COUNTY COUNCIL OF BEAUFORT COUNTY
ADMINISTRATION BUILDING
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CHAIRMAN

D. PAUL SOMMERVILLE
VICE CHAIRMAN

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JOHN L. WEAVER
INTERIM COUNTY ADMINISTRATOR

CONNIE L. SCHROYER
CLERK TO COUNCIL

AGENDA
COUNTY COUNCIL OF BEAUFORT COUNTY
REGULAR SESSION
Monday, March 25, 2019
6:00 p.m.
Large Meeting Room, Hilton Head Island Branch Library
11 Beach City Road, Hilton Head Island

1. **Call to Order Regular Session – Chairman Stu Rodman** **6:00 p.m.**

2. **Pledge of Allegiance and Invocation – Councilman Brian Flewelling**

3. **Approval of Agenda**

4. **Recognition**
   A. **Palmetto Pride Awards, South Carolina Litter Conference** (backup)

5. **Presentations**
   A. **Report from the Auditor's Office** / Jim Beckert, Auditor (backup)

6. **Citizen Comments** ***[See Clerk to Council for sign-in prior to meeting. Speakers shall limit comments to three minutes.]***

7. **Consent Agenda**

   A. **Approval of Minutes**
      1. February 25, 2019 Special Session (backup)
      2. February 25, 2019 Caucus (backup)
      3. February 25, 2019 Regular Session (backup)

B. Appointments and Reappointments to Boards and Commissions

Recommendations Community Services Committee, February 18, 2019

1. Alcohol and Drug Abuse Board
   a. Appointments – Dominique Driessen-Espana, Thomas Hale, Carol Hartman, Javier Zimbron
2. Disabilities and Special Needs Board
   a. Reappointments – Nancy Pinkerton, Lynn Russo, Scott Scobey
3. Library Board
   a. Reappointment – Terry Thomas

Recommendations from the Natural Resources Committee, February & March 18, 2019

4. Historic Preservation Review Board
   a. Appointment – Holly Murphy
5. Stormwater Management Utility Board
   a. Appointment – Steven Andrews

C. 3rd reading of an ordinance regarding an amendment to the zoning map in Southern Beaufort County (Sawmill Forest) / Eric Greenway, Director Community Development Department
Ordinance Title: *Southern Beaufort County Zoning Map Amendment for R600 032 000 0005 0000 (2.42 Acres on the West Side of Trimblestone Road Directly North of Sawmill Forest) from Sawmill Forest PUD (Planned Unit Development) to T2-Rural* (backup)

1. Consideration of third and final reading on March 25, 2019
2. Second reading approved on February 25, 2019 / Vote 11:0
3. Public hearing held February 25, 2019
4. First reading approved on February 11, 2019 / Vote 9:0
5. Natural Resources Committee recommended approval on January 22, 2019 / Vote 7:0

D. 3rd reading of an ordinance regarding an amendment to the zoning map in Southern Beaufort County (Stroup Lane) / Rob Merchant, Deputy Director, Community Development Department
Ordinance Title: *Southern Beaufort County Zoning Map Amendment for R600 040 000 0448 0000 (5.09 Acres on the South Side of Stroup Lane Road Approximately 475 feet East of Burnt Church Road) from T3 Hamlet Neighborhood to T2 Rural Center* (backup)

1. Consideration of third and final reading on March 25, 2019
2. Second reading approved on February 25, 2019 / Vote 11:0
3. Public hearing held February 25, 2019
4. First reading approved on February 11, 2019 / Vote 9:0
5. Natural Resources Committee recommended approval on January 22, 2019 / Vote 7:0

8. Non-Consent Agenda

A. Public hearing and 2nd reading of an ordinance regarding text amendments to the Beaufort County Code of Ordinances, Chapter 22, Article IV, Disaster Recovery and Reconstruction
Eric Larson, Director of Environmental Engineering and Land Management
Ordinance Title: *An Ordinance of County of Beaufort, South Carolina Amending Certain Sections Under Beaufort County Code: Chapter 22, Civil Emergencies, Article IV, Disaster Recovery and Reconstruction* (backup)

1. Public Hearing on March 25, 2019
2. Consideration of second reading on March 25, 2019
3. First reading approved on February 25, 2019 / Vote 11:0
4. Public Facilities Committee recommended approval on February 4, 2019 / Vote 10:0

B. **Public hearing and 2nd reading of an ordinance regarding the conveyance of multiple parcels of real property from Beaufort County to SC Department of Transportation for the highway widening of SC Highway 170** / Rob McFee, Director Facilities and Construction Engineering
Ordinance Title: *An Ordinance Authorizing the Conveyance of Multiple Parcels of Real Property from Beaufort County to South Carolina Department of Transportation for the Highway Widening of SC Highway 170* (backup)
1. Public Hearing on March 25, 2019
2. Consideration of second reading on March 25, 2019
3. First reading approved on February 25, 2019 / Vote 11:0
4. Public Facilities Committee recommended approval on February 4, 2019 / Vote 10:0

C. **Public hearing and 2nd reading of an ordinance approving the issuance of a general obligation bond for Sheldon Fire District in an amount not to exceed $1,000,000** / Alicia Holland, Assistant County Administrator Finance
Ordinance Title: *An Ordinance Authorizing the Issuance and Sale of a Not To Exceed $1,000,0000 Limited General Obligation Bond, Series 2019b, or Such Other Appropriate Series Designation (Sheldon Fire District), of Beaufort County, South Carolina; Fixing the Form and Details of the Bond; Authorizing the County Administrator or His Lawfully-Authorized Designee to Determine Certain Matters Relating to the Bond; Providing for the Payment of the Bond and the Disposition of the Proceeds Thereof; and Other Matters Relating Thereto* (backup)
1. Public Hearing on March 25, 2019
2. Consideration of second reading on March 25, 2019
3. First reading approved on February 25, 2019 / Vote 11:0
4. Finance Committee recommended approval on February 4, 2019 / Vote 10:0

D. **1st reading of an ordinance regarding text amendments to the Beaufort County Code of Ordinances, Chapter 14: Animals** / Chris Inglese, Staff Attorney
Ordinance Title: *Text Amendments to the Beaufort County Code of Ordinances, Chapter 14: Animals* (backup)
1. Consideration of 1st reading on March 25, 2019
2. Public Hearing – Monday, April 8, 2019, 6:00 p.m., in the Council Chambers of the Administration Building, Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort
3. Governmental Committee reviewed amendments and recommended approval on February 25, 2019 / Vote 11:0
4. Governmental Committee recommended approval with additional amendments on January 28, 2019 / Vote 8:0

E. **1st reading of an ordinance approving the lease of Duncan Farms** / Stefanie Nagid, Passive Parks Manager
Ordinance Title: *An Ordinance Authorizing the Interim County Administrator to Execute a Five (5) Year Lease Agreement with the Daufuskie Marsh Tacky Society for the Duncan Farms Property* (backup)
1. Consideration of 1st reading on March 25, 2019
2. Public Hearing – Monday, April 8, 2019, 6:00 p.m., in the Council Chambers of the Administration Building, Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort
3. Natural Resources Committee recommended approval on February 18, 2019 / Vote 7:0

F. **1st reading of an ordinance approving a lease of Marshside Mamas** / Dave Thomas, Purchasing Director
Ordinance Title: *An Ordinance Authorizing the Interim County Administrator to Execute Necessary Documents to Lease a Portion of a Building on Daufuskie Island Known as Marshside Mamas* (backup)
1. Consideration of 1st reading on March 25, 2019
2. Public Hearing – Monday, April 8, 2019, 6:00 p.m., in the Council Chambers of the Administration Building, Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort
3. Public Facilities Committee recommended approval on March 4, 2019 / Vote 9:0

G. **A resolution supporting the Passive Parks Program** / Eric Greenway, Community Development Director
Resolution Title: *A Resolution Supporting the Passive Parks Program* (backup)
1. Consideration of adoption on March 25, 2019
2. Natural Resources Committee recommended adoption on February 18, 2019 / Vote 7:0

H. **A resolution to accept a property donation at 88 Hampton Parkside Road, Bluffton** / Eric Greenway, Community Development Director Stefanie Nagid, Passive Parks Manager
Resolution Title: *A Resolution Authorizing the Interim County Administrator to Execute All Necessary Documents to Accept the Donation of 53.43 Acres at 88 Hampton Parkside Road, Bluffton, SC for Use as a Future Active Park* (backup)
1. Consideration of adoption on March 25, 2019
2. Natural Resources Committee recommended adoption on February 18, 2019 / Vote 6:0

I. **A resolution to enter into a Memorandum of Understanding with the Friends of Fort Fremont**
Eric Greenway, Community Development Director
Resolution Title: *A Resolution to Enter into a Memorandum of Understanding with the Friends of Fort Fremont* (backup)
1. Consideration of adoption on March 25, 2019
2. Public Facilities Committee recommended adoption on March 4, 2019 / Vote 9:0

J. **A resolution to gift kitchen wares to the Technical College of the Lowcountry**
Resolution Title: *A Resolution to Gift to the Technical College of the Lowcountry Certain Kitchen Wares from the Beaufort County's Buckingham Landing Property* (backup)
1. Consideration of adoption on March 25, 2019
2. Public Facilities Committee recommended adoption on March 4, 2019 / Vote 9:0

K. **A resolution to adopt the Airport Facility Rental Policy** / Jon Rembold, Airports Director
Resolution Title: *A Resolution to Adopt the Airport Facility Rental Policy* (backup)
1. Consideration of adoption on March 25, 2019
2. Public Facilities Committee recommended adoption on March 4, 2019 / Vote 9:0

L. **A resolution disapproving the easement agreement and agreement for development services for Whitehall Park prepared by the seller** / John Weaver, Interim County Administrator
Resolution Title: *A Resolution to Reject, Disapprove and Deny an Easement Agreement and an Agreement for Development Services for Whitehall Park Presented to Beaufort County Council by Whitehall Point Holdings, L.L.C. in Conjunction with Beaufort County's Purchase of a 9.68 Acre Parcel of Real Estate from Whitehall Point Holdings, L.L.C. on October 23, 2018* (backup)

1. Consideration of adoption on March 25, 2019
2. Findings regarding the recording of unexecuted documents presented to Council on February 25, 2019.

9. Discussion and Action Items

A. **Consideration and Approval of the Administrator's Employment Contract** (backup)

B. **Committee Reports (next meeting)**

Prior Meetings

1. Finance (April 1, 2019)
2. Public Facilities (April 1, 2019)

Upcoming Meetings

3. Executive Committee (April 8, 2019)
4. Community Services (April 15, 2019)
5. Natural Resources (April 15, 2019)
6. Governmental (April 22, 2019)

10. Citizen Comments

11. Adjournment

Keep South Carolina Beautiful presented their annual awards at this year's Statewide litter conference in Myrtle Beach on February 21.

There were 8 separate categories for nominations, and **Beaufort County was selected as the winner in 6 of the 8 categories**. Congratulations Kudos to Beaufort County!

They are:

1. ***Affiliate Recognition Award***- Keep Beaufort County Beautiful – [Michael Murphy and KBCB Board accept]
   For the second year, the Keep Beaufort County Beautiful Board was recognized for their efforts to make Beaufort County a more beautiful place to live. Together, they advocate for a cleaner and greener community. Their team efforts included distributing tarps, recycling education at the Convenience Centers, litter pickups, kayak cleanups and developing beautification projects to preserve and improve our local environment.

2. **Outstanding Performance Award –Event –** Beaufort County We Care Clean-Up – [Artrell Horne accept]
   Beaufort County took an innovative approach for their first Fall Clean-Up on November 1st, 2018. They organized a collaboration of County employees, local businesses, waste haulers, municipalities, South Carolina Department of Transportation and Adopt-A-Highway groups. They collected 994 bags of litter (19,185 pounds) and recruited 336 volunteers. This demonstrated Beaufort County is at the forefront when it comes to fighting the litter battle in South Carolina.

3. **Outstanding Performance Educator** – Samantha Campbell of Low Country Montessori School in Beaufort – [Samantha Campbell accept]
   Among her achievements, Samantha developed a New Waste Management System for the entire school which included recycling, and an anti-litter campaign. She received a DHEC grant, planted 47 trees with the students on the Montessori campus with students and installed blue boxes and bird feeders on campus. Samantha's students are taught by experience how to care for the environment.

4. **Outstanding Performance Award- Advertisement**— Beaufort County 'We Care' Clean-Up Commercial – [Ashley Jenkins accept]
   A Promotional video was created to kick start the 2018 Fall County Clean-Up. The purpose was to utilize social media to inform people and encourage participation in the Fall We Care Clean-Up event. A simple narrative was written and the County Channel Broadcast services displayed County employees, County Council, environmental workers and event sponsors voicing support for our local environment.

5. **Outstanding Performance Award – County**- Beaufort County [Sommerville or Rodman accept]
   Beaufort County was honored for going above and beyond to instill the practices of Keep South Carolina Beautiful. This year, Beaufort County approved an ordinance revision to give the Keep Beaufort County Beautiful Board more exposure and resources. Beaufort County initiated two new County-wide litter events and worked to partner with SCDOT on additional cleanups.

Beaufort County passed a single-use plastic bag ban and continues to come up with creative ways to keep the landscape and natural resources clean and pristine.

6. **Outstanding Performance Award – Keep South Carolina Beautiful Volunteer of the Year –** Randy Boehme [Randy Boehme accept]
   Mr. Boehme was recognized for serving on County beautification boards. He formed an Adopt-A-Highway group in an area (May River Road) that was often overlooked due to safety issues. Randy spent countless hours advocating for issues that protect the beauty of Beaufort County. He has continued to organize litter pickups, met with town officials, law enforcement and Public Works leaders to share his vision and plan for a cleaner and greener community.

In addition to the Keep South Carolina Beautiful meeting, the South Carolina Association of Counties met in Columbia on February 20. Paul Sommerville was recognized as a Leader Against Litter.

1. Dave Wilhelm was awarded the Leader Against Litter 2019 Team Leader Award.

Beaufort County

Auditor

Jim Beckert

Who Determines Values & Taxes Property in Beaufort County

Property Type	Determines Value	Taxes
Aircraft	Auditor	Auditor
Business Personal Property	Auditor	Auditor
Commercial Fishing Vessels	Auditor	Auditor
Documented Vessels	Auditor	Auditor
Motor Vehicles	Auditor	Auditor
Residential Rental Property	Auditor	Auditor
Watercraft	Auditor	Auditor
Watercraft Motors	Auditor	Auditor
Corporations	SCDOR	Auditor
Merchants	SCDOR	Auditor
Utilities & Railroads	SCDOR	Auditor
Real Property	Assessor	Auditor

"Serving as the citizens advocate for transparency in the taxation process one tax bill at a time"

Annual Billing Information

Property Type	# of Bill's	Amount Billed
Aircraft	115	$ 282,800.00
Business Personal Property	5,023	$ 1,717,203.00
Commercial Vessels	33	$ 15,289.00
Corporations	32	$ 444,929.00
Documented Vessels	721	$ 1,074,842.00
Merchant	13,679	$ 6,956,738.00
Rentals	18,162	$ 3,728,917.00
Utilities & Railroads	166	$ 13,817,623.00
Watercraft & Motors	17,000	$ 1,659,786.00
Total Personal Property	**54,931**	**$ 29,698,127.00**
Real Property	**128,523**	**$ 363,346,892.00**
Gross Totals	**183,454**	**$ 393,045,019.00**

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PAID / UNPAID TAX BILL %

Property Type	Unpaid	Paid	Total	% of Bills Paid as of Mar 18, 2019	Change of Accounts as of Feb 28, 2019
Aircraft	17	98	115	85%	
Business Personal Property	1197	3821	5018	76%	
Commercial Vessels	10	23	33	70%	
Corporations	2	30	32	94%	
Document Vessels	174	553	727	76%	1
Merchants	2258	11535	13793	84%	7
Rentals	3768	14396	18164	79%	2
Utilities & Railroads	2	164	166	99%	
Watercraft & Motors	5189	11816	17005	69%	
Total Personal Property	**12617**	**42436**	**55053**	**77%**	10
Real Property	10116	118356	128472	92%	
Total of All	**22733**	**160792**	**183525**	**88%**	

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2019 Tax Notices for Owners of DNR Registered Watercraft and Motors

Starting January 2020 Owners of DNR Registered Watercraft and Motors will be taxed on the same monthly schedule as motor vehicles.

What other changes will Owners see?

- Owners with decals expiring in 2020 will pay a 12 month registration of $10.00
- Taxes levied will be for the next 12 months moving forward in the same manner as motor vehicles
- Owners will only be taxed ONCE in a 12 month period for their property
- Tax notices for a watercraft and motors may come at different times during the year and is based on the registration date with DNR
- Starting January 2020 new owners are responsible ONLY for new taxes and registration moving forward
- Any previous unpaid taxes will be the responsibility of the previous owner

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2019 Tax Notices for Owners of DNR Registered Watercraft and Motors Continued

What will this mean to the County and other taxing authorities?

- Watercraft and motor taxes levied in FY19-20 will be reduced from previous years
- Taxes levied in 2020 from January to June is currently estimated to be $690,000
- Taxes levied in FY18-19 totaled approximately $1.6 million
- In FY20-21 the county will see the a full 12 months of taxes levied for that budget

Beaufort County

Auditor

Questions?

"Serving as the citizens advocate for transparency in the taxation process one tax bill at a time"

MINUTES
COUNTY COUNCIL OF BEAUFORT COUNTY
SPECIAL SESSION

February 25, 2019

Executive Conference Room, Administration Building,
Beaufort County Government Robert Smalls Complex,
100 Ribaut Road, Beaufort, South Carolina 29902

The electronic and print media duly notified in
accordance with the State Freedom of Information Act.

Attendance

Present: Chairman Stu Rodman, Vice Chairman Paul Sommerville, and Council Members Michael Covert, Gerald Dawson, Brian Flewelling, York Glover, Chris Hervochon, Alice Howard, Lawrence McElynn, Joe Passiment.
Absent: Mark Lawson
Staff: Chris Inglese, Thomas J. Keaveny II, John Weaver

Call to Order

Chairman Rodman called the meeting to order at 1:05 pm

Pledge of Allegiance

The Chairman led the Pledge of Allegiance.

Approval of Agenda

It was moved by Mr. Sommerville, seconded by Mr. Passiment to approve the agenda. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. McElynn, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

Executive Session

It was moved by Mr. Covert, seconded by Mr. Passiment to go immediately into executive session to discuss the employment of a person regulated by County Council; to interview with candidates for Beaufort County Administrator; and to discuss candidates for Beaufort County Administrator. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. McElynn, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

DRAFT

Matters arising out of Executive Session

It was moved by Mr. Sommerville, seconded by Mr. Passiment to move forward with negotiations of the top candidate. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. McElynn, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

Adjournment

The meeting adjourned at 4:59 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

Ratified:

DRAFT

MINUTES
COUNTY COUNCIL OF BEAUFORT COUNTY
CAUCUS

February 25, 2019

Executive Conference Room, Administration Building,
Beaufort County Government Robert Smalls Complex,
100 Ribaut Road, Beaufort, South Carolina 29902

The electronic and print media duly notified in
accordance with the State Freedom of Information Act.

