Agreement, provided, however, that nothing in this Agreement shall prohibit the Town and GRANTEE from agreeing to an alternative plan

to review permit and construction procedures, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

5.4. In the performance and exercise of its rights and obligations under this Agreement, GRANTEE shall not interfere in any manner with the existence and operation of any public street and public or private right-of-way, sanitary sewer, water line, storm drain gas main, pole, overhead or underground electric and telephone wires, television cables, public works, facilities of other telecommunication providers, or Town Property, without the prior approval of the Town.

5.5. Except as may be expressly provided herein, nothing in this Agreement shall be construed to abrogate or limit the right of the Town of Irmo to perform any public works or public improvements. If any facilities of GRANTEE interfere with the construction, operation, maintenance, repair or removal of such public works or public improvements, within ninety (90) days after written notice by the Town of Irmo (or such other period of time set forth in Section 5.7 or as may be agreed upon in writing by the Town of Irmo and GRANTEE), GRANTEE shall, at its own expense protect, alter, remove or relocate facilities, as directed by the Town Administrator or Town Engineer. If GRANTEE fails to so protect, alter, remove, or relocate equipment within such period, the Town may break through, remove, alter, or relocate the facilities of GRANTEE without any liability to Town, and GRANTEE shall pay to the Town the costs incurred in connection with such breaking through, removal, alteration, or relocation. GRANTEE shall also reimburse the Town for or bear any additional cost actually incurred by the Town as a result of GRANTEE's failure to comply with the Town's request to protect, alter or remove equipment under this Agreement. The Town may collect such costs, and any reasonable expenses and attorney fees incurred in collecting such costs, as debts owed to the Town, by bringing action in any court of competent jurisdiction or exercising the Town's rights to draw on bonds or in any other lawful manner, individually or in combination.

5.6. The Town retains the right and privilege to cut or move any telecommunications facilities located within the public ways or other areas of the Town as the Town may determine to be necessary, appropriate, or useful in response to any life-threatening emergency. The Town will endeavor to provide prior notice to GRANTEE of such emergencies which may impact its telecommunications facilities. If Town is unable to provide prior notice of the life-threatening emergency as described above, Town shall be required to notify GRANTEE within twenty-four (24) hours of the occurrence of such emergency.

5.7. The facilities of GRANTEE shall be located so as not to interfere with public safety or, to the extent possible, with the convenience of persons using the public streets or rights-of-way. GRANTEE shall construct, maintain, and locate its telecommunications system so as not to interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal, and fiber optic facilities of the Town.

5.8. The Town shall have the right to specifically designate the location of the facilities of GRANTEE with reference to sewer and water mains, drainage facilities, fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, cable television facilities, and railway, communication, and power lines, in such a manner as to protect the public safety and public and private property. Failure by the Town to designate the location of GRANTEE's facilities shall not relieve GRANTEE of its responsibilities in matters of public safety, as provided in this Agreement.

5.9. Except in the cases of emergencies, GRANTEE shall not move, alter, change, or extend any of its telecommunications system in any public street or public right-of-way unless prior written notice of its intention to do so is given to the Town Administrator and permission in writing to do so is granted, or such requirement is waived, by the Town Administrator. The Town Administrator shall either approve or deny GRANTEE's request to relocate its facilities within five (5) days of receipt of GRANTEE's request. Such permission shall not be unreasonably withheld by the Town Administrator and shall be conditioned upon compliance with the terms and conditions of this Agreement, with such other terms and conditions as will preserve, protect and promote the safety of the public using the public ways, and as will prevent undue interference with or obstruction of the use of the public ways by the public, the Town or by any other public utility, public service corporation or cable operator for their respective purposes and functions. Such work by GRANTEE shall also be coordinated with the Town's annual paving program through the Office of the Town Engineer.

5.10. GRANTEE shall not open, disturb or obstruct, at any time, any more of the public streets or public rights-of-way than is reasonably necessary to enable it to proceed in laying or repairing its telecommunications system. GRANTEE shall not permit any public street or public right-of-way so opened, disturbed, or obstructed by it to remain open, disturbed, or obstructed for a longer period of time than shall be reasonably necessary. In all cases where any public street or public right-of-way is excavated, disturbed, or obstructed by GRANTEE, GRANTEE shall take all precautions

necessary or proper for the protection of the public and shall maintain adequate warning signs, barricades, signals, and other devices necessary or proper to adequately give notice, protection, and warning to, the public of the existence of all actual conditions present.

5.11. After the installation, removal, relocation, construction, or maintenance of the fiber optic or other cable and related facilities is completed, GRANTEE shall, at its own cost, repair and return the public streets or public rights-of-way to a minimum of the same or similar condition existing before such installation, removal, relocation, construction, or maintenance, in a manner as may be reasonably specified by the Town and to the reasonable satisfaction of the Town. GRANTEE shall be responsible for damage to Town street pavements, existing utilities, curbs, gutters, and sidewalks due to GRANTEE's installation, construction, maintenance, repair, or removal of its telecommunications facilities in the public streets, public rights-of-way, and shall repair, replace, and restore in kind, the said damaged property at its sole expense. Upon failure of GRANTEE to repair, replace and restore said damaged property, in a manner as may be reasonably specified by the Town and to the reasonable satisfaction of the Town, after sixty (60) days' notice in writing shall have been given by the Town, the Town may cause such necessary repairs to be made and may collect the costs incurred from GRANTEE, including but not limited to, exercising the Town's rights to draw on bonds. The Town may collect such costs, and any expenses and attorney fees incurred in collecting such costs, as debts owed to the Town, by bringing an action in any court of competent jurisdiction or in any manner allowed by law.

