

BOARD AGENDA ITEM

May 8, 2018

SUBJECT:

Memorandum of Understanding with Aiken County Council Regarding Federal Payments in Lieu of Taxes

BACKGROUND:

The Atomic Energy Act of 1954, as amended on occasion, provides for the federal government to negotiate payments with the local governmental taxing authority wherein federally owned installations are located since the federal government does not pay taxes to county or state entities. This is a permissive enabling law which authorizes a single negotiating entity (the County) to make these arrangements on behalf of all the taxing authorities within the county in which federal properties are situated. The law does not mandate the relative shares among those taxing authorities, but it states that the County's acceptance of a negotiated payment constitutes a full settlement of obligations to all other taxing authorities within the county as well.

ADMINISTRATIVE CONSIDERATION:

The School Board and County have divided the payments in lieu of taxes in differing proportions in the past. Recently there have been more discussions and uncertainty about this subject each year, leaving the respective parties' budget planning open-ended and requiring debate until the very late in the process. Informal discussions among the respective administrations and leadership of the parties has led to the recommended agreement for a three tax-cycle year stipulated split of 55% and 45% between the District and the County respectively. Both parties believe that this facilitates less time lost on budget planning, and greater clarity for both public bodies in their next few budget planning processes. The agreement constitutes no legal precedent for either party and engenders a spirit of continuing cooperation between them. County Council has approved the Agreement at its April 18, 2018, meeting.

RECOMMENDATION:

Approve the attached Memorandum of Understanding and Authorize the Board Chair and Superintendent to execute the same.

ATTACHMENT:

Proposed Memorandum of Understanding

PREPARED BY:

Sean Alford and William H. Burkhalter, Jr.

MEMORANDUM OF UNDERSTANDING BETWEEN

THE AIKEN COUNTY BOARD OF EDUCATION (EX OFFICIO: TRUSTEES OF THE CONSOLIDATED SCHOOL DISTRICT OF AIKEN COUNTY), a body politic and corporate, hereafter referred to as the "School District"

AND

AIKEN COUNTY, SOUTH CAROLINA, a body politic and corporate and a political subdivision of the State of South Carolina, hereafter referred to as the "County"

WHEREAS, pursuant to the Atomic Energy Act of 1954, as amended, the County through its governing body, the Aiken County Council, has annually negotiated arrangements with the U. S. Department of Energy (DOE) for Payments in Lieu of Taxes (PILT or PILT's) with regard to real property owned by the United States Government at the Savannah River Site, and

WHEREAS, the County has allocated the PILT each year between the School District and itself, and the singular intended purpose of this Memorandum of Understanding is to set forth for the finite term of this Memorandum of Understanding a basis for allocating and dividing the proceeds of such PILT's, if any, and in whatever amounts such PILT's are determined to be by DOE in a given year, so that neither party will have doubt as to the relative proportionate share it will receive from any PILT's that are paid to the County by DOE, and no discussions about the subject matter hereof will be necessary.

UNDERSTANDINGS

It is the declared policies of the School District and County, respectively, that this Memorandum of Understanding shall run for a term of three yearly PILT cycles, beginning with the PILT for tax year 2017 which will be negotiated with DOE in 2018, and for the additional "tax" years of 2018 and 2019 and will be applicable for any of these three years in the event they are agreed to, and/or remitted, later than the normally anticipated negotiation and payment cycle. During the term of the Memorandum of Understanding, the proportionate allocation between the School District and County of the annual PILT that is received by the County shall be 55% for the School District and 45% for the County. The School District and County acknowledge that nothing herein contained shall be construed as a waiver, acknowledgement, concession, or implication of surrender by either of them of any right, legal authority, or authorization under any law, except as set forth herein for the period of this Memorandum of Understanding.

IN WITNESS WHEREOF the School District and County, after adoption of the Resolutions by their respective governing bodies approving this Memorandum of Understanding, hereby execute this Memorandum of Understanding which is effective as of April ____, 2018.

Aiken County

The Aiken County Board of Education (Ex Officio:
Trustees of the Consolidated School District of
Aiken County)

By: _____
Its Chairman

By: _____
Its Chairman

Attest: _____
Its District Superintendent