Attendance

Present: Chairman Stu Rodman, Vice Chairman Paul Sommerville, and Council Members Michael Covert, Gerald Dawson, Brian Flewelling, York Glover, Chris Hervochon, Mark Lawson, Lawrence McElynn, Alice Howard, and Joe Passiment

Call to Order

Chairman Rodman called the meeting to order at 5:08 p.m.

Pledge of Allegiance

The Chairman led the Pledge of Allegiance.

Approval of Agenda

Addition: Executive session for a discussion regarding potential litigation.

It was moved by Mr. Hervochon, seconded by Mr. Flewelling that Council approve the agenda with the addition of an executive session for a discussion regarding potential litigation. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. Lawson, Mr. McElynn, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

Citizen Comments

There were no comments.

DRAFT

Executive Session

It was moved by Mr. Sommerville, seconded by Mr. Flewelling to go immediately into executive session for a discussion regarding potential litigation. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. Lawson, Mr. McElynn, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

No matters arose from executive session.

Caucus

A. Fiscal Year 2018 Comprehensive Annual Financial Report / External Financial Audit Results

David Irwin, an associate with Mauldin & Jenkins, presented highlights of the 2018 Comprehensive Annual Financial Report (CAFR)

- There were no findings. The County had a clean audit.
- The County received, for the 9th year in a row, a Certificate of Excellence from the Government Finance Officers Association for its CAFR.
- The Management's Discussion and Analysis (MD&A) is the portion of the CAFR that gives a detailed report of the financial performance over the past twelve months. Beaufort County's MD&A was exemplary.
- The report is available online at www.bcgov.net/departments/Finance

B. Discussion of Council Procedures

Chairman Rodman shared his thoughts regarding meetings:

- An item defeated in a Committee Meeting can be brought up for reconsideration at a Council Meeting by any Council Member without a second.
- Agenda Review time may allow for the discussion of other issues.
- Minimize subcommittees.
- Limit the amount of backup material.
- Utilize Committee Reports during Council Meetings.

C. Administrator's Report

Mr. Weaver gave an update on the plans for the upcoming Strategic Planning Retreat. The Retreat will be held March 14-15, 2019 at the Buckwalter Recreation Center in Bluffton.

Adjournment

The meeting adjourned at 6:01 p.m.

To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

DRAFT

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

Ratified:

DRAFT

To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

MINUTES
COUNTY COUNCIL OF BEAUFORT COUNTY
REGULAR SESSION

February 25, 2019

Council Chambers, Administration Building,
Beaufort County Government Robert Smalls Complex,
100 Ribaut Road, Beaufort, South Carolina 29902

The electronic and print media duly notified in
accordance with the State Freedom of Information Act.

Attendance

Present: Chairman Stu Rodman, Vice Chairman Paul Sommerville, and Council Members Michael Covert, Gerald Dawson, Brian Flewelling, York Glover, Chris Hervochon, Alice Howard, Mark Lawson, Lawrence McElynn and Joe Passiment

Call to Order

Chairman Rodman called the meeting to order at 6:05 p.m.

Pledge of Allegiance and Invocation – Councilwoman Alice Howard

Mrs. Howard led the Pledge of Allegiance and gave the invocation.

Moment of Silence

A moment of silence was shared in remembrance of Laura Von Harten, Beaufort County Council Member 2007 – 2014.

Approval of Agenda

It was moved by Mr. Passiment, seconded by Mr. Flewelling that Council approve the agenda. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. Lawson, Mr. McElynn, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

Proclamation

Council recognized March 2019 as Disabilities Awareness Month.

DRAFT

Presentations

A. Santa Elena History Center

Megan Meyer, Executive Director of the Santa Elena Foundation gave a report of the 2019 events happening at the history center.

B. Update: Status of the Sea Trawler Restaurant Building, Buckingham Landing, Bluffton

County Attorney, Thomas J. Keaveny, II, updated Council the status of the Sea Trawler Restaurant Building and presented some options for its future use.

- The Sea Trawler was purchased by the County last year for about $2M
- It is currently being used for the operations of the Daufuskie Island Ferry Service. The contract is up for renewal this year.
- The property is located in the Buckingham Landing Community Preservation District which is meant to preserve the residential character of the area. Uses of the property are limited to a:
    - Group home (no more than eight residents)
    - Home-based business
    - Bed and Breakfast (no more than eight guests)
    - Home Day Care
    - Public Boat Landing
- Other options for use may be for maritime works or for activities of USCB and TCL. These options fall outside of the district's plan and would have to be negotiated.
- Parking is limited.

Mr. Rodman invited staff and public suggestions for the use of the property.

C. Update: Hwy 278 Corridor / Windmill Harbour Construction Project

Rob McFee, Director of Construction, Engineering and Facilities gave an update of the activities regarding improvements of Hwy 278 at Windmill Harbour.

- The preferred path of SCDOT is to modify the highway design of the entire project. It remains their opinion not to install traffic signals although it is still in the plan.
- The County has received a scope fee and proposal from the design engineer for the modifications. Once approved by the County, it will take about three weeks for the redesign. The redesign will then be submitted to SCDOT for approval. The focus of the design is primarily for drainage. Changes to the drainage plan will speed up the process to the fullest extent possible. There is no time estimate yet for the advertisement of construction bids.
- Mr. McFee will give regular updates to Michael Garrigan (Windmill Harbour representative) regarding the project.

DRAFT

D. Whitehall Plantation Park

John Weaver, Interim County Administrator gave a briefing regarding documents used in the purchase of Whitehall Plantation Park.

- At the Council Meeting of August 27, 2018, Council unanimously approved a motion to "*adopt a resolution authorizing the Interim County Administrator to sign any documents necessary in the purchase 9.72 acres of Whitehall property to be used as a passive park, provided that Beaufort County, City of Beaufort and the seller are able to agree on terms which are agreeable by all parties. The agreement, which the parties reach, must be brought back before Council for review to consider the action at the September 10, 2018 meeting of Council.*" On October 23, 2018, Sam Levin with Whitehall Point Holdings asked then Interim County Administrator, Thomas J. Keaveny II, to sign two documents that neither he nor Council had seen or approved. Mr. Keaveny did not sign the documents. The documents were subsequently recorded without the signatures pages by Whitehall Point Holdings.

Main motion: It was moved by Mr. Covert, seconded by Mr. Flewelling to approve and ratify the easement agreement nunc pro tunc effective October 23, 2018 when it was recorded.

Motion to amend by substitution: It was moved by Mr. Rodman, seconded by Brian Flewelling to postpone until an appraisal is done to see what the value of the property is with and without the easement.

Mr. Weaver opined that the property had already been purchased at a rate of $640,000 an acre. An independent appraisal would not value it anywhere close to the same rate. Therefore, the property is worth what was paid.

Mr. Rodman amended his motion withdrawing the appraisal and postponing a decision until the March 25th Council meeting.

Mr. Weaver instructed Council regarding the motions on the table. Because Mr. Flewelling seconded the main motion, he was ineligible to second the motion made by Mr. Rodman. A second to Mr. Rodman's motion would need to come from a council member other than Mr. Covert or Mr. Flewelling.

Mr. Flewelling withdrew the second to Mr. Rodman's motion.

Mr. Rodman called for a second of his motion withdrawing the appraisal and postponing a decision until the March 25th Council meeting. The motion failed for lack of a second.

Vote on the main motion: YEAS: Mr. Covert. NAYS: Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. Lawson, Mr. McElynn, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion failed.

Public Comments

Mike Garrigan asked if Council had approved the Hwy 278 safety construction. It has been approved by Council and is now waiting SCDOT's approval.

To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

DRAFT

James Pickard, Battery Point POA, has not received an amended application from the County for the construction of the home at 1 Bostick Circle. He encouraged Council to consider Andy Allen's offer to purchase the property.

Jim Drary would like a timeline for the safety improvements on Hwy 278 at Windmill Harbour.

Andy Allen would like to turn 1 Bostick Circle into a wooded area if the County agrees to sell him the property.

John Trask would like to use the current agreement for development services of Whitehall and the easement proposed by Sam Levin as the base line for negotiations. He does not want the matter to go through litigation.

Consent Agenda

A. Approval of Minutes

1. February 6, 2019 Special Session
2. February 11, 2019 Caucus
3. February 11, 2019 Regular Session

It was moved by Mr. Flewelling, seconded by Mr. Passiment that Council approve minutes of the February 6, 2019 Special Session, February 11, 2019 Caucus and February 11, 2019 Regular Session. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. Lawson, Mr. McElynn, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

Motion to extend beyond the 8:00 hour: It was moved by Mrs. Howard, seconded by Mr. Passiment to extend the Council Meeting beyond the 8:00 hour. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Hervochon, Mrs. Howard, Mr. Lawson, Mr. McElynn, Mr. Passiment, Mr. Rodman and Mr. Sommerville. NAYS: Mr. Flewelling and Mr. Glover. The motion passed.

Non-Consent Agenda

A. Public hearing: Community Development Block Grant (CDBG) needs assessment to solicit public input on community needs and priorities for housing, public facilities, and economic development

Michelle Knight with the Lowcountry Council of Governments, gave an overview of the Community Development Block Grant Program.

Chairman Rodman opened the public hearing to solicit input on community needs and priorities for housing, public facilities and economic development. There were (23) people present. No one came forward to speak. Chairman Rodman closed the public hearing.

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No motion was required.

B. Public hearing and 2nd reading of an ordinance regarding an amendment to the zoning map in Southern Beaufort County (Sawmill Forest)

Ordinance Title: *Southern Beaufort County Zoning Map Amendment for R600 032 000 0005 0000 (2.42 Acres on the West Side of Trimblestone Road Directly North of Sawmill Forest) from Sawmill Forest PUD (Planned Unit Development) to T2-Rural*

Chairman Rodman opened the floor for the public hearing regarding an amendment to the zoning map in Southern Beaufort County (Sawmill Forest). No one came forward to speak. Chairman Rodman closed the public hearing.

It was moved by Mr. Passiment, seconded by Mr. Flewelling to approve 2nd reading of Southern Beaufort County Zoning Map Amendment for R600 032 000 0005 0000 (2.42 acres on the west side of Trimblestone Road Directly north of Sawmill Forest) from Sawmill Forest PUD (Planned Unit Development) to T2-Rural. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. McElynn, Mr. Lawson, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

C. Public hearing and 2nd reading of an ordinance regarding an amendment to the zoning map in Southern Beaufort County (Stroup Lane)

Ordinance Title: *Southern Beaufort County Zoning Map Amendment for R600 040 000 0448 0000 (5.09 Acres on the South Side of Stroup Lane Road Approximately 475 feet East of Burnt Church Road) from T3 Hamlet Neighborhood to T2 Rural Center*

Chairman Rodman opened the floor for the public hearing regarding an amendment to the zoning map in Southern Beaufort County (Stroup Lane). No one came forward to speak. Chairman Rodman closed the public hearing.

It was moved by Mr. Passiment, seconded by Mr. Flewelling to approve 2nd reading of Southern Beaufort County Zoning Map Amendment for R600 040 000 0448 0000 (5.09 acres on the south side of Stroup Lane Road approximately 475 feet east of Burnt Church Road) from T3 Hamlet Neighborhood to T2 Rural Center. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. McElynn, Mr. Lawson, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

D. 1st reading of an ordinance regarding text amendments to the Beaufort County Code of Ordinances, Chapter 22, Article IV, Disaster Recovery and Reconstruction

Ordinance Title: *An Ordinance of County of Beaufort, South Carolina Amending Certain Sections Under Beaufort County Code: Chapter 22, Civil Emergencies, Article IV, Disaster Recovery and Reconstruction*

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It was moved by Mr. Flewelling, seconded by Mr. Passiment to approve 1st reading of an ordinance of County of Beaufort, South Carolina amending certain sections under Beaufort County Code: Chapter 22, Civil Emergencies, Article IV, Disaster Recovery and Reconstruction. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. McElynn, Mr. Lawson, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

E. 1st reading of an ordinance regarding the conveyance of multiple parcels of real property from Beaufort County to SC Department of Transportation for the highway widening of SC Highway 170

Ordinance Title: *An Ordinance Authorizing the Conveyance of Multiple Parcels of Real Property from Beaufort County to South Carolina Department of Transportation for the Highway Widening of SC Highway 170*

It was moved by Mr. Flewelling, seconded by Mr. Dawson to approve 1st reading of an ordinance authorizing the conveyance of multiple parcels of real property from Beaufort County to South Carolina Department of Transportation for the highway widening of SC Highway 170. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. McElynn, Mr. Lawson, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

F. 1st reading of an ordinance approving the issuance of a general obligation bond for Sheldon Fire District in an amount not to exceed $1,000,000

Ordinance Title: *An Ordinance Authorizing the Issuance and Sale of a Not To Exceed $1,000,0000 Limited General Obligation Bond, Series 2019b, or Such Other Appropriate Series Designation (Sheldon Fire District), of Beaufort County, South Carolina; Fixing the Form and Details of the Bond; Authorizing the County Administrator or His Lawfully-Authorized Designee to Determine Certain Matters Relating to the Bond; Providing for the Payment of the Bond and the Disposition of the Proceeds Thereof; and Other Matters Relating Thereto*

It was moved by Mr. Passiment, seconded by Mr. Flewelling to approve 1st reading of an ordinance authorizing the issuance and sale of a not to exceed $1,000,0000 Limited General Obligation Bond, Series 2019b, or such other appropriate series designation (Sheldon Fire District), of Beaufort County, South Carolina; fixing the form and details of the bond; authorizing the County Administrator or his lawfully-authorized designee to determine certain matters relating to the bond; providing for the payment of the bond and the disposition of the proceeds thereof; and other matters relating thereto. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. McElynn, Mr. Lawson, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

G. A resolution adopting the Passive Parks Facility Rental Policy
Resolution Title: *A Resolution to Adopt the Passive Parks Facility Rental Policy*

It was moved by Mr. Flewelling, seconded by Mrs. Howard to adopt a resolution of the Passive Parks Facility Rental Policy. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. McElynn, Mr. Lawson, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

H. A resolution amending Council's Rules and Procedures regarding the meeting times of Community Services and Natural Resources Committees
Resolution Title: *A Resolution of the Beaufort County Council Rules and Procedures, Chapter 2A so as to Add Thereto a Schedule for Committee Meetings to be Held Monthly*

It was moved by Mr. Dawson, seconded by Mrs. Howard to adopt a resolution of the Beaufort County Council Rules and Procedures, Chapter 2A so as to add thereto a schedule for committee meetings to be held monthly. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. McElynn, Mr. Lawson, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

I. Contract award / Construction administration, full-time resident project representative and project arborist

It was moved by Mr. Passiment, seconded by Mr. Flewelling to approve the contract award for Talbert, Bright and Ellington, Work Authorization 18-08 in the amount of $118,626 for the construction administration, full-time resident project representative and project arborist at the Hilton Head Island Airport. The vote: YEAS: Mr. Covert, Mr. Dawson, Mr. Flewelling, Mr. Glover, Mr. Hervochon, Mrs. Howard, Mr. McElynn, Mr. Lawson, Mr. Passiment, Mr. Rodman and Mr. Sommerville. The motion passed.

Discussion and Action Items

A. Discussion / Purchase of 1 Bostick Circle, Beaufort, for construction of a home to serve Disability and Special Needs citizens

Chairman Rodman laid out the decision before Council on the matter of 1 Bostick Circle:

1. Sell the property and look for something else
2. Proceed with the design and contracting process for the construction of a home

It was moved by Mr. Sommerville, seconded by Mr. Dawson to proceed with the design and contracting process for the construction of a home. The vote: YEAS: Mr. Dawson, Mr. Glover, Mrs. Howard, Mr. McElynn, Mr. Lawson, Mr. Passiment and Mr. Sommerville. NAYS: Mr. Covert, Mr. Flewelling, Mr. Hervochon and Mr. Rodman. The motion passed.

B. Administrator's Report

Mr. Weaver distributed a set of proposed Rules and Procedures for Council Meetings. He asked for Council's input on the document. The final document will be codified as an ordinance.

C. Committee Reports

Natural Resource Committee, Chairman Alice Howard – At the meeting on February 18, 2019:
- There was a discussion regarding an appointment of a Short-term Rental Task Force
- The Stormwater Department presented a proposal to look at the feasibility of buying property with FEMA dollars in the Alljoy neighborhood. There will be a public meeting for input.
- The revised resolution was reviewed for the Passive Parks funding.
- Fifty-three acres near Hampton Lakes in Bluffton was donated to the County for recreational purposes.
- Voted to approve an appraisal for the Camp St. Mary's property.

Finance Committee, Chairman Joe Passiment
- The 2018 Comprehensive Annual Financial Report (CAFR) was presented during Caucus.
- There were no findings. The County had a clean audit.
- The County received, for the 9th year in a row, a Certificate of Excellence from the Government Finance Officers Association for its CAFR.
- The Management's Discussion and Analysis (MD&A) is the portion of the CAFR that gives a detailed report of the financial performance over the past twelve months. Beaufort County's MD&A was exemplary.
- Mr. Passiment publicly commended staff for the job they have done.
- Because there are no recommendations, Council does not need to adopt the audit.
- The next Finance Committee Meeting is March 4, 2019.

Public Facilities, Chairman Brian Flewelling – At the upcoming meeting on March 4, 2019:
- Discussion of curbside trash pickup in unincorporated areas of the County and possibly close some of the Convenient Centers.
- There will time allotted for public comment regarding the topic.

D. Reappointments / Nominations / Appointments to Boards and Commissions

- Accommodations Tax Board: Reappointment of Vimal Desai and Dick Farmer
- Airports Board: Reappointments of Howard Ackerman, Dan Ahern, James Buckley, Anne Esposito, Leslie Adlam Flory, Brian Turrisi, Harold Wallace, Barry Wilbur and Blakely Williams
- Beaufort County Transportation Committee: Reappointments of Afif Combs, Joe DeVito, Craig Forrest, Kraig Gordon and Mark McCain
- Board of Assessment Appeals: Reappointment of Allan Miller and Alan Obstler
- Burton Fire District: Appointment of Stan Ganshow
- Construction Adjustments and Appeals Board: Appointment of Raymond (Trey) Ambrose
- Daufuskie Island Fire District: Appointment of Bill Crabtree
- Historic Preservation Review Board: Appointment of Kathryn Mixon
- Parks and Recreation Board: Reappointment of Arthur Middleton and Erac Priester
- Rural and Critical Lands Preservation Board: Appointment of Arthur Baer

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- Solid Waste and Recycling Board: Reappointment of Sally Dennis, Appointment of Randy Boehme
- Stormwater Management Utility Board: Appointment of James Clark
- Zoning Board of Appeals: Appointment of Mark McGinnis

Citizen Comments

There were no public comments.

Adjournment

The meeting adjourned at 8:49 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

Ratified:

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To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

SOUTHERN BEAUFORT COUNTY MAP AMENDMENT EXISTING PLANNED UNIT DEVELOPMENT (SAWMILL FOREST PUD) TO T2 RURAL

Council Committee:

NATURAL RESOURCES

Meeting Date:

January 22, 2019

Committee Presenter (Name and Title):

MELISSA PEAGLER

Issues for Consideration:

R600 032 000 0005 0000 (2.4 ACRES ON THE WEST SIDE OF TRIMBLESTONE ROAD DIRECTLY NORTH OF SAWMILL FOREST); APPLICANT: COMMUNITY DEVELOPMENT STAFF. Staff proposes to change the zoning of the parcel from Sawmill Forest PUD to T2 Rural.