5.12. Neither GRANTEE, nor any person acting on GRANTEE's behalf, shall take any action or permit any action to be done which may impair or damage any Town Property more than is reasonably necessary to enable it to install or repair its telecommunications system, including, but not limited to, any public street, public right-of-way or other property located in, on or adjacent thereto.

5.13. In the event of an unexpected repair or emergency, GRANTEE may commence such repair and emergency response work as required under the circumstances, provided GRANTEE shall notify the Town as promptly as possible, before such repair or emergency work is started or as soon thereafter as possible if advance notice is not practicable.

5.14. GRANTEE shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state and local requirements, laws, ordinances, and regulations.

(a) GRANTEE shall at all times keep and maintain its facilities free of all graffiti located thereon. If the Town notifies the GRANTEE that graffiti is located on the facilities, GRANTEE shall remove the graffiti within (30) days of written notice. If GRANTEE defaults in its obligations hereunder, the Town may perform the necessary work and charge the reasonable cost thereof to and collect the same from the GRANTEE.

(b) GRANTEE shall keep facilities free of debris and anything dangerous and/or noxious which would create a hazard or undue vibration, heat, noise or interference.

5.15. GRANTEE shall at all times employ a high standard of care and shall install and maintain and use approved methods and devices for preventing failure or accidents which are likely to cause damages, injuries, or nuisances to the public.

5.16. GRANTEE shall obtain all required permits from the Town and any other governmental entity having jurisdiction prior to commencing work of any nature and shall comply with all terms and conditions of any such permit. GRANTEE shall furnish detailed plans of the work and other required information. GRANTEE shall comply with all applicable ordinances and permitting requirements. The other terms of this Agreement notwithstanding, GRANTEE is exempt from all permit fee requirements under current law and under any successor laws.

A single permit may be issued for multiple excavations to be made in public streets and rights-of-way. Exceptions to the requirement for a written permit may be allowed in cases of emergencies involving public safety or restoration of service. In the case of emergency excavations made in a public street or public right-of-way without a permit, GRANTEE shall make a report of each such excavation to the Town within two (2) working days. Any permit application and inspection related to repair of excavations shall be promptly acted upon by the Town so as not to unreasonably delay GRANTEE in efficiently discharging its public service obligation and in any event shall be granted or denied within thirty (30) days from submission and, if denied, accompanied by a written explanation of the reasons the permit was denied and the actions required to cure the denial.

5.17. (a) Promptly after installation, repair or extension of the telecommunications system or any portion thereof or any pavement cut by GRANTEE in any public way of the Town, the incidental trenches or excavations shall be refilled by GRANTEE in a manner acceptable to the Town Administrator. Pavement, sidewalks, curbs, gutters or any other portions of public ways damaged, disturbed or destroyed by such work shall be promptly restored and replaced with like materials to their former



condition by GRANTEE at its own expense; however, where it is necessary, and if authorized by the Town, in order to achieve the former conditions, GRANTEE shall use materials whose type, specification and quantities exceed or are different from those used in the installation, then GRANTEE at its own expense shall provide such different materials. Where a cut or disturbance is made in a section of sidewalk or paving, rather than replacing only the area actually cut, GRANTEE shall replace the full width of the existing sidewalk or appropriate sections of paving as determined by the Town Engineer and the full length of the section or sections cut, a section being defined as that area marked by expansion joints or scoring or as determined by the Town Engineer. GRANTEE shall maintain, repair, and keep in good condition for a period of one (1) year following such disturbance all portions of public ways disturbed by GRANTEE, provided such maintenance and repair shall be necessary because of defective workmanship or materials supplied by GRANTEE.

(b) All trees, landscaping and grounds removed, damaged, or disturbed as a result of the construction, installation maintenance, repair or replacement of telecommunications facilities shall be replaced or restored, as nearly as may be practicable, to the condition existing prior to performance of work. All restoration work within the public ways or other areas shall be done in accordance with landscape plans approved by the Town.

5.18. (a) GRANTEE shall promptly remove or correct any obstruction, damage, or defect in any public street or public right-of-way caused by GRANTEE in the installation, operation, maintenance, or extension of GRANTEE's telecommunications system. Any such obstruction, damage, or defect which is not promptly removed, repaired, or corrected by GRANTEE after thirty (30) days' notice to do so, given by the Town to GRANTEE, may be removed or corrected by the Town, and the cost thereof shall be charged against GRANTEE and payable on demand. Any expense, cost, or damages incurred for repair, relocation, or replacement to Town water, sanitary sewer, storm sewer, storm drainage, telecommunication facilities or other property resulting from construction or maintenance of GRANTEE telecommunications system shall be borne by GRANTEE and any and all expense and cost incurred in connection therewith by the Town shall be fully reimbursed by GRANTEE to the Town.

(b) If weather or other conditions do not permit the complete restoration required by this Section, GRANTEE shall temporarily restore the affected property. Such temporary restoration shall be at GRANTEE's sole expense and GRANTEE shall only be required to make reasonable, temporary restorations based on the conditions. GRANTEE shall promptly undertake and complete the required permanent restoration

when the weather or other conditions no longer prevent such permanent restoration.

(c) GRANTEE or other person acting on its behalf shall use suitable barricades, flags, flaggers, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including, but not limited to, the flagging requirements of the South Carolina Department of Transportation.

5.19. Except in the case of the Town's negligence or intentional or willful misconduct, the Town, its officers, agents, or employees, shall not be liable for any damage to or loss of any of GRANTEE's telecommunications services or telecommunications facilities within the public ways or any other areas of the Town as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work or activity or lack of any activity of any kind by or on behalf of the Town.

