



HENRY McMASTER
ATTORNEY GENERAL

December 18, 2008

The Honorable Herb Kirsh
Member, House of Representatives
Box 31
Clover, South Carolina 29710

Dear Representative Kirsh:

We received your letter requesting an opinion from our Office as a municipality's requirement to provide water and sewer service to a nonresident. You state as follows:

An opinion from your office dated June 30, 2006, stated "that absent a contract mandating a municipality provide water and sewer services to a nonresident, we find no legal authority requiring the municipal to provide such services." I respectfully request an opinion from your office as to whether a municipality's duty, or lack thereof, to a nonresident changes any if the municipality has received federal funds for construction of water or sewer infrastructure.

As you correctly stated, in a 2006 opinion, we found no principle of State law that requires a municipality to provide water and sewer service to nonresidents. Op. S.C. Atty. Gen., June 30, 2006. In your request, you ask whether a municipality's duty changes because it receives federal funds. In our research, we did not find a provision of State law addressing this issue. However, we recognize that in many instances the federal government places certain restrictions and requirements on recipients of federal funds. Thus, it may be possible for the federal government to impose requirements on the municipality with regard to who must receive water and sewer service.

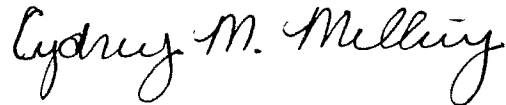
Nonetheless, without reviewing a copy of an agreement or grant providing such funds to the municipality, we cannot opine as to whether such a requirement is present in a particular situation. Furthermore, we note that this Office does not generally construe federal law. Op. S.C. Atty. Gen., November 16, 2006. As such, our Office may not be in the best position to provide guidance as to

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federal requirements. However, with regard to State law, we do not find any authority that would change the conclusions reached in our 2006 opinion.

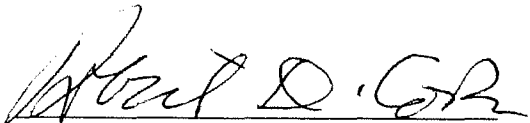
Very truly yours,

Henry McMaster
Attorney General



By: Cydney M. Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Deputy Attorney General