Points to Consider:

THIS IS AN ACTUAL MAP CORRECTION REQUEST FROM BC COMMUNITY DEVELOPEMENT STAFF. THE PARCEL SHOULD NOT HAVE BEEN PART OF THE PUD.

Funding & Liability Factors:

Council Options:

APPROVE OR DENY

Recommendation:

Community Development Staff recommends approval.

2019 / ___

SOUTHERN BEAUFORT COUNTY ZONING MAP AMENDMENT FOR R600 032 000 0005 0000 (2.42 ACRES ON THE WEST SIDE OF TRIMBLESTONE ROAD DIRECTLY NORTH OF SAWMILL FOREST) FROM SAWMILL FOREST PUD (PLANNED UNIT DEVELOPMENT) TO T2-RURAL

BE IT ORDAINED, that County Council of Beaufort County, South Carolina, hereby amends the Zoning Map of Beaufort County, South Carolina. The map is attached hereto and incorporated herein.

Adopted this ___ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stu Rodman, Chairman

APPROVED AS TO FORM:

_____
Thomas J. Keaveny, II, County Attorney

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

First Reading:
Second Reading:
Public Hearing:
Third and Final Reading:

COUNTY COUNCIL OF BEAUFORT COUNTY
Community Development Department
Beaufort County Government Robert Smalls Complex
Administration Building, 100 Ribaut Road
Post Office Drawer 1228, Beaufort, South Carolina 29901-1228

TO: Beaufort County Planning Commission

FROM: Robert Merchant, AICP, Deputy Community Development Director

DATE: December 20, 2018

SUBJECT: Southern Beaufort County Map Amendment from Existing Planned Unit Development (Sawmill Forest PUD) to T2 Rural for R600 032 000 0005 0000

A. BACKGROUND:

Case No.	ZMA-2018-14
Owner/Applicant:	C. Nonie Johnson and JC Margaret Schultz
Property Location:	Located on the west side of Trimblestone Road approximately 550 feet north from the entrance of Sawmill Forest and approximately 1,700 feet north of US 278.
District/Map/Parcel:	R600 032 000 0005 0000
Property Size:	2.42 acres
Future Land Use:	Neighborhood/Mixed-Use
Current Zoning District:	Sawmill Forest Planned Unit Development (PUD)
Proposed Zoning District:	T2 Rural

The Community Development Department is requesting the correction of an error in the official zoning map. The subject 2.43 acre property is located in southern Beaufort County on Trimblestone Road approximately 550 feet north of the entrance of Sawmill Forest (R600 032 000 0005 0000). The property is currently vacant. The Department believes that the property was zoned PUD in error as it was never part of the Sawmill Forest PUD. The property owner is interested in correcting the map error and would like the property to be rezoned T2 Rural.

The current PUD zoning presents several issues to the property owner:

- The owner believes that the PUD zoning is affecting their assessed tax value.
- The Sawmill Forest PUD is built out. If the property owner was interested in developing their property, it would be difficult to determine the allowable density, uses, and setbacks applicable to the property.

Staff recommendation. Staff recommends that the zoning of R600 032 000 0005 0000 be changed from Sawmill Forest PUD to T2 Rural.

ATTACHMENT

A. Existing and Proposed Zoning Map

EXISTING ZONING
SEEDLING LN
SPAR POLE LN
SAWMILL FOREST DR
SHELTERWOOD LN
HARVEST CIR
CHIPWOOD LN
TRIMBLESTONE RD
HIGH BRANCH LN
FEWAY VILLAGE RD
US 278—Fording Island Road
T1 Natural Preserve
T2 Rural
C5 Regional Center Mixed-Use
Existing Planned Unit Development
PROPOSED ZONING

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

SOUTHERN BEAUFORT COUNTY MAP AMENDMENT T3 HAMLET NEIGHBORHOOD TO T2 RURAL CENTER

Council Committee:

NATURAL RESOURCES

Meeting Date:

January 22, 2019

Committee Presenter (Name and Title):

ROBERT MERCHANT, DEPUTY DIRECTOR COMMUNITY DEVELOPMENT

Issues for Consideration:

R600 040 000 0448 0000 (5.09 ACRES ON THE SOUTH SIDE OF STROUP LANE ROAD APPROXIMATELY 475 FEET EAST OF BURNT CHURCH ROAD), APPLICANT: NANCY HOWES. The applicant is proposing to change the zoning of the property from T3 Hamlet Neighborhood to T2 Rural Center.

Points to Consider:

THE REQUEST MAY REQUIRE AN AREA-WIDE REZONING, NOT ONE SPECIFIC PROPERTY AS PRESENTED.

Funding & Liability Factors:

Council Options:

APPROVE OR DENY REQUEST; CONSIDER AREA-WIDE REZONING AND NOT JUST ONE PROPERTY

Recommendation:

Staff recommends denial unless considered as part of an areawide rezoning that includes Lost Hollow Business Park, Sabrina Square, and the SCE&G Electric Substation (see map in staff report).

2019 / ___

SOUTHERN BEAUFORT COUNTY ZONING MAP AMENDMENT FOR R600 040 000 0448 0000 (5.09 ACRES ON THE SOUTH SIDE OF STROUP LANE ROAD APPROXIMATELY 475 FEET EAST OF BURNT CHURCH ROAD) FROM T3 HAMLET NEIGHBORHOOD TO T2 RURAL CENTER

BE IT ORDAINED, that County Council of Beaufort County, South Carolina, hereby amends the Zoning Map of Beaufort County, South Carolina. The map is attached hereto and incorporated herein.

Adopted this ___ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stu Rodman, Chairman

APPROVED AS TO FORM:

_____
Thomas J. Keaveny, II, County Attorney

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

First Reading:
Second Reading:
Public Hearing:
Third and Final Reading:

MEMORANDUM

TO: Beaufort County Planning Commission

FROM: Robert Merchant, AICP, Deputy Director, Community Development Department

DATE: December 20, 2018

SUBJECT: **Southern Beaufort County Map Amendment from T3 Hamlet Neighborhood to T2 Rural Center for R600 040 000 0448 0000 (5.09 acres on the south side of Stroup Lane Road approximately 475 feet east of Burnt Church Road)**

A. BACKGROUND:

Case No.	ZMA-2018-15
Applicant:	Nancy E. Howes
Property Location:	Located in the Bluffton area on the south side of Stroup Lane Road approximately 475 feet east of Burnt Church Road
District/Map/Parcel:	R600 040 000 0448 0000
Property Size:	5.09 acres
Future Land Use Designation:	Urban/Mixed-Use
Current Zoning District:	T3 Hamlet Neighborhood
Proposed Zoning District:	T2 Rural Center

B. SUMMARY OF REQUEST:

Overview: The Beaufort County Community Development Department received an application to change the zoning of a 5.09 acre parcel off of Burnt Church Road from T3 Hamlet Neighborhood to T2 Rural Center. The subject parcel was zoned Alljoy Road Office Commercial/Mixed Use (OC/MU) District under the Zoning and Development Standards Ordinance from 2005 to 2014. The OC/MU district offered a wide range of residential and commercial uses. In 2014, the County adopted the Community Development Code and the zoning was changed to T3 Hamlet Neighborhood which is primarily a moderate density residential district. The current zoning was originally mapped during a charrette held in November 2011 and took effect when the CDC was adopted in December 2014.

T2 Rural Center: The T2 Rural Center zoning district allows for a diverse mix of land uses including residential, retail, service and some limited light industrial. The district is meant to be a lower intensity walkable transect zone. The site planning and design standards of T2 Rural Center are more flexible than those found in the higher transect zones, such as T4 Hamlet Center Open that adjoins this property to the west.

Neighboring Properties:

- Lost Hollow Business Park/Sabrina Square: To the west, the property adjoins an area (approximately 7.5 acres) that consists of contractor's offices, a sign business, a golf cart repair shop, an electric substation and other similar uses (the applicant, Nancy Howes, has always envisioned having similar land uses on her property). These properties are currently zoned T4 Hamlet Center Open which is a zoning district better suited to the type of development found on Calhoun Street than the mix of uses found in this location.
- "The Walk" Subdivision: To the north, on the other side of Stroup Lane is land within the jurisdiction of the Town of Bluffton. This land is currently being developed by Pulte Homes as a 50 lot single-family subdivision called "The Walk."
- Other Adjoining Properties: To the east is property owned by the Ulmer Family which is protected from development by a conservation easement purchased through the Rural and Critical Lands Preservation Program. To the south is the Devonwood Court Mobile Home Park.

C. ANALYSIS: Section 7.3.40 of the Community Development Code states that a zoning map amendment may be approved if the proposed amendment:

1. *Is consistent with and furthers the goals and policies of the Comprehensive Plan and the purposes of this Development Code.*

Both the Land Use and Economic Development chapters of the Comprehensive Plan identify the need to provide a sufficient quantity of suitably located land for non-retail commercial uses that promote the region's economic health and diversity. The area proposed to be rezoned adjoins and area that has a mix of service and light industrial uses. The availability of land in southern Beaufort County for these types of uses is very limited.

2. Is not in conflict with any provision of this Development Code, or the Code of Ordinances.

The application as submitted consists of a "spot zoning" since it does not adjoin any other parcels zoned T2 Rural.

3. Addresses a demonstrated community need.

As stated above, the Comprehensive Plan documents a need to accommodate non-retail commercial uses for the purposes of diversifying the region's economy and tax base.

4. Is required by changing conditions.

Not applicable.

5. ***Is compatible with existing and proposed uses surrounding the land subject to the application, and is the appropriate zone and uses for the land.***

   The proposed zoning change fits well with the surrounding land uses with the exception of the single family subdivision that is currently being developed on the north side of Stroup Lane.

6. ***Would not adversely impact nearby lands.***

   As mentioned in #5 the only potential adverse impact would be on the residential development currently being constructed on the north side of Stroup Lane. Staff believes that its design guidelines, landscaping, and screening standards should minimize any adverse visual impacts from development on this site.

7. ***Would result in a logical and orderly development pattern.***

   The site adjoins service and light industrial uses and is suitable for this type of development. The zoning would achieve this purpose.

8. ***Would not result in adverse impacts on the natural environment – including, but not limited to, water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.***

   Any future development or redevelopment of this site would be subject to the natural resource and stormwater standards in the Community Development Code.

9. ***Would result in development that is adequately served by public facilities (e.g. streets, potable water, sewerage, storm water management, solid waste collection and disposal, schools, parks, police, and fire and emergency facilities)***

   The site currently only has access on Stroup Lane which is an unpaved private road. Future development that generates over 50 peak hour trips will necessitate the need for a traffic impact analysis and would likely trigger improving the access to this site.

D. STAFF RECOMMENDATION:

The change of zoning of the subject property from T3 Hamlet Neighborhood to T2 Rural Center would constitute a spot zoning and therefore cannot be supported by Community Development staff. In addition, staff has concerns about vehicular access and potential impacts on the residential subdivision located north of Stroup Lane. Staff has reached out to the Town of Bluffton Planning Staff and will provide the Planning Commission with their comments when we receive them.

However, this adjoining land uses between this parcel and Burnt Church Road (e.g. Lost Hollow Business Park and Sabrina Square) are more consistent with the uses and development standards of T2 Rural Center. These types of uses – contractor's offices, light manufacturing, equipment repair, warehousing, etc. – are needed to support the growth of the greater Bluffton area. Currently, there is a very limited supply of appropriately zoned land to support these

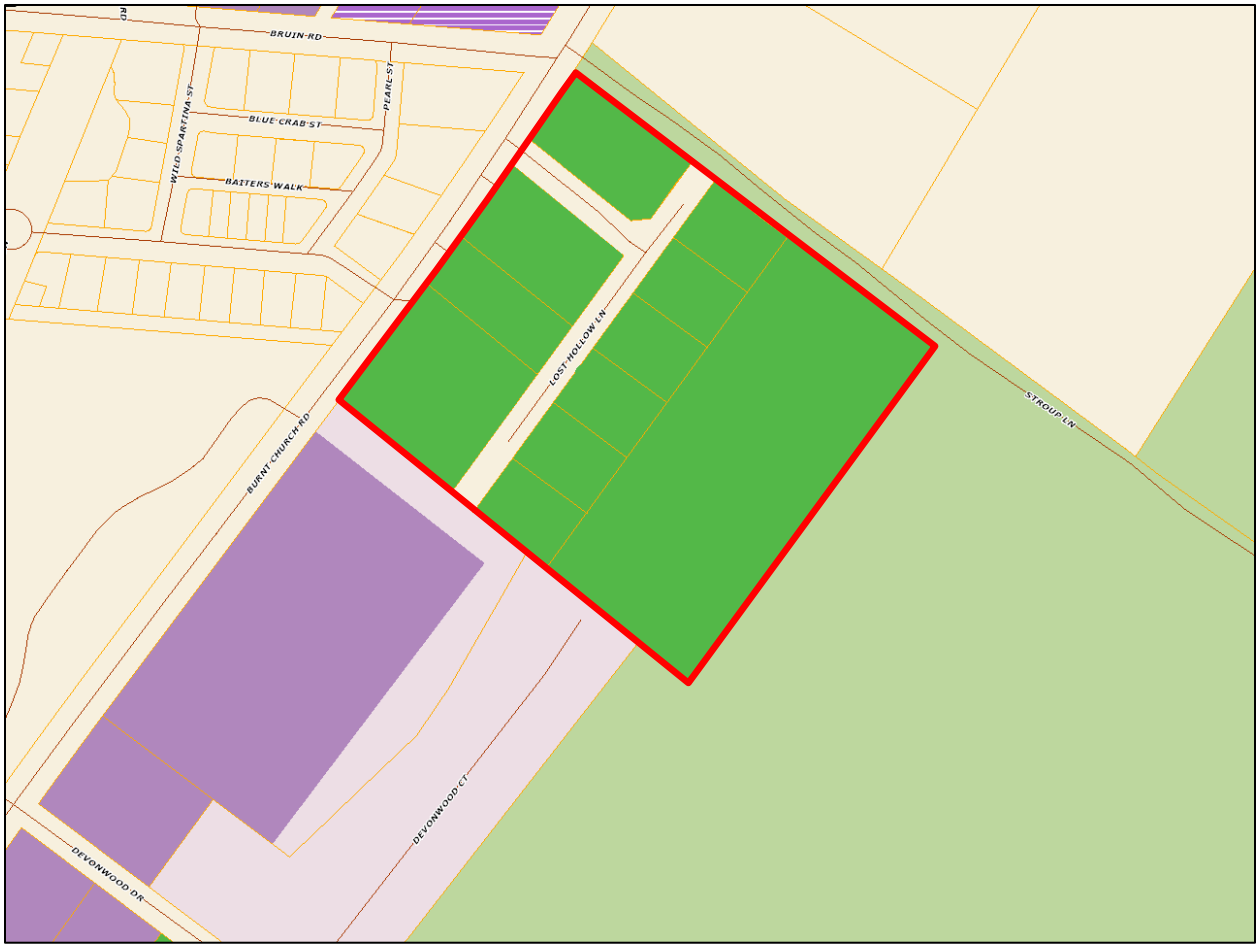
uses. Therefore, staff recommends the the Planning Commission consider this rezoning request as part of an area-wide zoning amendment to T2 Rural Center to better accommodate the operation and expansion of these businesses (see Map 2).

F. ATTACHMENTS:

- Existing and Proposed Zoning Map
- Recommended Area-wide Zoning Change

Map 1: Existing and proposed Zoning

Map 2: Recommended Area-wide Zoning Change



BEAUFORT COUNTY, SOUTH CAROLINA
PROPOSED COMMUNITY DEVELOPMENT CODE (CDC)
ZONING MAP OR TEXT AMENDMENT / PUD MASTER PLAN CHANGE APPLICATION

TO: Beaufort County Council

The undersigned hereby respectfully requests that the Beaufort County Zoning/Development Standards Ordinance (ZDSO) be amended as described below:

1. This is a request for a change in the (check as appropriate): ( ) PUD Master Plan Change
   (X) Zoning Map Designation/Rezoning ( ) Community Development Code Text

2. Give exact information to locate the property for which you propose a change:
   Tax District Number: 600, Tax Map Number: 40, Parcel Number(s): 448
   Size of subject property: 5 Acres Square Feet / Acres (circle one)
   Location: Off Stroup Road, BLuffton

3. How is this property presently zoned? (Check as appropriate)

( ) T4NC Neighborhood Center	( ) T2RC Rural Center	( ) C3 Neighborhood Mixed Use
( ) T4HC Hamlet Center	( ) T2RN Rural Neighborhood	( ) C4 Community Center Mixed Use
( ) T4HCO Hamlet Center	( ) T2RNO Rural Neighborhood Open	( ) C5 Regional Center Mixed Use
( ) T4VC Village Center	( ) T2R Rural	( ) S1 Industrial
( ) T3N Neighborhood	( ) T1 Natural Preserve	( ) Planned Unit Development/PUD
(X) T3HN Hamlet Neighborhood	( ) Community Preservation	(name)_____
( ) T3E Edge	(specify)_____	

4. What new zoning do you propose for this property? T 2 Rural Center
   (Under Item 9 explain the reason(s) for your rezoning request.)

5. Do you own all of the property proposed for this zoning change? (X) Yes ( ) No
   Only property owners or their authorized representative/agent can sign this application. If there are multiple owners, each property owner must sign an individual application and all applications must be submitted simultaneously. If a business entity is the owner, the authorized representative/agent of the business must attach: 1- a copy of the power of attorney that gives him the authority to sign for the business, and 2- a copy of the articles of incorporation that lists the names of all the owners of the business.

6. If this request involves a proposed change in the Community Development Code text, the section(s) affected are: Not in conflict with code
   (Under Item 9 explain the proposed text change and reasons for the change.)

7. Is this property subject to an Overlay District? Check those which may apply:

( ) MCAS-AO Airport Overlay District/MCAS	( ) MD Military Overlay District
( ) BC-AO Airport Overlay District/Beaufort County	( ) RQ River Quality Overlay District
( ) CPO Cultural Protection	( ) TDR Transfer of Development Rights
( ) CFV Commercial Fishing Village	

8. The following sections of the Community Development Code (CDC) (see attached sheets) should be addressed by the applicant and attached to this application form:
   a. Division 7.3.20 and 7.3.30, Comprehensive Plan Amendments and Text Amendments.
   b. Division 7.3.40, Zoning map amendments (rezoning).
   c. Diuvision 1.6.60, Planned Unit Developments (PUDs) Approved Prior to Dec. 8, 2014
   d. Division 6.3, Traffic Impact Analysis (for PUDs)

RECEIVED
DEC 06 2018
Community Development Dept.

ZMA2018-15

Rev. Jan. 2015 **FILE NO:**_____ **// Initiated by: STAFF / OWNER**
(Circle One)

9. Explanation (continue on separate sheet if needed): Enclosed Sheets

It is understood by the undersigned that while this application will be carefully reviewed and considered, the burden of proof for the proposed amendment rests with the owner.