5.20. GRANTEE shall cooperate with the Town in coordinating its construction activities as follows:

(a) GRANTEE shall provide the Town with a schedule of its proposed construction activities prior to commencing any expansion of its backbone system;

(b) Upon request, GRANTEE shall meet with the Town and other users of the public ways to coordinate construction in the public ways; and

(c) All construction locations, activities and schedules shall be coordinated, as directed by the Town Engineer, to minimize public inconvenience, disruption, or damages. GRANTEE shall submit a written construction schedule to the Town Engineer at least ten (10) working days before commencing any work in or about the public streets or public rights-of-way. GRANTEE shall further notify the Town Engineer not less than five (5) working days in advance of such excavation or work and shall comply with the provisions of the South Carolina Underground Facility Damage Prevention Act, South Carolina Title 58, Chapter 36.

**Section 6. Mapping.** (a) GRANTEE shall maintain an accurate map of its telecommunications facilities in the Town. GRANTEE shall provide the Town with "as built" drawings and an accurate map or maps showing the location of its facilities, including pole lines and conduit lines and any other facilities requested by the Town, to include a digitized map(s) in both printed and electronic form. GRANTEE shall, upon request, provide

updated maps annually of telecommunications facilities in the Town.

(b) If any of the requested information of GRANTEE in this Agreement is considered proprietary, confidential or a trade secret, GRANTEE will notify the Town of this opinion and the Town will keep such information confidential to the extent permitted by the South Carolina Freedom of Information Act (South Carolina Code Title 30 Chapter 4) or other any successor statute or law. As for new installations, after the effective date of this franchise, GRANTEE shall submit the proposed Mapping of its plans for new construction to the Town prior to any construction. As-built drawings of any new construction of facilities shall be furnished to the Town within sixty (60) days of completion of such construction. All as-built maps and drawings shall be drawn to scale and reference to a physical Town benchmark to the extent the physical benchmark is in reasonable proximity to GRANTEE new installation. All mapping shall be provided in a format compatible to the Town's present and future mapping systems. Alternatively, GRANTEE will pay for the cost of making the mapping compatible.

(c) Prior to its installation of any Telecommunications facilities in the public streets or public rights-of-way and after GRANTEE provides the Town with its proposed plans for the Telecommunications facilities, the Town may in its reasonable discretion designate certain locations to be excluded from use by GRANTEE for its Telecommunications facilities, including, but not limited to, ornamental or similar specially designed streets lights or other facilities or locations which, in the reasonable judgment of the Town Engineer, do not have electrical service adequate for or appropriate for GRANTEE's facilities or cannot safely bear the weight or wind loading thereof, or any other facility or location that in the reasonable judgment of the Town Engineer is incompatible with the proposed Telecommunications facilities or would be rendered unsafe or unstable by the installation. The Town Engineer may further exclude certain other facilities that have been designated or planned for other use or are not otherwise proprietary, legal, or other limitations or restrictions as may be reasonably determined by the Town. In the event such exclusions conflict with reasonable requirements of GRANTEE, the Town will cooperate in good faith with GRANTEE to attempt to find suitable alternatives, if available, provided that the Town shall not be required to incur financial costs nor require the Town to acquire new locations for GRANTEE. GRANTEE shall, prior to any excavation or installation within the public streets or public rights-of-way, provide sufficient notification and joint installation opportunity on a shared cost basis to potential users of the public streets or public rights-of-way as may be provided for by a separate Town policy. Such notification and adopted policies shall be designed to maximize co-location of providers to minimize the disturbance to the public streets or public rights-of-way and maximize its useable capacity.

**Section 7. Insurance Requirements.** At all times during the term of this Agreement and any renewal period, GRANTEE shall, at its expense, maintain the following insurance policies. Any required insurance shall be in a form and with an insurance company authorized to do business in South Carolina and have a rating of no less than A- VII by A.M. Best Co.

(a) *Commercial General Liability.* Commercial General Liability insurance coverage on an occurrence basis insuring against all claims, loss, cost, damage, expense, or liability from loss of life or damage or injury to persons or property arising out of any of the work or activity under or by virtue of this Agreement. The minimum limit of liability for such coverage shall be Two Million Dollars (\$2,000,000) combined single limit for any one occurrence. However, the parties acknowledge that GRANTEE may meet the policy limit in this section by combination of GRANTEE's General Commercial Liability Policy and GRANTEE's Umbrella or Excess Liability Policy.

(b) *Contractual Liability.* Broad form Contractual Liability insurance, including the indemnification obligations of GRANTEE set forth in this Agreement.

(c) *Workers' Compensation.* Workers' Compensation insurance covering GRANTEE's statutory obligation under the laws of South Carolina and Employer's Liability insurance for all its employees engaged in work under this Agreement.

(d) *Automobile Liability.* Automobile Liability insurance having minimum limits of liability of One Million Dollars (\$1,000,000) combined single limit applicable to owned or non-owned vehicles used in the performance of any work under this Agreement.

(e) *Pollution Liability Insurance.* GRANTEE shall maintain during the life of this Agreement Pollution Liability Insurance in the amount of One Million Dollars (\$1,000,000) for each occurrence. Coverage shall be provided for bodily injury and property damage resulting from pollutants which are discharged suddenly and accidentally. Such insurance shall also provide coverage for cleanup costs.

(f) *Umbrella Coverage.* The insurance coverages and amounts set forth in this Section may be met by an umbrella liability policy following the form of the underlying primary coverage in a minimum amount of Five Million Dollars (\$5,000,000).

(g) Prior to commencing construction pursuant to this Agreement or within ten (10) days after the granting of the franchise contemplated by this Agreement, whichever is

sooner, GRANTEE shall provide the Town with a memorandum certificate or certificates of insurance, showing the type, amount, effective dates, and date of expiration of the policies, and thereafter prior to the expiration of any such policy or change in the amount or conditions, of coverage. Such certificate or certificates and evidence of insurance shall include the Town, its officers, agents, and employees as additional insureds. GRANTEE shall obtain a written obligation on the part of each insurance company to notify GRANTEE at least thirty (30) days before cancellation or a material change of any such insurance. Upon receipt of such notice from GRANTEE's insurance company, GRANTEE will immediately notify the Town of Irmo of any of the required coverages that are not replaced.

### **Section 8. Surety.**

(a) Within ten (10) days after the Effective Date of this Agreement, and prior to the commencement of any construction by GRANTEE, GRANTEE shall furnish and file with the Town an irrevocable bond, in a form and by a surety authorized to do business in South Carolina, in the amount of Fifty Thousand Dollars (\$50,000) securing its faithful performance of the terms and conditions of this Agreement. GRANTEE shall maintain such bond for the duration of this Agreement, unless otherwise agreed to in writing by the Town. Failure to maintain the bond shall be deemed a material default by GRANTEE of this Agreement.

The bond shall guarantee GRANTEE's faithful performance of the terms and conditions of this Agreement, including, but not limited to: (1) the timely completion of construction; (2) compliance with applicable plans, permits, technical codes and standards; (3) proper location of the facilities as specified by the Town; (4) restoration of the public ways and other property affected by the construction as required by this Agreement; (5) the submission of "as-built" drawings after completion of the work as required by this Agreement; (6) timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work; and (7) the payment by GRANTEE of all lawful liens, taxes, damages, claims, costs or expenses which the Town has been compelled to pay or has incurred by reason of any act or default of GRANTEE under this Agreement and all other payments due the Town from GRANTEE pursuant to this Agreement.

(b) Whenever the Town determines that GRANTEE has violated one (1) or more terms, conditions, or provisions of this Agreement for which relief is available against the bond, a written notice shall be given to GRANTEE. The written notice shall describe in reasonable detail the violation so as to afford GRANTEE an opportunity to remedy the violation. GRANTEE shall have thirty (30) days subsequent to receipt of the notice in

which to correct the violation before the Town may make demand upon the bond. Failure to maintain the bond shall be a martial default under this Agreement.

(c) Such bond shall be in addition to any performance, defect bond, or other surety required by the Town in connection with the issuance of any construction or any successor ordinance.

**Section 9. Indemnification.** GRANTEE agrees to indemnify, defend and hold harmless the Town, its officers, employees and agents from and against all claims, demands, losses, damages, liabilities, fines, and penalties, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorney's fees and costs of defense (collectively, the losses), arising out of any breach by GRANTEE of the terms and conditions of this Agreement, except to the extent proximately caused by the negligence or willful misconduct of the Town of Irmo, its officers, employees and agents. In addition, GRANTEE shall protect, indemnify, and hold harmless the Town, its officers, agents, and employees, from any and all demands for fees, claims, suits, actions, causes of action, or judgments based on the alleged infringement or violation of any patent, invention, article, arrangement, or other apparatus that may be used in the performance of any work or activity arising out of the use of any Telecommunication facilities or the provision of Telecommunication service, except to the extent proximately caused by the negligence or willful misconduct of the Town of Irmo, its officers, employees or agents.

Town agrees to indemnify, defend and hold harmless the GRANTEE, along with all predecessors, successors, indirect and direct parents, indirect and direct subsidiary companies, affiliates, assigns, and all employees, directors, officers, and agents of such entities, from and against all claims, demands, losses, damages, liabilities, fines, and penalties, and all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorney's fees and costs of defense (collectively, the losses), arising out of any breach by Town of the terms and conditions of this Agreement, except to the extent proximately caused by the negligence or willful misconduct of the GRANTEE, its officers, employees and agents.

**Section 10. Hazardous Substances.** In its performance of this Agreement, GRANTEE shall not transport, dispose of, or release any hazardous substance, material, or waste, except as necessary in performance of its work under this Agreement, and in any event GRANTEE shall comply with all federal, state, and local laws, rules, regulations, and ordinances controlling air, water, noise, solid wastes, and other pollution, and relating to the storage, transport, release, or disposal of hazardous material, substances, or waste. Regardless of the Town's acquiescence, GRANTEE shall indemnify and hold the Town, its officers, agents, employees, and volunteers harmless from all costs, claims, damages, causes

of action, liabilities, fines, or penalties, including reasonable attorney's fees, resulting from GRANTEE's violation of this section and agrees to reimburse Town for all costs and expenses incurred by the Town in eliminating or remedying such violations. GRANTEE also agrees to reimburse the Town and hold the Town, its officers, agents, employees, and volunteers harmless from any and all costs, expenses, attorney's fees and all penalties or civil judgments obtained against any of them as a result of GRANTEE's use or release of any hazardous substance or waste onto the ground, or into the water or air from, near or upon the Town's premises. For purposes of this Section, the following definitions shall apply:

"Hazardous Substances" means asbestos and any and all pollutants, dangerous substances, toxic substances, hazardous wastes, hazardous materials and hazardous substances as referenced or defined in, or pursuant to, any federal, state, local or other applicable environmental law, statute, ordinance, rule, order, regulation or standard in effect on the date hereof including, without limitation, the Resource Conservation and Recovery Act (42 U.S.C. 6901, *et seq.*), as amended, the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136, *et seq.*), as amended, the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601, *et seq.*), as amended, and the Toxic Substances Control Act (15 U.S.C. 2601, *et seq.*), as amended.

As used in this Section, "release" includes the placing, releasing, depositing, spilling, leaking, pumping, emitting, emptying, discharging, injecting, escaping, leaching, disposing, or dumping of any substance.