Nancy E Howes — December 5, 2018

Signature of Owner (see Item 5 on page 1 of 1) — Date

Printed Name: Nancy E Howes

Telephone Number: 843-384-3333

Address: 47 All Joy Rd Bluffton, SC 29910

Email: Artfuldodger@hargray.com

Agent (Name/Address/Phone/email):

UPON RECEIPT OF APPLICATIONS, THE STAFF HAS THREE (3) WORK DAYS TO REVIEW ALL APPLICATIONS FOR COMPLETENESS. THE COMPLETED APPLICATIONS WILL BE REVIEWED FIRST BY THE BEAUFORT COUNTY PLANNING COMMISSION SUBCOMMITTEE RESPONSIBLE FOR THE AREA WHERE YOUR PROPERTY IS LOCATED. MEETING SCHEDULES ARE LISTED ON THE APPLICATION PROCESS (ATTACHED). COMPLETE APPLICATIONS MUST BE **SUBMITTED BY *NOON* THREE WORKING DAYS AND FOUR (4) WEEKS PRIOR FOR PLANNED UNIT DEVELOPMENTS (PUDs) OR THREE (3) WEEKS PRIOR FOR NON-PUD APPLICATIONS** TO THE APPLICABLE PLANNING COMMISSION MEETING DATE.

PLANNED UNIT DEVELOPMENT (PUD) APPLICANTS ARE REQUIRED TO SUBMIT FIFTEEN (15) COPIES TO THE PLANNING DEPARTMENT. CONSULT THE APPLICABLE STAFF PLANNER FOR DETAILS.

FOR MAP AMENDMENT REQUESTS, THE PLANNING OFFICE WILL POST A NOTICE ON THE AFFECTED PROPERTY AS OUTLINED IN DIV. 7.4.50 OF THE COMMUNITY DEVELOPMENT CODE.

CONTACT THE PLANNING DEPARTMENT AT (843) 255-2140 FOR EXACT APPLICATION FEES.

FOR PLANNING DEPARTMENT USE ONLY:

Date Application Received:
(place received stamp below)

Date Posting Notice Issued:

Application Fee Amount Received:

Receipt No. for Application Fee:

FILE NO:_____// Initiated by: STAFF / OWNER
(Circle One)

SABRINA ASSOCIATES LLC

POST OFFICE BOX 22395

SAVANNAH, GEORGIA 31403

December 19, 2018

Eric Greenway
Community Development Director
Beaufort County Community Development Department
Post Office Drawer 1228
Beaufort, SC 29901=1228

RE: Notice of Public Hearing to Consider a Southern Beaufort County Map Amendment (copy attached)

Dear Mr. Greenway.

The above matter will be heard at a meeting on January 7, 2019, at 6 pm at the Bluffton Library Large Meeting Room.

At that meeting, the commission will entertain a proposal to change the zoning on parcel R600 040 000 0448 0000, owned by Nancy Hawes, to T2 Rural Center.

We are the owners of a nearby parcel, R600 039 000 0198 0000.

In addition to supporting Ms. Hawes request, we request that our property also be rezoned to T2 Rural Center at this meeting.

Please contact me directly if necessary.

Thank you for your favorable consideration of this request.

Sincerely,

Kirk M. Duffy

Kirk M. Duffy, Manager

Phone: 912 656-4407
Email: Sabrina@kirkduffy.net

TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, S.C. 29928
(843) 341-4600 Fax (843) 842-7728
www.hiltonheadislandsc.gov

John J. McCann
Mayor

William D. Harkins
Mayor ProTem

Council Members

David Ames
Tamara Becker
Marc A. Grant
Thomas W. Lennox

Stephen G. Riley
Town Manager

January 4, 2019

Robert Merchant, Assistant Director
Beaufort County Community Development
PO Drawer 1228
Beaufort SC 29902

RE: Beaufort County Zoning Map Amendment Application for Stroup Lane

Dear Rob:

Thank you for submitting a copy of the application materials for the Zoning Map Amendment for Stroup Lane to the Town of Hilton Head Island. In the spirit of the Southern Beaufort County Regional Plan's (SCBRP) implementation strategies, Town Staff has taken the opportunity to review the information and make the following comments:

The Town agrees with the County's assessment that the rezoning request to T3 would be spot zoning. However rezoning the entire area to T2 to avoid spot zoning still results in concerns regarding dirt road access and the potential creation of non-conforming uses. Additionally the potential impact of more intense development on the adjacent environmentally sensitive piece of property, the Ulmer Family tract, should be considered.

These comments are provided to for your consideration and review.

Again, thanks for the opportunity to provide input.

Respectfully Submitted,

Shawn Colin, AICP, Director of Community Development

Lisa Sulka
Mayor
Larry Toomer
Mayor Pro Tempore
Marc Orlando
Town Manager

Council Members
Fred Hamilton
Dan Wood
Harry Lutz
Kimberly Chapman
Town Clerk

January 4, 2019

Robert Merchant (email to ***robm@bcgov.net***)
Assistant Director
Beaufort County Planning Director
100 Ribault Road, Room 115
PO Drawer 1228
Beaufort, SC 29901-1228

RE: Stroup Lane Proposed Zoning Map Amendment
R600-040-000-0448 0000

Mr. Merchant:

Thank you for submitting a copy of the staff report for the Proposed Zoning Map Amendment for Stroup Lane. In the spirit of the Southern Beaufort County Regional Plan's (SBCRP) implementation strategies, Town of Bluffton Staff has taken the opportunity to review the information.

Although the area includes a mix of existing uses, including single family residential, restaurants and commercial businesses, the impacts of any new industrial or similar use should be taken into account with the neighboring developments. Best management practices and design regulations should be considered to minimize the impacts to adjacent property owners. Additional vehicular trips that any new use may general and the transportation impacts should be taken into account throughout the review.

Overall, the Town of Bluffton staff supports Beaufort County's staff recommendation of denial based on the reasons stated in the staff report dated December 20, 2018 along with the recommendation that a comprehensive, regional approach should be taken into account.

I would like to request that you forward me subsequent staff reports and any supplemental information that is received after this letter to my email at hcolin@townofbluffton.com or via standard mail to Town Hall for additional review and consideration.

Sincerely,

Heather L Colin

Heather L. Colin, AICP
Director of Growth Management
hcolin@townofbluffton.com
Office (843)706-4592
Mobile (843)540-6946

Cc: Marc Orlando, ICMA-CM, Town Manager
Mayor and Town Council

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Disaster Recovery Ordinance

Council Committee:

County Council

Meeting Date:

2/25/19

Committee Presenter (Name and Title):

Pamela Cobb Disaster Recovery Coordinator

Issues for Consideration:

Many of the proposed edits to the Disaster Recover Ordinance are administrative changes. Many of these changes are a reflection of lessons learned from recent events and procedure changes as a result to provide true representation of the process dealing with federal officials and county departments.

(Resolution 2018/17) is reflected in changes and includes the departments mentioned in this resolution.

Points to Consider:

Sec. 22-105 (3) gives the Task Force Director more direct interaction with the Policy group to provide this information to council.
Sec. 22-109 4d - is being removed because this does not correctly represent the process of the Building Codes Department during damage assessment procedures.

Funding & Liability Factors:

Council Options:

To amend or not to amend this ordinance.

Recommendation:

County Council to vote to amend the Disaster Recovery Ordinance as outlined in the memo.

BEAUFORT COUNTY PUBLIC WORKS
120 Shanklin Road
Beaufort, South Carolina 29906
Voice (843) 255-2721

INTEROFFICE MEMORANDUM

TO: **Brian Flewelling, Chairman, Public Facilities Committee**

FROM: **Pamela Cobb, Disaster Recovery Coordinator**

SUBJECT: **Status Report for the Disaster Recovery Ordinance**

DATE: **January 22th, 2019**

The Disaster Recovery Ordinance, along with the Disaster Recovery Plan are reviewed on an annual basis. The changes below are a reflection of lessons learned from recent events and procedure changes as a result to provide a true representation of the process dealing with federal officials and county departments.

Summary of Changes:

Sec. 22-103: Administrative changes, and additional county departments have been added, to recognize those departments as First Responders, passed by ordinance. (Resolution 2018/17)

Sec. 22-104: Administrative change: change to definition of *Disaster Recovery Center*, *Event*, *Major Disaster*, *Project Worksheet*. The definition for *Exempt individuals* was expanded on to add county departments that are now recognized as First Responders through ordinance.

Sec. 22-105: (1) Titles of recovery functions have been updated to reflect the Disaster Recovery Plan.
(3) Gives the Task Force Director more direct interaction with the Policy group to provide this information to Council.
(8) A master list has now been created to showcase all of the action items, rather than individual checklists.

Sec. 22-106 (2e) temporary and permanent housing was changed to emergency housing
(4) Department name was changed from Human Resources to Employee Services

Sec. 22-109 (1),(3), (4a), (5a,e), (7b,c), (12h,i), (13), (17c) Administrative change
(4d) being removed; Temporary permits are not issued. A placard is placed on a home to identify damage level, during damage assessment. Directions based on damage level are provided to the resident.

Sec. 22-111 (1), (2), (3) Title change from Temporary Housing to Emergency Housing and Infrastructure, which reflects the title change for the recovery function.
(1) Change from temporary to emergency housing
(2) Title position has changed from Building Codes Director to Community Development Director. Temporary is changed to emergency housing units.
(3) Emergency is added to temporary or permanent replacement housing

Recommended Action:
County Council to vote to amend the Disaster Recovery Ordinance as outline above.

ORDINANCE 2019 / ___

AN ORDINANCE OF COUNTY OF BEAUFORT, SOUTH CAROLINA AMENDING CERTAIN SECTIONS UNDER BEAUFORT COUNTY CODE CHAPTER 22, CIVIL EMERGENCIES, ARTICLE IV, DISASTER RECOVERY AND RECONSTRUCTION

Whereas, Standards that are underscored shall be added text and Standards ~~lined through~~ shall be deleted text.

Adopted this _____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY:_____
Stu Rodman, Chairman

APPROVED AS TO FORM:

_____
Thomas J. Keaveny, II, County Attorney

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

First Reading:
Second Reading:
Public Hearing:
Third and Final Reading:

ARTICLE IV. - DISASTER RECOVERY AND RECONSTRUCTION

Sec. 22-101. - Authority.

(1) This article is adopted by the Beaufort County Council acting under authority of the South Carolina General Assembly, the Home Rule Act, South Carolina Code of Regulations 58-1, Local Emergency Preparedness Standards, and all applicable federal laws and regulations.

(2) The provisions of this article shall become and be made part of the Code of Laws and Ordinances of Beaufort County, South Carolina. Any laws or ordinances in conflict with the Ordinance that Beaufort County is authorized to repeal are hereby repealed.

(3) Nothing herein shall supersede the powers, duties, and authorities of the Federal Emergency Management Agency (FEMA) and/or South Carolina's Emergency Management Division (SCEMD). If any section, paragraph, sentence, clause and/or phrase or word of this article is, for any reason, held or declared by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this article.

Sec. 22-102. - Purposes and objectives.

(1) *Purposes.* It is the intent of the Beaufort County Council under this article to:
   (a) Authorize creation of an organization to plan and prepare in advance of a major disaster for orderly and expeditious post-disaster recovery and to direct and coordinate recovery and reconstruction activities;
   (b) Direct the preparation of a pre-event plan for post-disaster recovery and reconstruction to be updated on a continuing basis;
   (c) Authorize in advance of a major disaster the exercise of certain planning and regulatory powers related to disaster recovery and reconstruction to be implemented upon declaration of a local emergency; and,
   (d) Identify means by which Beaufort County will take cooperative action with other governmental entities (local, state and federal) in expediting recovery; and implement means by which Beaufort County will consult with and assist citizens, businesses, and community organizations during the planning and implementation of recovery and reconstruction procedures.

(2) *Objectives.* The County has established the following general objectives for county recovery policy:
   (a) Adopt improved and more comprehensive recovery policies and procedures that will facilitate county rebuilding after a disaster;
   (b) Adopt improved and more comprehensive recovery policies and procedures that will facilitate meeting FEMA (Federal Emergency Management Agency)

(and other state and federal programs) requirements for rebuilding and redevelopment funding;

(c) Improve county policies and procedures for future hurricane seasons and all other disasters.

(3) *Statement of concurrent obligations.* This article is enacted to set out and clarify the authority of Beaufort County and its officers and employees with regard to emergency and disaster situations. It is intended to grant as broad a power as permitted by statutory and constitutional authority. It is further intended that the powers granted and procedures established in this article shall apply concurrently to emergency, post-emergency, recovery and reconstruction operations.

Sec. 22-103. - Definitions.

As used in this article, the following definitions shall apply:

Curfew. A curfew is a regulation requiring the withdrawal from any person not otherwise exempt from this article from appearing in certain public areas during specified hours.

Damage assessment team. The primary role of the damage assessment team is to assess losses to property. Assessment will be used to determine type of permit required for repair or reconstruction, dollar amount of destruction or damage, and to determine qualifications for federal or state disaster relief assistance.

Detailed damage assessment. Follows the initial impact assessment and includes conducting on-site visits by the damage assessment teams for each affected property. This process may take weeks to complete and will culminate in a summary damage estimate in dollars of the total loss to all property in Beaufort County, including: real, personal, agricultural, utility, infrastructure, business, etc.

Development moratorium. A temporary hold, for a defined period of time, on the issuance of building permits, approval of land-use applications or other permits and entitlements related to the use, development, redevelopment, repair, and occupancy of private property in the interests of protection of life and property.

Director. The director of the recovery task force or an authorized representative.

Disaster recovery centers (DRCs). A multi-agency center ~~organized by FEMA~~ facilitated by FEMA, organized by county staff for coordinating assistance to disaster victims.

Emergency. A local emergency which has been declared by the governor or recognized as same by the Beaufort County Council through the enactment of an emergency ordinance for a specific disaster and has not been terminated.

Event. Any natural weather-related or other condition causing damage or destruction of property. Types of events shall include, but not limited to hurricanes, northeasters, tornadoes, earthquakes, and/or other natural man-made disasters.

Exempt individuals. Unless otherwise specified herein, exempt individuals include those persons engaged in the provision of designated, essential services, such as fire, law enforcement, public works, stormwater, solid waste and recycling, traffic engineering, engineering and infrastructure, grounds, facility management, disaster recovery, emergency medical services, and hospital services, military services, utility emergency repairs. The resolution of a curfew may, in the discretion of the governing authority, also exempt regular employees of local industries traveling to and from their jobs with appropriate identification, news media employees, building and repair contractors who are properly registered with the county and who are actively engaged in performing activities related to construction, repair, renovation, or improvement of buildings and other structures damaged during the disaster or emergency.

Flood Insurance Rate Map (FIRM). An official map of the community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Hazard mitigation grant program. A federal program that assists states and local communities in implementing long-term hazard mitigation measures following a major disaster declaration.

Historic building or structure. Any building or structure listed or eligible for listing on the National Register of Historic Places, as specified by federal regulation, the state register of historic places or points of interest, or a local register of historic places, and any buildings and structures having historic significance within a recognized historic district.

Individual assistance program. A federal disaster program that brings funding to disaster victims for housing and other needs in order to expedite the victims' recovery from disaster.

Initial impact assessment. The initial impact assessment (windshield assessment, disaster assessment) is used to determine the extent of the disaster and to determine whether or not outside assistance will be needed. This assessment is generally performed within 24 or 48 hours after passage of an event, depending on severity and scope.

In-kind. The same as the prior building or structure in size, height and shape, type of construction, number of units, general location, and appearance.

Interagency hazard mitigation team. A team of representatives from FEMA, other federal agencies, state emergency management agencies, and related state and federal agencies, formed to identify, evaluate, and report on post-disaster mitigation needs.

Joint field office (JFO). A center established by FEMA for coordinating disaster response and recovery operations, staffed by representatives of federal, state, and local agencies as identified in the National Response Framework (NRF) and determined by disaster circumstances.

Major disaster. Any natural catastrophe (including any hurricane, tornado, high water, wind-driven water, earthquake, winter storm, drought, etc.), or, regardless of cause, any fire, flood, or explosion, or manmade disaster which in the determination of the President of the United States causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Stafford Act to supplement the efforts and available resources of states, jurisdictions, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

National response framework (NRF). A plan to coordinate efforts of the government in providing response to natural disasters, technological emergencies, and other incidents requiring federal assistance under the Stafford Act in an expeditious manner.

Project worksheet (PW). A claim by a local jurisdiction for financial reimbursement for work completed, repairs or replacement of a public facility damaged in a major disaster, as authorized under the Stafford Act and related federal regulations, plans, and policies.

Public assistance program. FEMA's Public Assistance (PA) Grant Program is designed to provide assistance to states, local governments, and certain nonprofit organizations to alleviate suffering and hardship resulting from major disasters or emergencies declared by the President. Through the PA Program, FEMA provides supplemental federal disaster grant assistance for the repair, replacement, or restoration of disaster-damaged, publicly owned facilities and the facilities of certain private nonprofit (PNP) organizations. The federal share of assistance is not less than 75 percent of the eligible cost for emergency measures and permanent restoration. The grantee (usually the state) determines how the non-federal share (up to 25 percent) is split with the subgrantees (eligible applicants).

Reconstruction. The rebuilding of permanent replacement housing, construction of large-scale public or private facilities badly damaged or destroyed in a major disaster, addition of major community improvements, and full restoration of a healthy economy.

Recovery functions. The categories of activities and programs that the County and its citizens are likely to need following a disaster.

Recovery task force. An interdepartmental organization that coordinates Beaufort County staff actions in planning and implementing disaster recovery and reconstruction functions.

Recovery plan. A pre-event plan for post-disaster recovery and reconstruction, composed of policies, plans, implementation actions, and designated responsibilities related to expeditious and orderly post-disaster recovery and rebuilding, with an emphasis on mitigation.

Recovery strategy. A post-disaster strategic program identifying and prioritizing major actions contemplated or under way regarding such essential recovery functions as business resumption, economic reinvestment, industrial recovery, housing replacement, infrastructure restoration, and potential sources of financing to support these functions.

Stafford Act. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, as amended).

Sec. 22-104. - Recovery management structure.

The primary recovery task that shall be completed in times of a disaster is assuring that all continuity of government procedures are in place and being carried out according to previously established plans. This includes having lines of succession for ~~in place for county council members and~~ all essential Beaufort County staff (especially department heads).

The second task should be implementing a management structure that defines how recovery procedures will be managed by the county. The following structure is hereby created for the purpose of coordinating Beaufort County actions in planning and implementing disaster recovery and reconstruction activities.

(1) *Recovery task force.* A recovery task force is hereby established that is comprised of the following officers and members, should any of the directors be unable to perform the tasks the subsequent individual shall fall within that position and the line of succession shall adjust accordingly.

(a) The county administrator who shall be chair; and as chair of the recovery task force shall appoint the recovery director and three deputy directors to oversee all recovery functions and to form a line of succession. Each deputy director shall provide management of recovery functions as assigned by the director;

(b) The director of environmental engineering and land management shall be the recovery director and first vice-chair of the disaster recovery taskforce.

(c) The director of public works shall be the second vice-chair.

(d) The Building Codes Director shall be the third vice chair.

(e) The Director of Civil Engagement & Outreach Area shall be the fourth vice-chair

(f) The Beaufort County Attorney and staff shall be legal advisor and staff of the recovery task force.

(g) Other members, shall include county council, facilities and construction, engineering, traffic engineering, planning, fire chief, emergency management, sheriff, together with representatives from such other departments and offices as the alliance for human services, assessor, economic development, EMS, GIS,

parks and leisure services, zoning, department of social services/emergency welfare services, municipal representatives, private sector and nonprofit organizations etc., and others that may be deemed necessary by the chair or recovery director for effective recovery operations.

(2) *Powers and duties.* The recovery task force shall have such powers as enable it to carry out the purposes, provisions, and procedures of this chapter, as identified in this chapter.

(3) *Operations and meetings.* The director or his/her designee shall have responsibility for recovery task force operations. When an emergency declaration is in force (whether declared by the governor or through the enactment of an emergency ordinance adopted by Beaufort County Council), the county administrator shall authorize activation of the recovery task force and disaster recovery plan. After a declaration and/or determination that a local emergency exists, and while such declaration or determination is in force, the recovery task force shall meet daily or as frequently as determined by the director. When an emergency declaration or determination is not in force, the recovery task force shall meet monthly or more frequently, upon call of the chair or director.

(4) *Succession.* In the absence of the director, the deputy director shall serve as acting director and shall be empowered to carry out the duties and responsibilities of the director. The director shall name a succession of department managers to carry on the duties of the director and deputy director, and to serve as acting director in the event of the unavailability of the director and deputy director.

(5) *Organization.* The recovery task force may create such standing or ad hoc committees as determined necessary by the director.

(6) *Relation to* County Sheriff's Office Emergency Management Division. The recovery task force shall work in concert with the Emergency Management Division that has interrelated functions and similar membership.

(7) *Short-term recovery objectives.* The emergency management director is in charge of overseeing all short-term recovery activities. Beaufort County's objectives to be accomplished during short-term recovery can be found in the Beaufort County Recovery Plan, Appendix ~~C~~ B. This checklist is to be used to determine that short-term recovery activities have been completed properly.

(8) *Long-term recovery objectives.* The director of Environmental Engineering and Land Management is responsible for overseeing all long-term recovery activities. Beaufort County's objectives to be accomplished during long-term recovery can be found in the Beaufort County Recovery Plan, Appendix ~~C~~ B. This checklist is to be used to determine that long-term recovery activities have been completed properly.

(9) *Ending recovery operations.* Recovery operations shall continue until the county administrator has notified staff to return to normal operations. Normal operations will not resume until either the emergency management director (for short-term emergency activities) or the director of Environmental Engineering and Land Management for long-

term recovery activities) has notified the county administrator that recovery activities have been completed.

Sec. 22-105. - Recovery plan.

Beaufort County has developed a pre-event plan for post-disaster recovery and reconstruction, referred to as the Beaufort County Recovery Plan, which is comprised of pre-event and post-disaster policies, plans, implementation actions, and designated responsibilities related to expeditious and orderly post-disaster recovery and rebuilding, and incorporates hazard mitigation in all elements of the plan.

(1) *Recovery plan content.* The recovery plan addresses policies, implementation actions and designated responsibilities for such subjects as impact assessment (disaster assessment), continuation of government, public information/community relations, human services (short-term), individual assistance, volunteers and donations, debris management, re-entry security, health and human safety, repair and restoration of public infrastructure and buildings, building inspections and permits, ~~rebuilding, construction, repairs, restoration~~ regulatory licensing , ~~temporary~~ emergency housing, redevelopment (~~planning and zoning ordinance enforcement~~)(recovery plan/policies, building codes, community development ordinance enforcement), economic preservation and ~~restoration~~ development, environmental preservation and restoration mitigation, recovery administration and finance, county employees, mortuary operations, mutual aid protocols, pre-disaster heavy equipment and facilities deployment and such other subjects as may be appropriate to expeditious and wise recovery.

(2) *Coordination of recovery plan with county and regional plans, FEMA, and other agencies.* The recovery plan identifies relationships of planned recovery actions with those of adjacent communities and state, federal, or mutual aid agencies involved in disaster recovery and reconstruction, including but not limited to the Federal Emergency Management Agency (FEMA), the American Red Cross, the Department of Housing and Urban Development (HUD), the Small Business Administration (SBA), the Environmental Protection Administration (EPA), the Department of Transportation (DOT), the South Carolina Emergency Management Division (SCEMD), the South Carolina Department of Health and Environmental Control (DHEC) and other entities that provide assistance in the event of a major disaster. A draft copy of the plan shall be sent to the South Carolina Emergency Management Division on an annual basis for review in sufficient time for comment prior to action on the recovery plan by the Beaufort County Council.

(3) *Recovery plan implementation.* The director and recovery task force shall be responsible for implementation of the plan both before and after a major disaster, as applicable. Before a declaration of emergency, the director, or his/her authorized representative, shall prepare and submit reports annually, or more frequently as necessary, to fully advise the Beaufort County Council on the progress of preparation or implementation of the recovery policy. After a declaration of emergency in a major disaster, the director

shall participate in Policy Group meetings, interact with the Emergency Management Director, report to the Beaufort County Council as often as necessary on implementation actions taken in the post-disaster setting, identify policy and procedural issues, and receive direction and authorization to proceed with plan modifications necessitated by specific circumstances.

(4) *Recovery plan training and exercises.* The recovery task force shall organize and conduct periodic training and exercises annually, or more often as necessary, in order to develop, convey, and update the contents of the recovery plan. Such training and exercises will be conducted in coordination with similar training and exercises related to the emergency operations plan.

(5) *Recovery plan consultation with citizens.* The recovery planning committee is comprised of representatives of business, volunteer and community organizations that represent Beaufort County citizens. Other efforts to inform the public about the recovery plan will be coordinated by the public information officer.

(6) *Recovery plan amendments.* During implementation of the recovery plan, the director and the recovery task force shall address key issues, strategies and information bearing on the orderly maintenance and periodic revision of the plan. In preparing modifications to the plan, the recovery task force shall consult with county departments, business, and community organizations and other government entities to obtain information pertinent to possible recovery plan amendments.

(7) *Recovery plan coordination with related plans.* The recovery plan has been prepared and shall be updated to be in coordination with related elements of the comprehensive general plan and emergency operations plan, or such other plans as may be pertinent. Such related plan elements shall be periodically amended to be consistent with key provisions of the recovery plan, and vice versa.

(8) *Recovery plan validation.* The recovery plan shall be validated annually and/or following a disaster event. In order to facilitate an organized and comprehensive review of the plan, ~~review checklists have been created for each of the recovery functions~~ a master checklist of action items have been created to encompass all recovery functions. The master checklist~~s include action items that~~ should be reviewed and completed each year by the agency/department responsible for implementing the recovery function, in conjunction with the support agencies assigned to that recovery function. Once the review ~~checklists~~ of action items have been completed, they should be turned in to the director of environmental engineering and land management who will then make a report to county council regarding the status of recovery operations for the year. (Appendix A)

Any changes to be made to the recovery plan, identified either by the annual review, or in an after action report, will be made at the discretion of the recovery task force and shall not require county council review and/or action.

Sec. 22-106. - General provisions.

The following general provisions shall be applicable to implementation of this article:

(1) *Powers and procedures.* Following the disaster declaration and/or determination that a local emergency exists, and while such declaration or determination is in force, the director of the recovery task force (the director of environmental engineering and land management) and the deputy director of the recovery task force (the director of public works) shall have authority to exercise powers and procedures authorized by this article, subject to extension to the other appointed deputy directors, and/or, modification, or replacement of all or portions of these provisions by separate ordinances adopted by the Beaufort County Council. The emergency management director shall have oversight and control of issuing any curfews (section 22-107), coordinating re-entry procedures (section 22-108), and all other short-term emergency matters.

In the absence of any declaration of emergency by the governor of the State of South Carolina, nothing shall prohibit Beaufort County Council, in its discretion, from exercising any powers necessary to protect the health, safety and welfare of its citizens. If such an emergency exists within Beaufort County, and immediate action is needed, council shall convene to declare an emergency and shall implement the provisions of this article in part or in full force. If the situation is such that council cannot convene, the declaration of local emergency shall be made by the Beaufort County Administrator or his designee. Such a declaration shall be subject to ratification, alteration, modification or repeal, by council, as soon as council can convene. Subsequent actions of council shall not affect the validity of prior actions taken by the county administrator, or his designee.

(2) *Post-disaster recovery operations.* The director of the recovery task force (director of environmental engineering and land management) shall have duties in directing and controlling post-disaster recovery and reconstruction operations, including but not limited to the following:

(a) Activate, mobilize and deploy local law enforcement to respond to any situations necessary to promote recovery and redevelopment within Beaufort County;

(b) Activate and deploy damage assessment teams to identify damaged structures and to determine further actions that should be taken regarding such structures;

(c) Activate and deploy hazard evaluation teams to locate and determine the severity of natural or technological hazards that may influence the location, timing, and procedures for repair and rebuilding processes;

(d) Maintain liaison with the Beaufort County Emergency Operations Center and other public and private entities, such as FEMA, the American Red Cross, and the South Carolina Emergency Management Division in providing necessary information on damaged and destroyed buildings or infrastructure, natural and technological hazards, street and utility restoration priorities, temporary housing needs and similar recovery concerns;

(e) Establish "one-stop" field offices located in or near impacted areas where appropriate, staffed by trained personnel from appropriate departments, to

provide information about repair and rebuilding procedures, issue repair and reconstruction permits, and provide information and support services on such matters as business resumption, industrial recovery, and ~~temporary and permanent~~ emergency housing;

(f) Activate streamlined procedures to expedite repair and rebuilding of properties damaged or destroyed in the disaster;

(g) Make recommendations regarding moratoriums on buildings, land use regulations and permits, subject to Beaufort County Council ratification, as provided under subsection 22-109(22);

(h) Recommend to the Beaufort County Council and other appropriate entities necessary actions for reconstruction of damaged infrastructure;

(i) Prepare plans and proposals for action by the Beaufort County Council for redevelopment projects, redesign of previously established projects or other appropriate special measures addressing reconstruction of heavily damaged areas;

(j) Formulate proposals for action by the Beaufort County Council to amend the comprehensive general plan, emergency operations plan, and other relevant plans, programs, and regulations in response to new needs generated by the disaster;

(k) Such other recovery and reconstruction activities identified in the Recovery plan or by this article, or as deemed by the director as necessary to promote recovery, public health, safety, and well-being of the citizens of Beaufort County.

All County employees should be aware that in times of disasters, normal county operations are suspended and personnel may be reassigned during portions of task force operations.

(3) *Coordination with FEMA and other agencies.* The director and the recovery task force shall coordinate recovery and reconstruction actions with those of state, federal, or mutual aid agencies involved in disaster response and recovery, including but not limited to the Federal Emergency Management Agency (FEMA), the American Red Cross, the Department of Housing and Urban Development (HUD), the Small Business Administration (SBA), the South Carolina Emergency Management Division and other entities that provide assistance in the event of a major disaster. Intergovernmental coordination tasks including but not limited to the following:

(a) Assign trained personnel to provide information and logistical support to the FEMA Joint Field Office, if needed;

(b) Supply personnel to provide information support for FEMA Disaster Recovery Centers (DRCs), if needed;

(c) Participate in damage assessment surveys conducted in cooperation with FEMA and other entities;

(d) Participate in the development of hazard mitigation strategies with the Interagency Hazard Mitigation Team (when activated) with FEMA and other entities;

(e) Cooperate in the joint establishment with other agencies of one-stop service centers for issuance of repair and reconstruction options and permits, business resumption support, counseling regarding temporary and permanent housing, and other information regarding support services available from various governmental and private entities;

(f) Coordinate within county government the preparation and submission of supporting documentation for Project Worksheets (PWs) to FEMA;

(g) Determine whether damaged structures and units are within floodplains identified on Flood Insurance Rate Maps (FIRMs) and whether substantial damage has occurred;

(h) Implement such other coordination tasks as may be required under the specific circumstances of the disaster.

(4) *Additional staffing needs.* In times of disaster, it may be necessary to hire additional staff members to perform various recovery-related duties (for example, additional administrative support for various departments). All additional hiring will be coordinated through the ~~human resources~~ employee services department at the direction of the county administrator. Whenever possible, funding for filling such positions will be provided by sources other than Beaufort County funding from state and federal programs (grant funds, federal programs). If no additional funding sources are available, emergency funds may need to be spent to fill additional staffing needs. Authorization of the expenditure of emergency funds may only be approved by the county administrator.

(5) *Consultation with citizens.* Activities undertaken by the recovery task force that require notification of, or are of interest to the Beaufort County citizenry will be presented to the public through the public information officer.

Sec. 22-107. - Imposition of curfews during times of emergency and recovery.

(1) *Purpose.* Beaufort County Council may impose a curfew during periods of emergency or disaster to protect the health, safety, and welfare of the citizens and property of Beaufort County during an emergency, disaster, or imminent threat thereof. The curfew will be used to protect citizens and property from the potential presence of looters, vandals, thieves and others who would take advantage of the confusion and devastation associated with such an event.

(2) *Institution of curfew.* Upon the declaration of a state of emergency by the Governor, or upon the determination by Beaufort County Council, or its emergency manager or successor, of the existence of an emergency or disaster, county council, may adopt a resolution instituting a curfew when it is determined necessary to protect and safeguard the people and property of Beaufort County. All of the territory of the unincorporated county shall be subject to the terms of the curfew, unless otherwise

specified in the resolution. The resolution instituting the curfew shall include the dates and hours that the curfew shall be in effect.

(3) *Enforcement.* The provisions under this section shall be enforced by the Beaufort County Sheriff's Office.

(4) *Prohibition.* It shall be prohibited for any person, other than exempt individuals, to appear in public in the territory subject to the curfew, including, but not limited to, streets, highways, alleys, sidewalks, vacant lots, parks, public buildings or any other public places in all or a delineated part of unincorporated Beaufort County during the stated hours of the curfew. Violators, if convicted, will be subject to any and all penalties allowed for in this article.

Sec. 22-108. - Re-entry into areas affected by disasters.

(1) *Purpose.* It may be necessary, following an evacuation, natural or manmade disaster, or otherwise, to restrict entry into portions or all of Beaufort County by the Beaufort County Sheriff's Office. Restricted access shall occur only when absolutely necessary to protect the lives and property of its citizens. In the absence of state and/or federal oversight, Beaufort County recognizes the need to locally restrict access to areas by the general public during times of disaster and post recovery and reconstruction.

(2) *Re-entry procedures.* It is anticipated that re-entry will occur in a tiered manner based on key roles in restoring normal operations after a disaster. It is understood that events may occur within specific areas of the county that will dictate, based on local needs and factors, what personnel will need access into the affected areas. Safety, with regard to public health, travel accessibility and rescue operations will be paramount and of crucial importance in determining access.

Immediate and unrestricted access will be granted to search and rescue agents, including agents from county and municipal fire-rescue departments, state, local, and federal law enforcement, fire/EMS, National Guard (Military) and emergency response agencies in support of the affected area.

(3) *Re-entry passes.* Beaufort County Sheriff’s Office Emergency Management Division is responsible for the assignment of re-entry passes. Federal, state and local government agencies and law enforcement officials agree to recognize specific identification from critical infrastructure owners and operators, their contractor(s), subcontractors and others as they seek access into a restricted disaster area. Relying parties (e.g. law enforcement) will require constant communications with local emergency operations centers so that proper admittance is granted. Once identity and attributes are authenticated, access is granted at the discretion of the relying parties. Falsification or the forgery of any re-entry or access passes issued in due

course by the emergency management division or like state or federal agency shall be considered a violation of this article and shall be punishable in accordance with the applicable provisions of this article.

(4) *Re-entry for citizens and public.* Upon the determination that an affected area is deemed to be safe, the emergency management division, at its discretion, may allow for re-entry for citizens of Beaufort County, or the general public at large.

Sec. 22-109. -Emergency permitting, zoning policy and zoning procedures

(1) *Goals and purposes.* The goal of the building codes ~~and codes enforcement~~ department in a disaster is to allow rebuilding, repair and reconstruction of damaged structures in an orderly, safe and timely manner. Although speed of reconstruction is critical, the overall quality of the reconstruction process as it relates to federal, state and local building codes is a paramount issue. The purpose of these administrative procedures is to establish an emergency permitting system to be used following a declared disaster to expedite repair, restoration, or rebuilding of safe habitable structures.

(2) *Scope.* The scope of this section includes:
   (a) An overview of the emergency permitting process comprised of damage assessment, determination, notification, permitting and inspection.
   (b) Description of damage categories and corresponding types of emergency permits, based upon the degree of damage.
   (c) Procedures to determine compliance with the county's development standard ordinance.
   (d) Procedures describing emergency permitting and inspection requirements.
   (e) The purpose and authority of the construction board of adjustments and appeals.
   (f) Fee structure and requirements.

(3) *Post-disaster procedures.* The building codes ~~and codes enforcement~~ department will implement the following series of procedures to expedite the building permit review and permit issuance process immediately following declaration of an emergency. The building codes ~~and codes enforcement~~ department ~~are~~ is managed by the Beaufort County Building Official. In a recovery operation the county building official is hereby authorized to make minor adjustments to these policies and procedures to meet the objectives of county recovery actions as unforeseen situations arise.

The provisions of section 22-109 shall be in effect for a period of six months from the date of a local emergency declaration following a major disaster or until termination of a state of local emergency, whichever occurs later, or until these provisions are extended, modified, replaced by new provisions, or terminated, in whole or in part, by action of the Beaufort County Council through separate ordinances.

(4) *Operational procedures.*

(a) The building codes ~~and codes enforcement~~ office will reopen immediately upon proper notice at the current office location, or at an alternate location if the current location is damaged.
(b) Upon re-entry all inspectors and code enforcement staff must contact the county building official, or the deputy county administrator, to receive work assignments and return to work schedules.
(c) Inspectors will be assigned to areas of the county to monitor construction activity.
~~(d) Inspectors will issue temporary permits for repair to prevent further damage in accordance with these policies: the international codes, FEMA Substantial Damage Estimation software.~~
(e) Inspectors will notify owners of need to comply with construction permit requirements and to advise all concerned parties on reconstruction issues in a post-disaster situation.
(f) Damage assessment teams shall be activated. Team will be comprised of one building inspector, one tax appraiser and other professionals, as deemed necessary to assist with structural analysis of severely damaged buildings.
(g) If emergency staffing requirements are beyond current staff capability, staffing will be added through mutual aid agreements with surrounding and/or units of government and volunteer groups with proper qualifications.

(5) *Damage assessment procedures.*
(a) The initial impact assessment (windshield assessment, disaster assessment) is used to determine the extent of the disaster and to determine whether or not outside assistance will be needed. This assessment is coordinated by the ~~emergency management division of the Sheriff's Office~~ Disaster Recovery Department and is generally performed within 24 or 48 hours after passage of an event, depending on severity and scope.
(b) The detailed damage assessment follows the initial impact assessment and includes conducting on-site visits by the damage assessment teams for each affected property. This process may take weeks to complete and will culminate in a summary damage estimate in dollars of the total loss to all property in Beaufort County, including: real, personal, agricultural, utility, infrastructure, business, etc. The county building official and the assessor will determine when damage assessment teams will be assembled for conducting detailed damage assessments and make assignments to areas of the county.
(c) Assessment teams are to establish dollar amount assessments of damage to all structures within their area of responsibility.
(d) Each team will have values of structures from the most recent tax records.
(e) Assessment team decisions will be symbolized by ~~the use~~ using color-coded assessment cards at each structure.
(f) Cards will address information as to what percent of the structure has sustained damage, and what process the owner will be required to follow to correct the damage to property. Colored card system detail is found below.