### **Section 11. Fees**

(1) In consideration of the grant of authority to utilize the streets and public places of the Town for the provision of Telecommunications Service, and in accordance with Applicable Law and ordinances, with the exception of business license taxes, which shall still be required, GRANTEE shall be exempt from all franchise fee or other administrative fee requirements as are presently permitted by Article 20 of Chapter 9 of Title 58 of the 1976 Code of Laws of South Carolina, as enacted in 1999, and any successor laws that may be enacted by the Town. GRANTEE shall pay all such ad valorem taxes, sales taxes, or other taxes as may now or hereafter be lawfully imposed on other businesses within the Town. In the event that Article 20 of Chapter 9 of Title 58 of the 1976 Code of Laws of South Carolina, as enacted in 1999, or other laws governing franchise fees and/or other administrative fees with respect to Telecommunications Service shall be substantially modified by subsequent legislation or court decision, the provisions herein contained shall survive and no new fees shall be levied against GRANTEE. GRANTEE will be free to challenge any fee structure not in compliance with this Agreement.

(2) For the use of the Right of Way, as defined by S.C. Code Section 58-9-2230, to provide Telecommunications Service, GRANTEE shall provide public WiFi service in the Town's public parks, as agreed between the Parties, in lieu of any permit fee, encroachment fee, degradation fee, or other fee assessed on a Telecommunications Service provider for use of the Right of Way to the extent required by S.C. Code Section 58-9-2230.

**Section 12. Public Benefits.** GRANTEE shall offer free, high-speed, state-of-the-art, fiber-fed WiFi service in those Town parks as mutually agreed between GRANTEE and Town. Such service shall be accessible to Town residents and visitors, subject to GRANTEE'S terms of service and acceptable use policy. GRANTEE shall provide Town with an updated copy of GRANTEE'S terms of service and acceptable use policy whenever there are changes. WiFi service will be installed and available no later than six (6) months after the telecommunications facilities pass each mutually agreed park and will continue throughout the term of this Agreement.

**Section 13. General provisions.**

(a) *Authority.* GRANTEE warrants and represents that it has obtained all necessary and appropriate authority and approval from all applicable federal and state agencies or authorities to provide all telecommunications facilities and services it intends to provide within the Town, and upon request by the Town will provide evidence of such authority.

(b) *Other remedies.* Nothing in this Agreement shall be construed as waiving or limiting any rights or remedies that the Town or GRANTEE may have, at law or in equity, for enforcement of this Agreement.

(c) *Severability.* If any section, subsection, sentence, clause, phrase, or other portion of this Agreement, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

(d) *Nonenforcement.* Neither party shall be excused from complying with any of the provisions of this Agreement by any failure of the other party, upon any one or more occasions, to insist upon strict performance of this Agreement or to seek the other party's compliance with any one or more of such terms or conditions of this Agreement.

(e) *Conflicts of law.* If there is a conflict between the provisions of this Agreement and any law, whether federal, state, or Town, including all future laws and



ordinances, the law and conflicting Agreement provision will, to the extent reasonably possible, be construed so as to be consistent with each other and if such construction is not reasonably possible, the conflicting provision of this Agreement shall be deemed superseded by such law and have no effect, notwithstanding the contract clause of the United States Constitution.

(f) *Controlling law and venue.* By virtue of entering into this Agreement, GRANTEE agrees and submits itself to a court of competent jurisdiction in the Town of Irmo, South Carolina or in the United States District Court for the District of South Carolina, and further agrees that this Agreement is controlled by the laws of South Carolina or any applicable federal laws and that all claims, disputes and other matters shall be decided only by such court according to the laws of South Carolina or any applicable federal laws or by any regulatory body with jurisdiction, including the Federal Communications Commission.

(g) *Captions.* The section captions and headings in this Agreement are for convenience and reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(h) *Nondiscrimination.* During the performance of this Agreement, GRANTEE agrees that it will not discriminate against any employee or applicant for employment on the basis of race, religion, color, sex, handicap, or national origin. GRANTEE agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. GRANTEE, in all solicitations or advertisements for employees placed by or on behalf of GRANTEE, will state that GRANTEE is an equal opportunity employer. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements herein.

(i) *Notices.* (a) Notices given pursuant to this Agreement shall be in writing and addressed as follows:

To the Town:           Town Administrator  
                                  Town of Irmo  
                                  7300 Woodrow Street  
                                  P.O. Box 406  
                                  Irmo, South Carolina 29063

With a Copy to:       Town Attorney  
                                  Town of Irmo  
                                  7300 Woodrow Street

P.O. Box 406  
Irmo, South Carolina 29063

To GRANTEE: Chief Network Officer  
4100 Mendenhall Oaks Pkwy, Suite 300  
High Point, NC 27265

With a Copy to: General Counsel  
4100 Mendenhall Oaks Pkwy, Suite 300  
High Point, NC 27265

(b) Either party may change the address at which it will receive notices by providing written notice of the change to the other party.

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

**LUMOS FIBER OF SOUTH CAROLINA, LLC**  
A limited liability company

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

State of \_\_\_\_\_  
Town/County of \_\_\_\_\_, TO WIT;

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2023, by \_\_\_\_\_, of Lumos Fiber of South Carolina, LLC, a \_\_\_\_\_ company.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

My registration number: \_\_\_\_\_

**PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023**  
**TOWN OF IRMO**  
a South Carolina municipal corporation

By: \_\_\_\_\_  
Barry A. Walker, Sr. Mayor of the Town of Irmo

(SEAL)

ATTEST: \_\_\_\_\_  
Renee Caviness, Town Clerk

STATE OF SOUTH CAROLINA  
TOWN OF IRMO, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by Barry A. Walker, Sr., Mayor of the Town of Irmo, on its behalf. He is personally known to me.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_  
My registration number: \_\_\_\_\_

STATE OF SOUTH CAROLINA  
TOWN OF IRMO, to-wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by Renee Caviness, Town Clerk of the Town of Irmo, on its behalf. She is personally known to me.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_  
My registration number: \_\_\_\_\_

Approved as to Content:

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Information Technology  
Department

Approved as to Legal Sufficiency:

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Town Attorney's Office

Approved as to Risk Management:

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Risk Manager

STATE OF SOUTH CAROLINA )  
 )  
TOWN OF IRMO )

**ORDINANCE 23 – 10**

**AN ORDINANCE TO AMEND APPENDIX A – ZONING AND LAND DEVELOPMENT;  
ARTICLE 3 – ZONING REGULATIONS FOR USE OF LOTS; SECTION 3-1; TABLE 2;  
SCHEDULE OF LOT AREA, YARD, SETBACK, HEIGHT, DENISTY, AND IMPERVIOUS  
SURFACE REQUIREMENTS;**

**WHEREAS**, the Town of Irmo desires to strengthen its Code of Zoning and Land Development Regulation, amending said Code to address noted errors, omissions, vague language, and add appropriate standards; and

**WHEREAS**, the following text amendment to the Town of Irmo Code of Zoning and Land Development Regulations has been proposed through collaboration with the Planning Commission; and

**WHEREAS**, the Planning Commission, at their April 25, 2023, meeting, voted to recommend approval of this amendment, as attached.

**NOW, THEREFORE, BE IT ORDAINED** and ordered by the Mayor and Town Council of the Town of Irmo, South Carolina, in Council duly assembled on this 27<sup>th</sup> day of June, 2023, that the Town of Irmo Code of Zoning and Land Development Regulations is hereby amended.

**PASSED AND ADOPTED this 27<sup>th</sup> day of June, 2023.**

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Barry A. Walker, Sr., *Mayor*

ATTEST:

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Renee Caviness, *Municipal Clerk*

1<sup>st</sup> Reading: May 16, 2023

2<sup>nd</sup> Reading: June 27, 2023

**ORDINANCE 23 – 10**

**Article 3 Zoning Regulations for Use of Lots**

Section 3-1 Schedule of Lot Area, Yard, Setback, Height, Density, and Impervious Surface Requirements

*Table 2  
Schedule of Lot Area, Yard, Setback, Height, Density, Floor Area, and Impervious Surface Requirements, by District*

	FA	RS	RG	CO	CN	CG	LM
<b>Minimum lot Size (square feet)</b>	43,560	(D)	(E)	6,000	6,000	6,000	NA
<b>Width at front buildable line (feet)</b>	150	70	60	60	60	60	60
<b>Minimum yard &amp; building setback in feet (F)</b>							
<b>Front (A)</b>							
Major street – multi-lane (refer to major street definition)	25	25	25	25	25	25	25
Major street - two lane	40	40	40	40	40	40	40
Minor street (refer to definition)	15	15	15	15	15	15	15
<b>Side</b>							
Residential	10	5	5	5	(F)	(F)	NA
Non-residential	40	40	40	5	(F)	(F)	(F)
<b>Rear</b>							
Residential	30	20	20	15	15	15	NA
Non-residential	50	50	50	15	15	15	15
<b>Maximum height (ft.) (B)</b>	40	40	40	(G)	(G)	(G)	(G)
<b>Maximum floor area ratio: Non-residential uses (C)</b>	NA	0.25	0.25	0.4	0.6	NA	NA

**Table Notes:**

1. Refer to yard and setback modifications of this Article
2. Due to the unique design features of townhouses, patio homes, and zero lot line housing, the dimensional requirements of Table 2 are modified under Conditional Uses for Townhouses and Conditional Uses for Patio and Zero Lot Line Housing
3. Abbreviations
  - a. NA = not applicable

**Table References:**

- A. Measurement from front property line abutting the street right-of-way
- B. Building height measured from the average elevation of the finished grade at the building line to the highest point on the roof

## ORDINANCE 23 – 10

- C. Maximum non-residential floor area ratio is measured as gross floor area percentage of total lot area
- D. Minimum lot sizes in the Single Family (RS) Residential District are as follows:
  - 1. Single Family Detached: 12,500 s.f.
  - 2. Patio and Zero Lot Line Homes: 3,000 s.f. per unit on average, with a maximum of six units per net acre
- E. Minimum lot sizes in the General Residential (RG) District are as follows:
  - 1. Single Family Detached: 6,000 s.f. for the first unit and 4,000 s.f. for any additional structures
  - 2. Duplexes: 8,000 s.f. per two-unit structure
  - 3. Patio and Zero Lot Line Homes: 3,000 s.f. per unit on average
  - 4. Townhomes: 3,000 s.f. per unit
  - 5. Apartments: No minimum lot size; capped at 16 units per gross acre
- F. Minimum side yard setbacks in CN, CG, and LM districts are a minimum of 3 feet on one side and a total of 10 feet for both sides
- G. Building heights of more than 40 feet shall observe an additional setback from side and rear property lines of one foot for each one foot in height over 40 feet; buildings in excess of five stories shall be approved by the Irmo Fire Department.