(6) *Detailed damage assessment procedures.* The county building official or an authorized representative shall direct damage assessment teams having authority to conduct field surveys of damaged structures and post color-coded placards designating the condition of such structures as follows:

(a) Green card—No restrictions. A green card denotes minor damage to property. Card information will include permission to make these minor repairs without having to obtain a zoning or building permit. Structures with minor damage can be made habitable in a short period of time with minimal repairs. Damage may include doors, windows, floors, furnaces, air conditioners, water heaters and other repairable damages.

(b) Yellow card—Limited entry. A yellow card denotes major damage to the property. Card information will include instructions on how to apply for a zoning and building permit. Owner will not be allowed to occupy the structure, occupancy will be allowed only when structure is classified with a green card with no restrictions. Structures with moderate damage can be made habitable with extensive repairs. This category may include damage to the following portions of a structure: foundation, roof structure, wall sections and any other major components of the property.

(c) Red card—Unsafe. A red card denotes that the property has been destroyed. Card information will include that the structure is unsafe and may not be occupied. Buildings posted with this placard shall not be entered under any circumstances except as authorized in writing by the department that posted the building or by authorized members of damage assessment teams. The individual posting this placard shall note in general terms the type of damage encountered. This placard is not to be considered a demolition order. Structures with major damage are considered destroyed and a total loss, meaning that damage is determined to be of such an extent that repair is not feasible.

Beaufort County Field inspectors will complete the appropriate card and post in a conspicuous location. Inspector must keep a log of all structures posted in this category. Log will include date, time, location and a damage description/justification of designation.

(d) This article and section number, the name of the department, its address, and phone number shall be permanently affixed to each placard.

(e) Once a placard has been attached to a building, it shall not be removed, altered or covered until done so by an authorized representative of Beaufort County or upon written notification from Beaufort County. Failure to comply with this prohibition will be considered a misdemeanor punishable by a $300.00 fine.

(7) *Staff review team procedures.*

(a) After an initial damage assessment is completed, the county staff review team (SRT) for development shall convene to determine what areas of the county are impacted and discuss permitting procedures under current emergency conditions.

(b) The SRT will discuss conditions, including the following matters in determining how to proceed: plan review requirements, ~~temporary~~ emergency housing needs, ordinance enforcement, abatement of unsafe or unrepairable structures, emergency repairs and flood damage control regulation enforcement.

(c) The SRT shall make determinations as to what areas within the county are in need redevelopment, or in the alternative, which areas are eligible for reconstruction. When a determination has been made that an area has been damaged to such an extent that redevelopment is appropriate, the director of ~~planning~~ community development shall coordinate the process of organizing meetings with the municipalities to determine how the affected areas are to be redeveloped. Redevelopment plans should be based on the most recent comprehensive plan.

(8) *Permitting procedures.*

(a) The permitting process will be determined by the extent of damage that a property has sustained. Each property will be treated individually consistent with county ordinances and the international building code~~s~~ requirements. Property sustaining minor damage may not require a permit based on the type of damage.

Major damage will, in most cases, require a permit. The amount of information needed to satisfy the permitting process will be determined by the type and amount of damage that the structure has received. In most situations where a property has sustained major damage, the owner or contractor conducting the repair will be required to submit a full plan of reconstruction.

(b) During damage assessment, the inspector will leave a colored-coded placard at the site in a conspicuous location. The placard will provide instructions to the owner if a zoning or building permit is required. The color codes are discussed above in subsection 22-107(6).

(9) *Emergency nonconforming permitting procedures.* In an emergency it may be necessary to allow existing nonconforming uses to rebuild. Building owners will only be allowed to rebuild nonconforming uses under these conditions:

(a) Owner has official copy of building plans that include overall size and dimensions of structure.

(b) Owner has recent photographs of the structure that supply construction and appearance detail of the structure.

(c) In addition to meeting the conditions as stated above, building owners are also required to comply with the requirements set forth within subsection 22-109(27) with regard to the rebuilding of nonconforming structures.

(10) *Joint county-municipal permitting.* In a large scale disaster, joint permitting by all governmental permitting bodies would greatly improve effectiveness and speed of post-disaster reconstruction. County staff will pursue implementation of a joint system with all permitting bodies.

(11) *Administrative and clerical staff duties and roles in a disaster.*

(a) Normal daily business routine procedures will be employed unless adjusted by the county building official.

(b) Telephone duty assigned to two staff members for all incoming calls.
(c) Screening of walk-ins by one staff person. The assigned and designated FEMA Coordinator will notify the county building code and code enforcement divisions of substantially damaged buildings requiring building services approval prior to permit release.
(d) All records will be retained.
(e) Combined staffs from these county divisions and departments: buildings, planning and zoning departments (and others if required) will perform needed clerical and related processing as needed.

(12) *Ready information/materials/equipment (for damage assessment teams).*
(a) Digital cameras and additional memory.
(b) Temporary permit forms.
(c) Building damage assessment forms/building tags/noncompliance forms.
(d) Handheld GPS equipment.
(e) Safety vests
(f) Steele toe boots
(g) Flash lights
~~(h) Dust face masks~~ Contamination protection
~~(i)~~ Field Duty Laptop
(j) Tablets with collector app loaded
(k) Jet pack for tablets
(l) Alternative power source to charge devices

(13) *Issuing emergency zoning and building permits.* When an emergency is officially declared, the following procedures will be implemented when issuing permits:
(a) No restriction on use or occupancy. No plans are required, no permit is required, and no inspection activity other than damage assessment is required.
(b) Use and occupancy restriction. A plan may be required for repairs or a detailed list of work to be done may be required. Development plan review is not required if there is no change in footprint of the building.
(c) Emergency building permit(s) is required. An affidavit stating that the owner or his/her authorized agent shall comply with all county codes will be required. Building inspections are required prior to work beginning and during construction.
(d) Use and occupancy restriction. Flood regulation standards shall be implemented. This standard is based upon Beaufort County Flood Map standards adopted by the County to qualify for FEMA disaster planning and reconstruction funding. Flood mapping in place at the time of the disaster will be the standard for decisions. County building official, or other designated representative, may review decisions, where information is incomplete, and/or in conflict with reality, or in error.
(e) General requirements: Plans may be required for repairs. If pre-existing structure is in compliance with zoning, and structure is not located in a flood zone or it is elevated to the proper base flood elevation, there is no change in the use or

occupancy and there will be no expansion, plans will not be required. The building must be brought into full compliance with all applicable codes: zoning, building and flood regulations. Development plan review is not required. Building plan review is not required. An emergency building permit is required. An affidavit stating the owner or his/her agent will comply with all county codes is required. Building inspections are required prior to and during construction.

(f) Unsafe. If structure is not demolished, plans are required. A structural engineer report is required. Zoning and development permits are required. A building permit is required.

(g) General requirements: Plans and structural analysis may be required for repairs. If pre-existing structure is in compliance with zoning, and structure is not located in a flood zone or it is elevated to the proper base flood elevation and there is no change in the use or occupancy and there will be no expansion, the building may be repaired after obtaining the building permit; or the building must be brought into full compliance with all applicable codes: zoning, building and flood regulations. Development plan review may not be required. Building inspections are required prior to and during construction.

(14) *County permit fees.* The county will continue to collect permit fees. If conditions warrant revision of this policy, recommendations will be presented to county council.

(15) *Contractor licensing.*

(a) The county will heighten monitoring and oversight of licensing requirements during emergencies.

(b) Contractors and subcontractors are likely to respond to construction needs from all parts of the United States.

(c) State contractor licensing requirements will be the same as during normal operations (e.g., only contractors with appropriate credentials will be issued licenses to work in Beaufort County).

(d) No preliminary licensing will be allowed.

(e) High likelihood that Beaufort County, and state contractor licensing authorities, will establish offices in Beaufort County to administer contractor exams, and to manage the paperwork related to the procedure.

(16) *Zoning operations.*

(a) Zoning permits will be required as described above.

(b) A site plan or plat will not be required unless the house was moved from its foundation or it is being expanded.

(c) Field inspectors will judge extent of damage both residential/commercial structures.

(17) *Flood regulations.*

(a) Beaufort County's flood regulations requires that all pre-FIRM buildings (FEMA definition - a building for which construction or substantial improvement occurred on or before December 31, 1974, or before the effective date of an initial Flood Insurance Rate Map (FIRM)) located in the 100-year floodplain be elevated to the required base flood elevation if the building sustains $\geq$ 50 percent damage of its market value.

(b) Replacement value is determined before improvements are made to the structure.
(c) In cases where there are questions regarding extent of damage or flood zone designation, the ~~inspector~~ owner and/or contractor shall complete FEMA substantial damage form to ~~make~~ facilitate the determination.

(18) *Electrical and gas connections.*
(a) Electrical and gas safety inspection procedures. All buildings with a damaged electric and/or gas meter, damaged electrical service weather head, and/or with water submersion inside of the structure up to the elevation of electrical receptacles, will require an electrical safety inspection prior to electrical service being restored.
(b) Gas lines in buildings that have experienced a fire must be inspected prior to gas service being restored.
(c) Stop work orders (red tags) are to be conspicuously placed near utility meters that are not to be reconnected without prior inspection and release.
(d) Records of structures deemed unsafe for utility reconnection are to be maintained and released to the applicable electrical or gas utility as quickly as possible after the determination is made.

(19) *Mutual aid building inspectors.* Mutual aid building inspectors will assist with performing substantial damage determination inspections, complete applicable forms, input data into FEMA substantial damage determination software, and perform other related duties as assigned.

(20) *Beaufort County Board of Adjustment and Appeals.*
(a) The Beaufort County Board of Appeals will handle disputes directly associated with disaster-related reconstruction and construction.
(b) The board will act on all matters resulting from matters in dispute. Likely areas of deliberation are: decisions related to degree of damage, new codes, floodplain issues, and other matters that may develop.
(c) Additional responsibilities may be assigned to the board to meet needs as they develop.
(d) Decisions will be made by majority vote, minutes and all other meetings requirements will be met as the board functions during disaster, including: open meetings requirements, accessibility requirements and Freedom of Information requirements.

(21) *Applications and forms (to be used by county staff).* Habitable Repair Approval, Unsafe Do Not Enter, Limited Entry - Permit Required for Repairs, Damage Checklist.

(22) *Development moratorium.* The director shall have the authority to make recommendations to county council regarding moratoriums on the issuance of building permits, approval of land use applications or other permits and entitlements related to the use, development, and occupancy of private property authorized under other chapters and sections of the Code of Ordinances. The recommendations will be based on the opinion of the director, that such action is reasonably justifiable for protection of life and property. County council shall be authorized to issue moratoriums in accordance

with the provisions of this article. County council shall be authorized to issue a moratorium with regards to the requirements under this section.

(a) *Posting.* Notice of the moratorium shall be posted in a public place and shall clearly identify the boundaries of the area in which a moratorium is in effect as well as the exact nature of the development permits or entitlements that are temporarily held in abeyance.

(b) *Duration.* The moratorium shall be in effect from the earliest possible time following a disaster, and shall remain in effect until such time that the Beaufort County Council can take action to extend, modify, or terminate such moratorium by separate ordinance.

(23) *One-stop center for permit expediting.* The county building official shall oversee establishment of a one-stop center, staffed by representatives of pertinent departments, for the purpose of establishing and implementing streamlined permit processing to expedite repair and reconstruction of buildings, and to provide information support for provision of temporary housing and encouragement of business resumption and industrial recovery. The director shall establish such center and procedures in coordination with other governmental entities that may provide services and support, such as FEMA, SBA, HUD, or the South Carolina Emergency Management Division.

(24) *Temporary use permits.* The director shall have the authority to issue permits in any residential, commercial, industrial, or other zone for the temporary use of property that will aid in the immediate restoration of an area adversely impacted by a major disaster, subject to the following provisions:

(a) *Critical response facilities.* Any police, fire, emergency medical, or emergency communications facility that will aid in the immediate restoration of the area may be permitted in any zone for the duration of the declared emergency;

(b) *Other temporary uses.* Temporary use permits may be issued in any zone, with conditions, as necessary, provided written findings are made establishing a factual basis that the proposed temporary use:

1. Will not have a long-term detrimental impact on the immediate neighborhood;
2. Will not adversely affect the comprehensive plan; and
3. Will contribute in a positive fashion to the reconstruction and recovery of areas adversely impacted by the disaster.

Temporary use permits may be issued for a period of one year following the declaration of local emergency and may be extended on an annual basis for a maximum of five years from the declaration of emergency, provided such findings are determined to be still applicable by the end of the first year. If, during the first or any subsequent four years, substantial evidence contradicting one or more of the required findings comes to the attention of the director, the temporary use permit shall be revoked.

(c) *Single-family residence repair or replacement.* A temporary use permit shall also be granted subject to the provisions of subsection 22-111(4) to allow the

property owner of a single-family residence that has been deemed as having "no restrictions on use or occupancy" pursuant to subsection 22-109(13) to live on his or her property until such time as the damaged house can be repaired or rebuilt. This temporary housing permit shall be good for one year and may be renewed each year for a maximum of five years.

(d) *No grandfathered or nonconforming status acquired.* No use initiated pursuant to the provisions of this section may claim grandfathered or nonconforming use status. Any use initiated under this section must terminate after five years, if not before.

(25) *Temporary repair permits.* Following a disaster, temporary emergency repairs to secure structures and property damaged in the disaster against further damage or to protect adjoining structures or property may be made without fee or permit where such repairs are not already exempt under other chapters of the Code of Ordinances. The building official must be notified of such repairs within ten working days, and regular permits with fees may then be required.

(26) *Deferral of fees for reconstruction permits.* Except for temporary repairs issued under provisions of this chapter, all other repairs, restoration, and reconstruction of buildings damaged or destroyed in the disaster shall be approved through permit under the provisions of other chapters of this Code. Fees for such repair and reconstruction permits may be deferred until issuance of certificates of occupancy.

(27) *Nonconforming buildings and uses.* Buildings damaged or destroyed in the disaster that are legally nonconforming as to use, yards, height, number of stories, lot area, floor area, residential density, parking, or other provisions of the zoning and development standards may be repaired and reconstructed in-kind, provided that:

(a) The building is damaged in such a manner that the structural strength or stability of the building is appreciably lessened by the disaster and is less than the minimum requirements of the International Building Code for a new building;

(b) The cost of repair is less than 50 percent of the replacement cost of the building;

(c) All structural, plumbing, electrical and related requirements of the International Building Code are met at current standards;

(d) Any local, state or federal natural hazard mitigation requirements are met;

(e) Reestablishment of the use or building is in conformance with the National Flood Insurance Program requirements and procedures;

(f) The building is reconstructed to the same configuration, floor area, height, and occupancy as the original building or structure, except where this conflicts with National Flood Insurance Program (NFIP) provisions;

(g) No portion of the building or structure encroaches into an area planned for widening or extension of existing or future streets as determined by the comprehensive general plan or applicable specific plan; and

(h) Repair or reconstruction shall commence within two years of the date of the declaration of local emergency in a major disaster and shall be completed within two years of the date on which permits are issued.

(i) In addition to the provisions contained herein, building owners are also required to comply with the provisions of subsection 22-109(9) with regard to the rebuilding of nonconforming structures.

Nothing herein shall be interpreted as authorizing the continuation of a nonconforming use beyond the time limits set forth under other sections of the zoning and development standards that were applicable to the site prior to the disaster.

Sec. 22-110. - Demolition of damaged buildings.

The director shall have authority to order the condemnation and demolition of buildings and structures damaged in the disaster under the standard provisions of the Code of Ordinances, except as otherwise indicated below:

(1) *Condemnation and demolition.* In dealing with historic buildings, the building official shall notify the state historic preservation officer within 60 days after the disaster, that one of the following actions will be taken with respect to any historic building or structure determined by the building official to represent an imminent hazard to public health and safety or to pose an imminent threat to the public right-of-way:
   (a) Where possible, within reasonable limits as determined by the building official, the building or structure shall be braced or shored in such a manner as to mitigate the hazard to public health and safety or the hazard to the public right-of-way;
   (b) Whenever bracing or shoring is determined not to be reasonable, the building official shall cause the building or structure to be condemned and immediately demolished. Such condemnation and demolition shall be performed in the interest of public health and safety without a condemnation hearing as otherwise required by the building code. Prior to commencing demolition, the building official shall photographically record the entire building or structure.
(2) *Notice of condemnation.* If, after the specified time frame noted in subsection 22-108(1) of this chapter and less than 30 days after the disaster, a historic building or structure is determined by the building official to represent a hazard to the health and safety of the public or to pose a threat to the public right-of-way, the building official shall duly notify the building owner of the intent to proceed with a condemnation hearing within 30 business days of the notice in accordance with the building code; the building official shall also notify FEMA, in accordance with the National Historic Preservation Act of 1966, as amended, of the intent to hold a condemnation hearing.
(3) *Request to FEMA for approval to demolish.* Within 30 days after the disaster, for any historic building or structure which the building official and the owner have agreed to demolish, the building official shall submit to FEMA, in accordance with the National Historic Preservation Act of 1966, as amended, a request for approval to demolish. Such request shall include all substantiating data.
(4) *Historic building demolition review.* If, after 30 days from the event, the building official and the owner of a historic building or structure agree that the building or structure

should be demolished, such action will be subject to the review process established by the National Historic Preservation Act of 1966, as amended.

Sec. 22-111. - ~~Temporary housing.~~ Emergency Housing & Infrastructure

(1) Purpose. It is understood that FEMA will be responsible for all temporary housing activities following a disaster; however, it is in Beaufort County's best interest to have a plan in place for guiding where ~~temporary~~ emergency housing is located, the types of temporary housing brought in and how long the housing is allowed to stay on-site.
(2) Pre-disaster site planning. Each year, as part of the recovery plan update process, the ~~Building Codes Director~~ Community Development Director will be responsible for overseeing a planning process to determine the best sites for the placement of potential ~~temporary~~ emergency housing units. The county will focus on using county-owned property and perhaps existing mobile home parks for locating temporary housing developments. This site identification will take place on an annual basis. This process will be coordinated with the affordable housing, community development, building codes, GIS and other departments as deemed necessary. The results of this annual planning process will be compiled in a selection report and presented to county council by the county administrator.
(3) Post-disaster policies and procedures. Upon declaration of an emergency, the county administrator shall assign staff to work with FEMA, HUD, the South Carolina Emergency Management Division, and other appropriate governmental and private entities to identify special programs by which provisions can be made for emergency/temporary or permanent replacement housing that will help avoid undue displacement of people and businesses. Such programs may include deployment of manufactured housing and manufactured housing developments under the temporary use permit procedures provided in subsection 22-107 of this article and available section 22-108 and community development block grant funds to offset repair and replacement housing costs, and other initiatives appropriate to the conditions found after a major disaster.
(4) The county will issue temporary use permits to residents which will allow for the placement of one temporary housing unit on property owned by them in the event that the property owner's house has been damaged but has been deemed as "having no restriction on use or occupancy" as set forth in subsection 22-109(13) above. This will allow the property owner and his or her family to live on-site until such time that the damaged house can be repaired or rebuilt. This temporary housing unit shall only be occupied by the property owner and his or her family.

Sec. 22-112. - Hazard mitigation program.

The county has established a comprehensive hazard mitigation program that includes both long-term and short-term components.

(1) *Hazard mitigation plan.* Beaufort County has adopted by resolution a hazard mitigation plan for the purpose of enhancing long-term safety against future disasters. The hazard mitigation plan identifies and maps the presence, location, extent, and severity of natural hazards, such as:
    (a) Flooding;
    (b) Dam failure;
    (c) Drought;
    (d) Wind: thunderstorms and tornadoes;
    (e) Earthquakes;
    (f) Fire;
    (g) Tsunamis;
    (h) Hazardous materials.

    The hazard mitigation plan determines and assesses Beaufort County's vulnerability to such known hazards and proposes measures to be taken both before and after a major disaster to mitigate such hazards. It contains linkages between its own provisions and those of other comprehensive plan elements including, but not limited to, land use, transportation, housing, economic development, and historic preservation, and any other pertinent element so that development and infrastructure decisions will incorporate considerations of natural hazards.

(2) *Short-term action program.* A short-term hazard mitigation program is included in the recovery plan. It is comprised of hazard mitigation program elements of highest priority for action, including preparation and adoption of separate ordinances dealing with specific hazard mitigation and abatement measures, as necessary. Such ordinances may require special site planning, land use, and development restrictions or structural measures in areas affected by flooding, urban/wildland fire, wind, seismic, or other natural hazards, or remediation of known technological hazards, such as toxic contamination.
(3) *Post-disaster actions.* Following a major disaster, the director shall participate in developing a mitigation strategy as part of the interagency hazard mitigation team with FEMA and other entities, as called for in Section 409 of the Stafford Act and related federal regulations. As appropriate, the director may recommend to the Beaufort County Council that Beaufort County participate in the state's hazard mitigation grant program, authorized in Section 404 of the Stafford Act, in order to partially offset costs of recommended hazard mitigation measures.
(4) *New information.* As new information is obtained regarding the presence, location, extent, and severity of natural or technological hazards, or regarding new mitigation techniques, such information shall be made available to the public, and shall be incorporated as soon as practicably possible within the comprehensive plan and the recovery plan through amendment.

Sec. 22-113. - Protection of critical county public records policies and procedures.

(1) *Purpose.* Effective and productive management of county business requires that critical public records be protected and stored for reuse as normalcy is reestablished within the county.
(2) *Identification of critical records.*
    (a) County staff will conduct meetings with appropriate county departments to access the volume and types of material.
    (b) Recommendation report will be made and presented to the county administrator.
(3) *Adoption of safe storage policy.*
    (a) County staff will make recommendations as to appropriate protection and storage procedures.
    (b) Recommendation report will be made and presented to the county administrator.

Sec. 22-114. - Disaster emergency refuse collection and disposal policies and procedures.

(1) *Objectives.*
    (a) Timely and effective refuse removal and disposal are critical factors in enabling quicker cleanup and rebuilding.
    (b) Refuse removal and disposal are also health and safety issues.
(2) *Procedures.* The director of public works shall be responsible for managing the removal from public rights-of-way debris and rubble, trees, damaged or destroyed cars, trailers, equipment, and other private property, without notice to owners, provided that in the opinion of the director of public works such action is reasonably justifiable for protection of life and property, provision of emergency evacuation, assurance of firefighting or ambulance access, mitigation of otherwise hazardous conditions, or restoration of public infrastructure. The director of public works shall also have the authority to secure emergency waivers of environmental regulations from state and federal authorities and to call upon outside support from such agencies for debris clearance, hazardous materials spills, and restoration of ground access. Debris clearance shall be conducted by pre-selected contractors. Other debris clearance regulations and procedures can be found in the Beaufort County Debris Management Plan.
(3) *Identification of areas suitable for refuse, reduction and disposal.*
    (a) The county shall designate suitable refuse reduction and disposal sites throughout the county prior to an event to facilitate emergency response. Sites will be recommended and evaluated by county staff for recommendation to the county administrator.

Sec. 22-115. - Recovery and reconstruction strategy.

At the earliest practicable time following the declaration of local emergency in a major disaster, the director and the recovery task force shall prepare a strategic program for recovery and reconstruction based on the pre-disaster plan and its policies.

(1) *Functions.* To be known as the recovery strategy, the proposed strategic program shall identify and prioritize major actions contemplated or under way regarding such essential functions as business resumption, economic reinvestment, industrial recovery, housing replacement, infrastructure restoration, and potential sources of financing to support these functions.
(2) *Review.* The recovery strategy shall be forwarded to the Beaufort County Council for review and approval following consultation with other governmental agencies and business and citizen representatives. The recovery strategy shall provide detailed information regarding proposed and ongoing implementation of initiatives necessary to the expeditious fulfillment of critical priorities and will identify amendment of any other plans, codes, or ordinances that might otherwise contradict or block strategic action. The director shall periodically report to the Beaufort County Council regarding progress toward implementation of the recovery strategy, together with any adjustments that may be called for by changing circumstances and conditions.

Sec. 22-116. - Penalties for offenses.

Any person, firm, company or corporation who fails to comply with this article, or the emergency measures made effective pursuant to this article, is guilty of a misdemeanor of the second degree, and upon conviction for such offense, may be punished by a fine not to exceed $500.00 or by imprisonment not to exceed 60 days in the Beaufort County Jail, or both, in the discretion of the court hearing the case. Each day of continued noncompliance or violation will constitute a separate offense.

In addition, any construction licensee of Beaufort County or the State of South Carolina who violates any provision of this article or the emergency measures which are effective as a result of this article may be charged with a violation and the matter will be heard before the appropriate board, in a state administrative proceeding or a court of law.

Nothing contained in this section prevents Beaufort County from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any failure to comply with, or violation of, this article or the emergency measures which may be made effective according to this article. Other lawful action will include, but is not limited to, an equitable action for injunctive relief or an action at law for damages.

Sec. 22-117. - Severability.

If any provision of this article is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect the remaining provisions that can be implemented without the invalid provision and, to this end the provisions of this article are declared to be severable.

BEAUFORT COUNTY PUBLIC WORKS
120 Shanklin Road
Beaufort, South Carolina 29906
Voice (843) 255-2721

INTEROFFICE MEMORANDUM

TO: **Brian Flewelling, Chairman, Public Facilities Committee**

FROM: **Pamela Cobb, Disaster Recovery Coordinator**

SUBJECT: **Status Report for the Disaster Recovery Ordinance**

DATE: **January 22th, 2019**

The Disaster Recovery Ordinance, along with the Disaster Recovery Plan are reviewed on an annual basis. The changes below are a reflection of lessons learned from recent events and procedure changes as a result to provide a true representation of the process dealing with federal officials and county departments.

Summary of Changes:

Sec. 22-103: Administrative changes, and additional county departments have been added, to recognize those departments as First Responders, passed by ordinance. (Resolution 2018/17)

Sec. 22-104: Administrative change: change to definition of *Disaster Recovery Center*, *Event*, *Major Disaster*, *Project Worksheet*. The definition for *Exempt individuals* was expanded on to add county departments that are now recognized as First Responders through ordinance.

Sec. 22-105: (1) Titles of recovery functions have been updated to reflect the Disaster Recovery Plan.
(3) Gives the Task Force Director more direct interaction with the Policy group to provide this information to Council.
(8) A master list has now been created to showcase all of the action items, rather than individual checklists.

Sec. 22-106 (2e) temporary and permanent housing was changed to emergency housing
(4) Department name was changed from Human Resources to Employee Services

Sec. 22-109 (1),(3), (4a), (5a,e), (7b,c), (12h,i), (13), (17c) Administrative change
(4d) being removed; Temporary permits are not issued. A placard is placed on a home to identify damage level, during damage assessment. Directions based on damage level are provided to the resident.

Sec. 22-111 (1), (2), (3) Title change from Temporary Housing to Emergency Housing and Infrastructure, which reflects the title change for the recovery function.
(1) Change from temporary to emergency housing
(2) Title position has changed from Building Codes Director to Community Development Director. Temporary is changed to emergency housing units.
(3) Emergency is added to temporary or permanent replacement housing

Recommended Action:
County Council to vote to amend the Disaster Recovery Ordinance as outline above.

ORDINANCE 2019 / ___

AN ORDINANCE OF COUNTY OF BEAUFORT, SOUTH CAROLINA AMENDING CERTAIN SECTIONS UNDER BEAUFORT COUNTY CODE CHAPTER 22, CIVIL EMERGENCIES, ARTICLE IV, DISASTER RECOVERY AND RECONSTRUCTION

Whereas, Standards that are underscored shall be added text and Standards ~~lined through~~ shall be deleted text.

Adopted this _____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY:_____
Stu Rodman, Chairman

APPROVED AS TO FORM:

_____
Thomas J. Keaveny, II, County Attorney

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

First Reading:
Second Reading:
Public Hearing:
Third and Final Reading:

ARTICLE IV. - DISASTER RECOVERY AND RECONSTRUCTION

Sec. 22-101. - Authority.

(1) This article is adopted by the Beaufort County Council acting under authority of the South Carolina General Assembly, the Home Rule Act, South Carolina Code of Regulations 58-1, Local Emergency Preparedness Standards, and all applicable federal laws and regulations.

(2) The provisions of this article shall become and be made part of the Code of Laws and Ordinances of Beaufort County, South Carolina. Any laws or ordinances in conflict with the Ordinance that Beaufort County is authorized to repeal are hereby repealed.

(3) Nothing herein shall supersede the powers, duties, and authorities of the Federal Emergency Management Agency (FEMA) and/or South Carolina's Emergency Management Division (SCEMD). If any section, paragraph, sentence, clause and/or phrase or word of this article is, for any reason, held or declared by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this article.

Sec. 22-102. - Purposes and objectives.

(1) *Purposes.* It is the intent of the Beaufort County Council under this article to:
   (a) Authorize creation of an organization to plan and prepare in advance of a major disaster for orderly and expeditious post-disaster recovery and to direct and coordinate recovery and reconstruction activities;
   (b) Direct the preparation of a pre-event plan for post-disaster recovery and reconstruction to be updated on a continuing basis;
   (c) Authorize in advance of a major disaster the exercise of certain planning and regulatory powers related to disaster recovery and reconstruction to be implemented upon declaration of a local emergency; and,
   (d) Identify means by which Beaufort County will take cooperative action with other governmental entities (local, state and federal) in expediting recovery; and implement means by which Beaufort County will consult with and assist citizens, businesses, and community organizations during the planning and implementation of recovery and reconstruction procedures.

(2) *Objectives.* The County has established the following general objectives for county recovery policy:
   (a) Adopt improved and more comprehensive recovery policies and procedures that will facilitate county rebuilding after a disaster;
   (b) Adopt improved and more comprehensive recovery policies and procedures that will facilitate meeting FEMA (Federal Emergency Management Agency)

(and other state and federal programs) requirements for rebuilding and redevelopment funding;

(c) Improve county policies and procedures for future hurricane seasons and all other disasters.

(3) *Statement of concurrent obligations.* This article is enacted to set out and clarify the authority of Beaufort County and its officers and employees with regard to emergency and disaster situations. It is intended to grant as broad a power as permitted by statutory and constitutional authority. It is further intended that the powers granted and procedures established in this article shall apply concurrently to emergency, post-emergency, recovery and reconstruction operations.

Sec. 22-103. - Definitions.

As used in this article, the following definitions shall apply:

Curfew. A curfew is a regulation requiring the withdrawal from any person not otherwise exempt from this article from appearing in certain public areas during specified hours.

Damage assessment team. The primary role of the damage assessment team is to assess losses to property. Assessment will be used to determine type of permit required for repair or reconstruction, dollar amount of destruction or damage, and to determine qualifications for federal or state disaster relief assistance.

Detailed damage assessment. Follows the initial impact assessment and includes conducting on-site visits by the damage assessment teams for each affected property. This process may take weeks to complete and will culminate in a summary damage estimate in dollars of the total loss to all property in Beaufort County, including: real, personal, agricultural, utility, infrastructure, business, etc.

Development moratorium. A temporary hold, for a defined period of time, on the issuance of building permits, approval of land-use applications or other permits and entitlements related to the use, development, redevelopment, repair, and occupancy of private property in the interests of protection of life and property.

Director. The director of the recovery task force or an authorized representative.

Disaster recovery centers (DRCs). A multi-agency center ~~organized by FEMA~~ facilitated by FEMA, organized by county staff for coordinating assistance to disaster victims.

Emergency. A local emergency which has been declared by the governor or recognized as same by the Beaufort County Council through the enactment of an emergency ordinance for a specific disaster and has not been terminated.

Event. Any natural weather-related or other condition causing damage or destruction of property. Types of events shall include, but not limited to hurricanes, northeasters, tornadoes, earthquakes, and/or other natural man-made disasters.

Exempt individuals. Unless otherwise specified herein, exempt individuals include those persons engaged in the provision of designated, essential services, such as fire, law enforcement, public works, stormwater, solid waste and recycling, traffic engineering, engineering and infrastructure, grounds, facility management, disaster recovery, emergency medical services, and hospital services, military services, utility emergency repairs. The resolution of a curfew may, in the discretion of the governing authority, also exempt regular employees of local industries traveling to and from their jobs with appropriate identification, news media employees, building and repair contractors who are properly registered with the county and who are actively engaged in performing activities related to construction, repair, renovation, or improvement of buildings and other structures damaged during the disaster or emergency.

Flood Insurance Rate Map (FIRM). An official map of the community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Hazard mitigation grant program. A federal program that assists states and local communities in implementing long-term hazard mitigation measures following a major disaster declaration.

Historic building or structure. Any building or structure listed or eligible for listing on the National Register of Historic Places, as specified by federal regulation, the state register of historic places or points of interest, or a local register of historic places, and any buildings and structures having historic significance within a recognized historic district.

Individual assistance program. A federal disaster program that brings funding to disaster victims for housing and other needs in order to expedite the victims' recovery from disaster.

Initial impact assessment. The initial impact assessment (windshield assessment, disaster assessment) is used to determine the extent of the disaster and to determine whether or not outside assistance will be needed. This assessment is generally performed within 24 or 48 hours after passage of an event, depending on severity and scope.

In-kind. The same as the prior building or structure in size, height and shape, type of construction, number of units, general location, and appearance.

Interagency hazard mitigation team. A team of representatives from FEMA, other federal agencies, state emergency management agencies, and related state and federal agencies, formed to identify, evaluate, and report on post-disaster mitigation needs.

Joint field office (JFO). A center established by FEMA for coordinating disaster response and recovery operations, staffed by representatives of federal, state, and local agencies as identified in the National Response Framework (NRF) and determined by disaster circumstances.

Major disaster. Any natural catastrophe (including any hurricane, tornado, high water, wind-driven water, earthquake, winter storm, drought, etc.), or, regardless of cause, any fire, flood, or explosion, or manmade disaster which in the determination of the President of the United States causes damage of sufficient severity and magnitude to warrant major disaster assistance under the Stafford Act to supplement the efforts and available resources of states, jurisdictions, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

National response framework (NRF). A plan to coordinate efforts of the government in providing response to natural disasters, technological emergencies, and other incidents requiring federal assistance under the Stafford Act in an expeditious manner.

Project worksheet (PW). A claim by a local jurisdiction for financial reimbursement for work completed, repairs or replacement of a public facility damaged in a major disaster, as authorized under the Stafford Act and related federal regulations, plans, and policies.

Public assistance program. FEMA's Public Assistance (PA) Grant Program is designed to provide assistance to states, local governments, and certain nonprofit organizations to alleviate suffering and hardship resulting from major disasters or emergencies declared by the President. Through the PA Program, FEMA provides supplemental federal disaster grant assistance for the repair, replacement, or restoration of disaster-damaged, publicly owned facilities and the facilities of certain private nonprofit (PNP) organizations. The federal share of assistance is not less than 75 percent of the eligible cost for emergency measures and permanent restoration. The grantee (usually the state) determines how the non-federal share (up to 25 percent) is split with the subgrantees (eligible applicants).

Reconstruction. The rebuilding of permanent replacement housing, construction of large-scale public or private facilities badly damaged or destroyed in a major disaster, addition of major community improvements, and full restoration of a healthy economy.

Recovery functions. The categories of activities and programs that the County and its citizens are likely to need following a disaster.

Recovery task force. An interdepartmental organization that coordinates Beaufort County staff actions in planning and implementing disaster recovery and reconstruction functions.

Recovery plan. A pre-event plan for post-disaster recovery and reconstruction, composed of policies, plans, implementation actions, and designated responsibilities related to expeditious and orderly post-disaster recovery and rebuilding, with an emphasis on mitigation.

Recovery strategy. A post-disaster strategic program identifying and prioritizing major actions contemplated or under way regarding such essential recovery functions as business resumption, economic reinvestment, industrial recovery, housing replacement, infrastructure restoration, and potential sources of financing to support these functions.

Stafford Act. The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Public Law 93-288, as amended).

Sec. 22-104. - Recovery management structure.

The primary recovery task that shall be completed in times of a disaster is assuring that all continuity of government procedures are in place and being carried out according to previously established plans. This includes having lines of succession for ~~in place for county council members and~~ all essential Beaufort County staff (especially department heads).

The second task should be implementing a management structure that defines how recovery procedures will be managed by the county. The following structure is hereby created for the purpose of coordinating Beaufort County actions in planning and implementing disaster recovery and reconstruction activities.

(1) *Recovery task force.* A recovery task force is hereby established that is comprised of the following officers and members, should any of the directors be unable to perform the tasks the subsequent individual shall fall within that position and the line of succession shall adjust accordingly.

(a) The county administrator who shall be chair; and as chair of the recovery task force shall appoint the recovery director and three deputy directors to oversee all recovery functions and to form a line of succession. Each deputy director shall provide management of recovery functions as assigned by the director;

(b) The director of environmental engineering and land management shall be the recovery director and first vice-chair of the disaster recovery taskforce.

(c) The director of public works shall be the second vice-chair.

(d) The Building Codes Director shall be the third vice chair.

(e) The Director of Civil Engagement & Outreach Area shall be the fourth vice-chair

(f) The Beaufort County Attorney and staff shall be legal advisor and staff of the recovery task force.

(g) Other members, shall include county council, facilities and construction, engineering, traffic engineering, planning, fire chief, emergency management, sheriff, together with representatives from such other departments and offices as the alliance for human services, assessor, economic development, EMS, GIS,

parks and leisure services, zoning, department of social services/emergency welfare services, municipal representatives, private sector and nonprofit organizations etc., and others that may be deemed necessary by the chair or recovery director for effective recovery operations.

(2) *Powers and duties.* The recovery task force shall have such powers as enable it to carry out the purposes, provisions, and procedures of this chapter, as identified in this chapter.