STATE OF SOUTH CAROLINA )

)

ORDINANCE 23-11

TOWN OF IRMO )

**AN ORDINANCE TO RE-CLASSIFY 4.54 ACRES OF REAL PROPERTY LOCATED AT THE NORTHEAST CORNER OF MUSKRAT RUN AND EMERALD COVE, TMS # R03202-01-16, FROM RG, GENERAL RESIDENTIAL, TO FA, FRINGE AGRICULTURAL, AND TO AMEND THE OFFICIAL ZONING MAP OF THE TOWN OF IRMO TO SO REFLECT**

**WHEREAS**, a request has been presented to the Irmo Town Council by the current record titleholder of property located along Muskrat Run, TMS # R03202-01-16, to re-classify the property from RG, General Residential, to FA, Fringe Agricultural; and

**WHEREAS**, the Town and its Planning Commission, per SC Code § 6-29-760 *Procedure for enactment or amendment of zoning regulation or map; notice and rights of landowners; time limit on challenges* met the State's zoning procedural standards. Simply, notice was advertised in The New Irmo News at least fifteen days prior to the public hearing, notice was conspicuously posted on or adjacent to the property, and a public hearing was held; and

**WHEREAS**, the Irmo Planning Commission, during a meeting held on April 25, 2023, recommended to the Irmo Town Council to classify said property to the appropriate zoning classification of FA, Fringe Agricultural; and

**WHEREAS**, it is necessary and desirable to reclassify said property to FA, Fringe Agricultural;

**NOW, THEREFORE, BE IT ORDAINED** and ordered by the Mayor and Town Council of the Town of Irmo, South Carolina, in Council duly assembled on this 27<sup>th</sup> day of June, 2023, that the Zoning Classification pertaining to the subject parcel be hereby re-classified from its current zoning of RG, General Residential to FA, Fringe Agricultural; and

**BE IT FURTHER ORDAINED** that the official zoning map of the Town of Irmo be, and the same hereby is, amended to so reflect.

**DONE IN COUNCIL ASSEMBLED this 27<sup>th</sup> day of June, 2023**

\_\_\_\_\_  
Barry A. Walker, Sr., *Mayor*

ATTEST:

\_\_\_\_\_  
Renee Caviness, *Municipal Clerk*

1<sup>st</sup> Reading: May 16, 2023

2<sup>nd</sup> Reading: June 27, 2023

Public Hearing: June 27, 2023

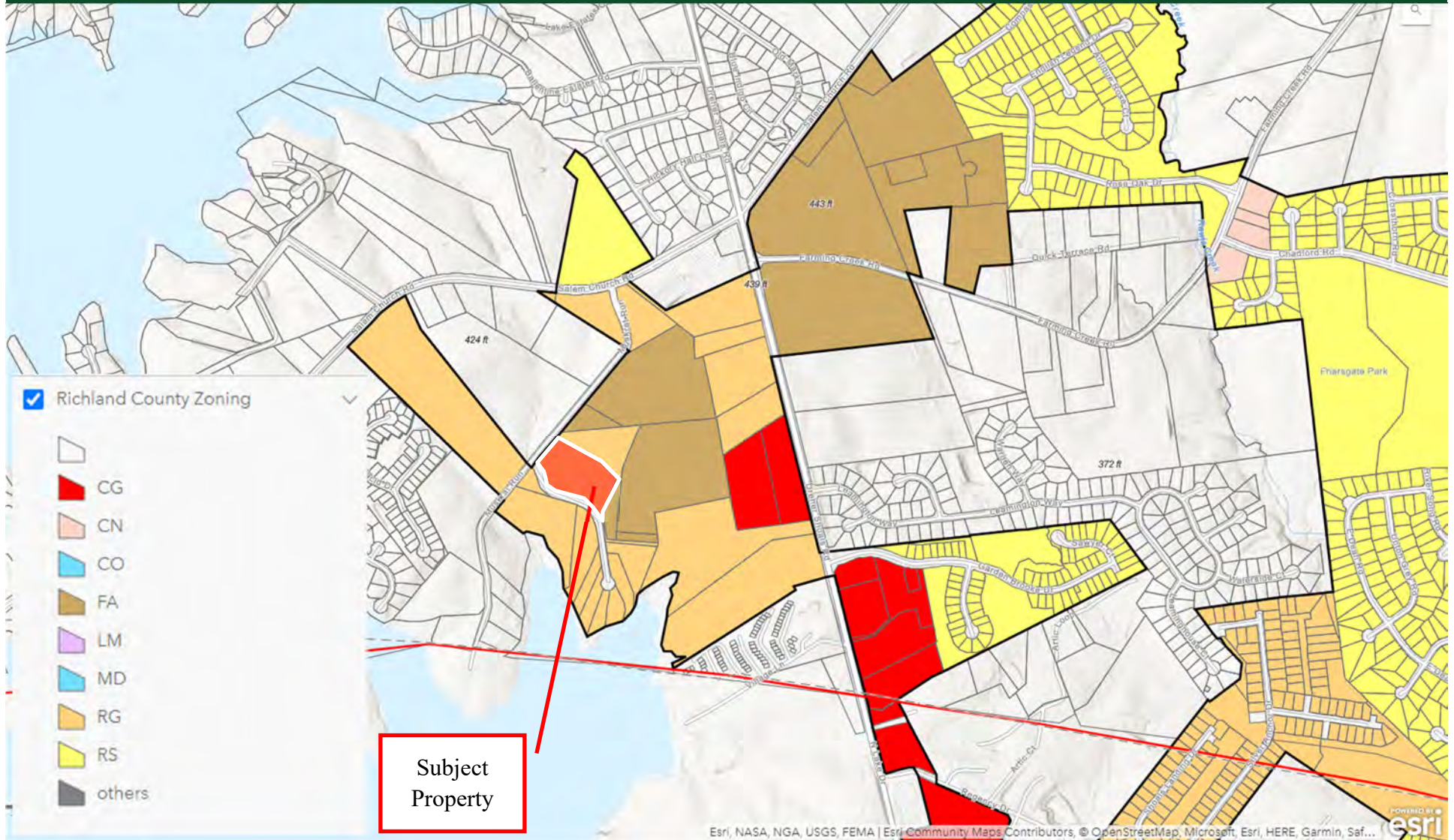


# Muskrat Run Rezoning

Muskrat Run & Emerald Cove, TMS R03202-01-16

Planning Commission: April 25, 2023

Town Council: May 16, 2023 and June 27, 2023



STATE OF SOUTH CAROLINA )  
TOWN OF IRMO )  
)

**RESOLUTION 23-03**

**A RESOLUTION OF THE TOWN OF IRMO ACCEPTING A DONATION OF LAND FROM THE IRMO FIRE DISTRICT.**

**BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF IRMO, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED AND BY THE AUTHORITY THEREOF THAT:**

**Section 1 Acceptance of Property**

The Town hereby accepts the following real property from the Irmo Fire District:

A property consisting of 1 acre, more or less, owned by the Irmo Fire District and located at 7317 Childs Street on TMS# 001922-02-003 within the Town of Irmo. The acquisition of this property is necessary for the site of a future Town Hall.

**Section 2 Signature Authority**

The Town Administrator is hereby authorized to sign all documents necessary to affect this transfer, including but not limited to the Closing Statement and any and all other documents necessary to close the transaction.

**BE IT FURTHER RESOLVED** that this resolution shall become effective on 16<sup>th</sup> day of May, 2023.

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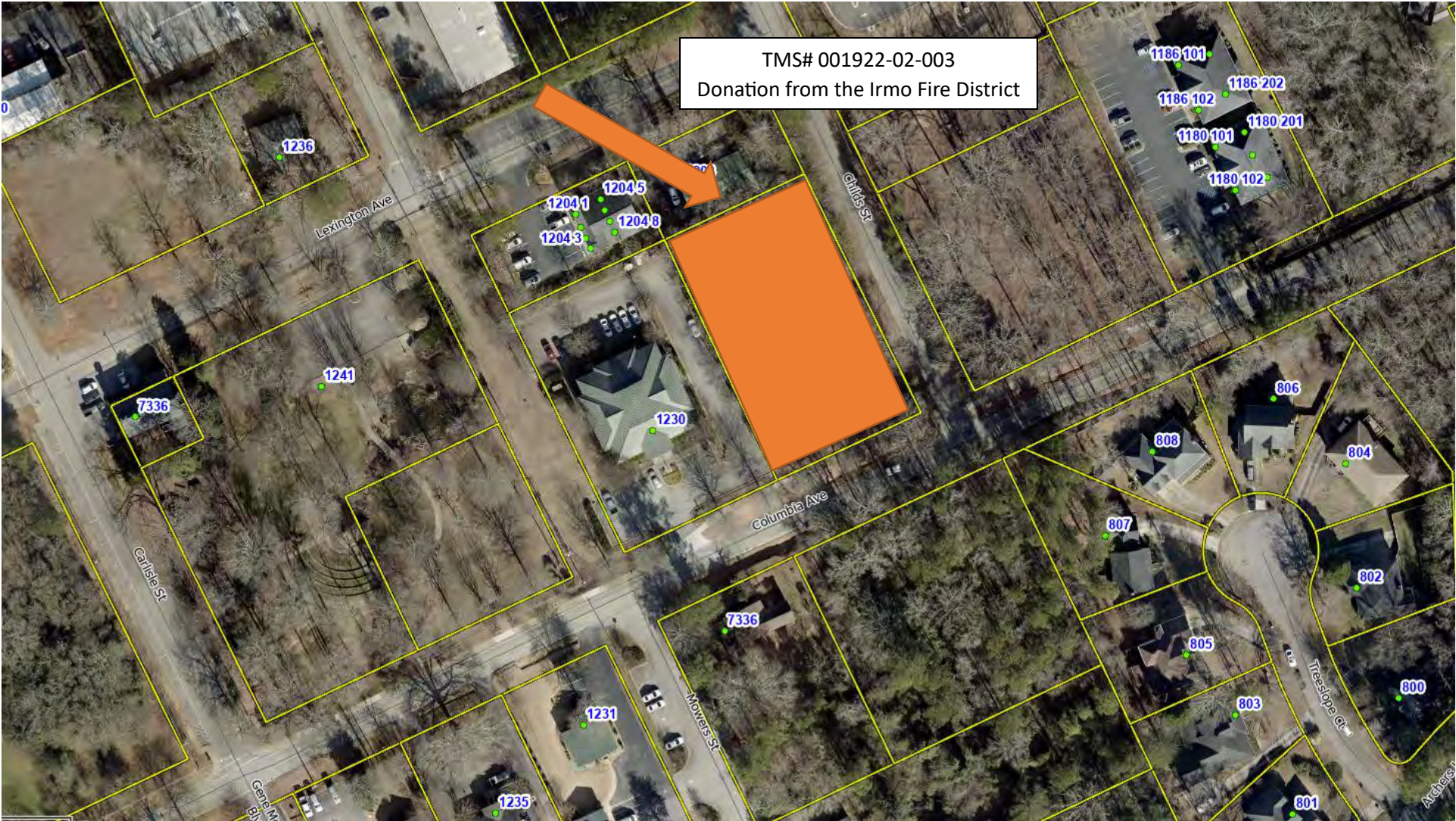
Barry A. Walker, Sr. Mayor

ATTEST:

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Renee Caviness, Municipal Clerk

TMS# 001922-02-003  
Donation from the Irmo Fire District





**EVENT:** Young Chapel AME Church Yard Sale

**DATE:** May 27, 2023, 6am-4pm

**ROAD CLOSURE:** Carlisle Street (from Lexington Avenue to Columbia Avenue)