(3) *Operations and meetings.* The director or his/her designee shall have responsibility for recovery task force operations. When an emergency declaration is in force (whether declared by the governor or through the enactment of an emergency ordinance adopted by Beaufort County Council), the county administrator shall authorize activation of the recovery task force and disaster recovery plan. After a declaration and/or determination that a local emergency exists, and while such declaration or determination is in force, the recovery task force shall meet daily or as frequently as determined by the director. When an emergency declaration or determination is not in force, the recovery task force shall meet monthly or more frequently, upon call of the chair or director.

(4) *Succession.* In the absence of the director, the deputy director shall serve as acting director and shall be empowered to carry out the duties and responsibilities of the director. The director shall name a succession of department managers to carry on the duties of the director and deputy director, and to serve as acting director in the event of the unavailability of the director and deputy director.

(5) *Organization.* The recovery task force may create such standing or ad hoc committees as determined necessary by the director.

(6) *Relation to* County Sheriff's Office Emergency Management Division. The recovery task force shall work in concert with the Emergency Management Division that has interrelated functions and similar membership.

(7) *Short-term recovery objectives.* The emergency management director is in charge of overseeing all short-term recovery activities. Beaufort County's objectives to be accomplished during short-term recovery can be found in the Beaufort County Recovery Plan, Appendix ~~C~~ B. This checklist is to be used to determine that short-term recovery activities have been completed properly.

(8) *Long-term recovery objectives.* The director of Environmental Engineering and Land Management is responsible for overseeing all long-term recovery activities. Beaufort County's objectives to be accomplished during long-term recovery can be found in the Beaufort County Recovery Plan, Appendix ~~C~~ B. This checklist is to be used to determine that long-term recovery activities have been completed properly.

(9) *Ending recovery operations.* Recovery operations shall continue until the county administrator has notified staff to return to normal operations. Normal operations will not resume until either the emergency management director (for short-term emergency activities) or the director of Environmental Engineering and Land Management for long-

term recovery activities) has notified the county administrator that recovery activities have been completed.

Sec. 22-105. - Recovery plan.

Beaufort County has developed a pre-event plan for post-disaster recovery and reconstruction, referred to as the Beaufort County Recovery Plan, which is comprised of pre-event and post-disaster policies, plans, implementation actions, and designated responsibilities related to expeditious and orderly post-disaster recovery and rebuilding, and incorporates hazard mitigation in all elements of the plan.

(1) *Recovery plan content.* The recovery plan addresses policies, implementation actions and designated responsibilities for such subjects as impact assessment (disaster assessment), continuation of government, public information/community relations, human services (short-term), individual assistance, volunteers and donations, debris management, re-entry security, health and human safety, repair and restoration of public infrastructure and buildings, building inspections and permits, ~~rebuilding, construction, repairs, restoration~~ regulatory licensing , ~~temporary~~ emergency housing, redevelopment (~~planning and zoning ordinance enforcement~~)(recovery plan/policies, building codes, community development ordinance enforcement), economic preservation and ~~restoration~~ development, environmental preservation and restoration mitigation, recovery administration and finance, county employees, mortuary operations, mutual aid protocols, pre-disaster heavy equipment and facilities deployment and such other subjects as may be appropriate to expeditious and wise recovery.

(2) *Coordination of recovery plan with county and regional plans, FEMA, and other agencies.* The recovery plan identifies relationships of planned recovery actions with those of adjacent communities and state, federal, or mutual aid agencies involved in disaster recovery and reconstruction, including but not limited to the Federal Emergency Management Agency (FEMA), the American Red Cross, the Department of Housing and Urban Development (HUD), the Small Business Administration (SBA), the Environmental Protection Administration (EPA), the Department of Transportation (DOT), the South Carolina Emergency Management Division (SCEMD), the South Carolina Department of Health and Environmental Control (DHEC) and other entities that provide assistance in the event of a major disaster. A draft copy of the plan shall be sent to the South Carolina Emergency Management Division on an annual basis for review in sufficient time for comment prior to action on the recovery plan by the Beaufort County Council.

(3) *Recovery plan implementation.* The director and recovery task force shall be responsible for implementation of the plan both before and after a major disaster, as applicable. Before a declaration of emergency, the director, or his/her authorized representative, shall prepare and submit reports annually, or more frequently as necessary, to fully advise the Beaufort County Council on the progress of preparation or implementation of the recovery policy. After a declaration of emergency in a major disaster, the director

shall participate in Policy Group meetings, interact with the Emergency Management Director, report to the Beaufort County Council as often as necessary on implementation actions taken in the post-disaster setting, identify policy and procedural issues, and receive direction and authorization to proceed with plan modifications necessitated by specific circumstances.

(4) *Recovery plan training and exercises.* The recovery task force shall organize and conduct periodic training and exercises annually, or more often as necessary, in order to develop, convey, and update the contents of the recovery plan. Such training and exercises will be conducted in coordination with similar training and exercises related to the emergency operations plan.

(5) *Recovery plan consultation with citizens.* The recovery planning committee is comprised of representatives of business, volunteer and community organizations that represent Beaufort County citizens. Other efforts to inform the public about the recovery plan will be coordinated by the public information officer.

(6) *Recovery plan amendments.* During implementation of the recovery plan, the director and the recovery task force shall address key issues, strategies and information bearing on the orderly maintenance and periodic revision of the plan. In preparing modifications to the plan, the recovery task force shall consult with county departments, business, and community organizations and other government entities to obtain information pertinent to possible recovery plan amendments.

(7) *Recovery plan coordination with related plans.* The recovery plan has been prepared and shall be updated to be in coordination with related elements of the comprehensive general plan and emergency operations plan, or such other plans as may be pertinent. Such related plan elements shall be periodically amended to be consistent with key provisions of the recovery plan, and vice versa.

(8) *Recovery plan validation.* The recovery plan shall be validated annually and/or following a disaster event. In order to facilitate an organized and comprehensive review of the plan, ~~review checklists have been created for each of the recovery functions~~ a master checklist of action items have been created to encompass all recovery functions. The master checklist~~s include action items that~~ should be reviewed and completed each year by the agency/department responsible for implementing the recovery function, in conjunction with the support agencies assigned to that recovery function. Once the review ~~checklists~~ of action items have been completed, they should be turned in to the director of environmental engineering and land management who will then make a report to county council regarding the status of recovery operations for the year. (Appendix A)

Any changes to be made to the recovery plan, identified either by the annual review, or in an after action report, will be made at the discretion of the recovery task force and shall not require county council review and/or action.

Sec. 22-106. - General provisions.

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

ORDINANCE conveying real property (right of way) from Beaufort County to SCDOT - For the widening of SC HWY 170

Council Committee:

Public Facilities

Meeting Date:

February 4, 2019

Committee Presenter (Name and Title):

Rob McFee

Issues for Consideration:

none

Points to Consider:

none

Funding & Liability Factors:

2006 approved Transportation Sales and Use tax referendum. Need to convey to SCDOT to reduce liability to county.

Council Options:

convey the land or not to convey the land.

Recommendation:

Convey the land to SCDOT

ORDINANCE NO. 2019 / _____

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF MULTIPLE PARCELS OF REAL PROPERTY FROM BEAUFORT COUNTY TO SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR THE HIGHWAY WIDENING OF SC HIGHWAY 170

WHEREAS, in 2006, Beaufort County voters approved an ordinance authorizing the imposition of a Transportation Sales and Use Tax to finance transportation-related projects in Beaufort County; and

WHEREAS, the Transportation Sales and Use Tax funds were used for the acquisition of certain real property; and

WHEREAS, Beaufort County now owns certain real properties along SC Route 170 from Highway 46 to US Highway 278 that were obtained with funds from the 2006 Transportation Sales and Use Tax; and

WHEREAS, the area the County now wishes to convey to South Carolina Department of Transportation (SCDOT) is generally demonstrated on the attached **Exhibit A** and more particularly described in the quit claim deed formally granting the real properties to the SCDOT; and

WHEREAS, Beaufort County believes that it is in the best interests of its citizens to forever relinquish any claim of right it may have over the properties along SC Route 170 from Highway 46 to US Highway 278 and convey these lands to the SCDOT.

NOW, THEREFORE, BE IT ORDAINED that Beaufort County Council does hereby authorize the County Administrator to execute the necessary documents to convey to the South Carolina Department of Transportation the properties along SC Route 170 from Highway 46 to US Highway 278 as shown on the attached **Exhibit A** and more particularly described in the attached quit claim deed.

DONE this _____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stu Rodman, Chairman

DRAFT

APPROVED AS TO FORM:

_____
Thomas J. Keaveny, II, County Attorney

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

First Reading:
Second Reading:
Public Hearing:
Third and Final Reading:

DRAFT

INDEX OF SHEETS

NO.	DESCRIPTION	QTY.
1	TITLE SHEET	1
1A	R/W TITLE SHEET (FOR SIGNATURES ONLY)	1
2	SUMMARY OF ESTIMATED QUANTITIES	1
2A	MOVING, REMOVING, & DISPOSAL ITEMS	1
3-3H	TYPICAL SECTIONS AND MISCELLANEOUS DETAILS	9
4-4B	RIGHT-OF-WAY DATA SHEETS	3
4C-4K	PROPERTY STRIP MAP	9
5	GENERAL CONSTRUCTION NOTES	1
5A-5E	REFERENCE DATA SHEETS	5
6-25	PLAN & PROFILE SHEETS	20
26-43N	DRAINAGE/EROSION SHEETS	32
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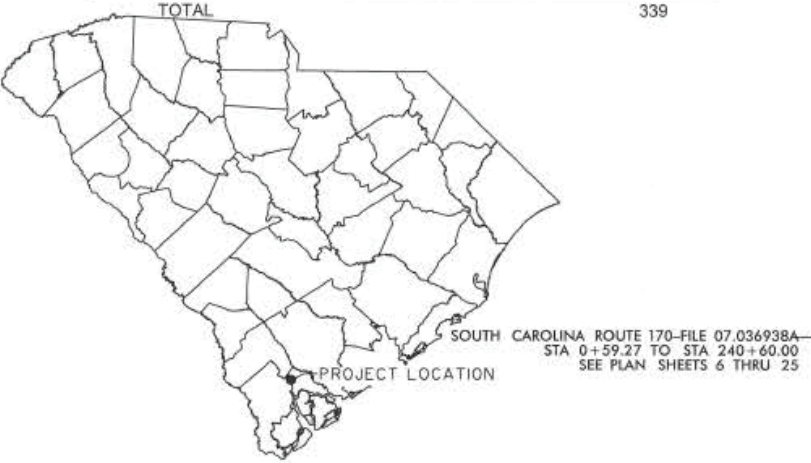
44-75	CURB PROFILES	32
TC1-TC45	TRAFFIC CONTROL SHEETS	45
T1-T10	TREE PRESERVATION PLAN	10
PM1-PM10	PAVEMENT MARKING SHEETS	10
SN1-SN10	SIGNING PLANS	10
TS1-TS2	TRAFFIC SIGNAL PLANS	2
S1-S4	ROADWAY STRUCTURE PLANS	4
U1-U21	UTILITY PLAN SHEETS	22
X1-X120	CROSS SECTION SHEETS (SC170)	120
	TOTAL	339



LOCATION MAP
N.T.S.

3 DAYS BEFORE DIGGING IN
SOUTH CAROLINA
CALL 811

BEAUFORT COUNTY

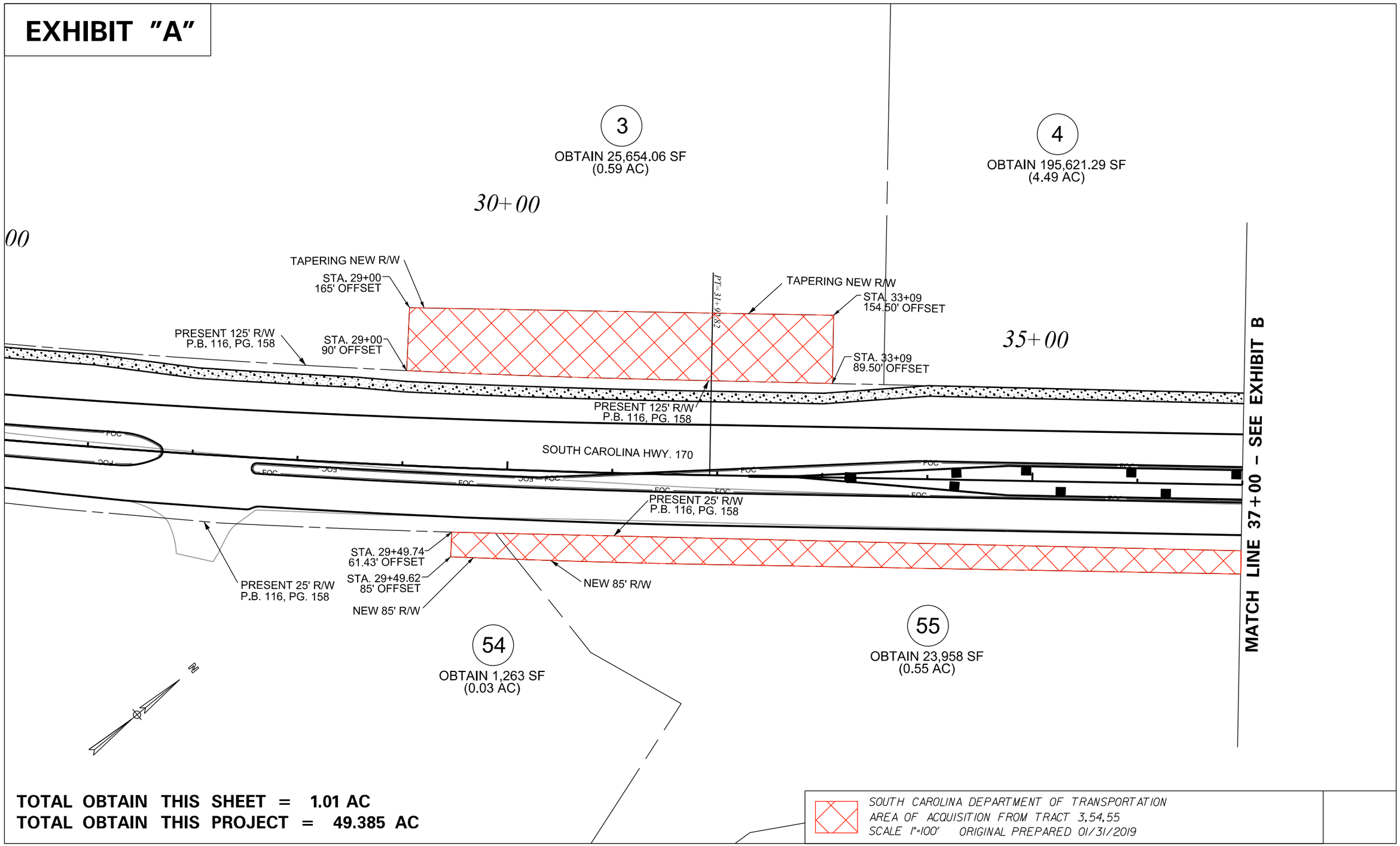
PLAN AND PROFILE OF PROPOSED STATE HIGHWAY WIDENING OF SC 170 FROM SC 46 TO US 278 WEST BOUND RAMPS BEAUFORT & JASPER COUNTIES

FILE NO: 07.036938A

SOUTH CAROLINA ROUTE 170–FILE 07.036938A
STA 0+59.27 TO STA 240+60.00
SEE PLAN SHEETS 6 THRU 25

LAYOUT
SCALE = N.T.S.

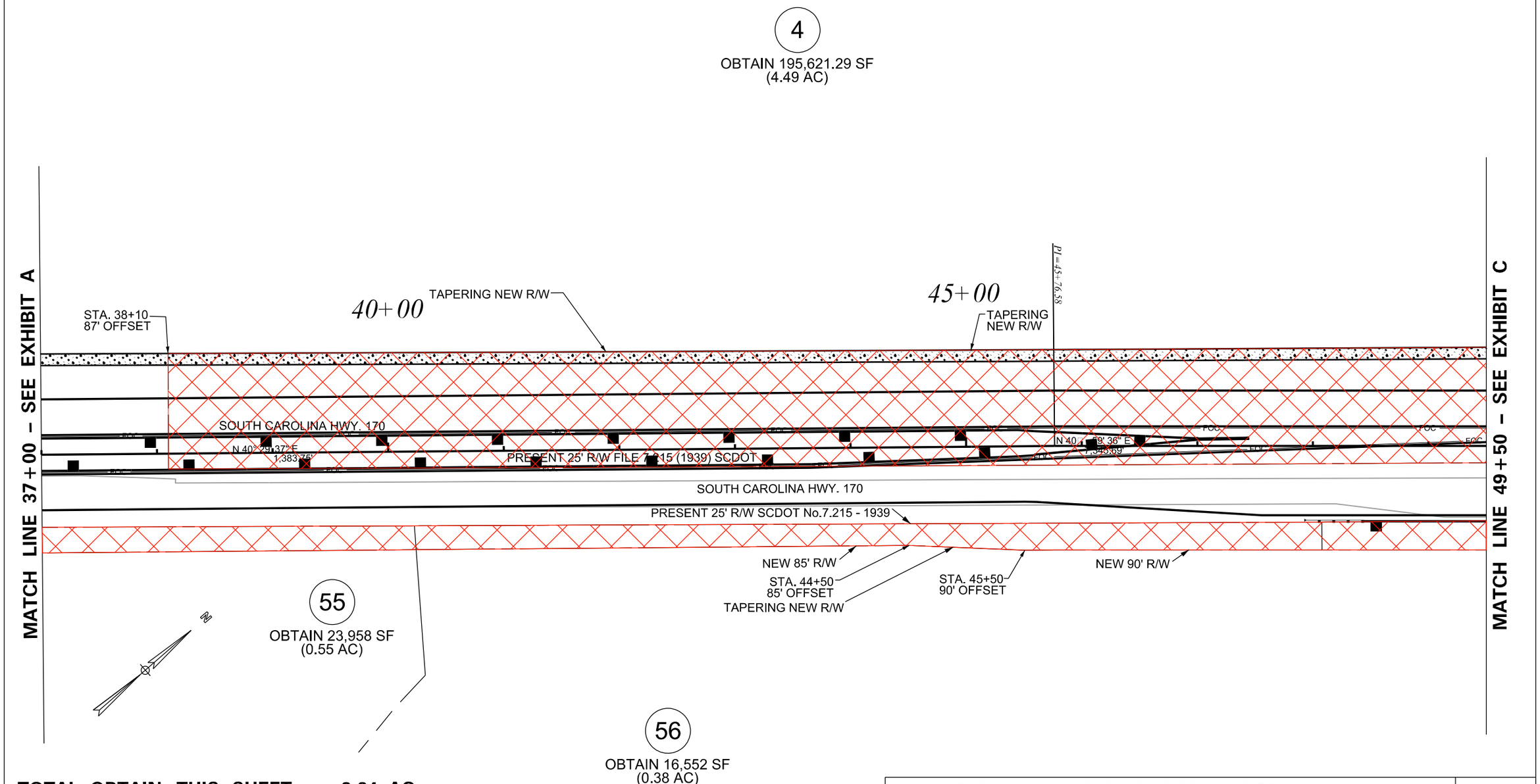
EXHIBIT "A"



TOTAL OBTAIN THIS SHEET = 1.01 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 3,54,55
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

EXHIBIT "B"



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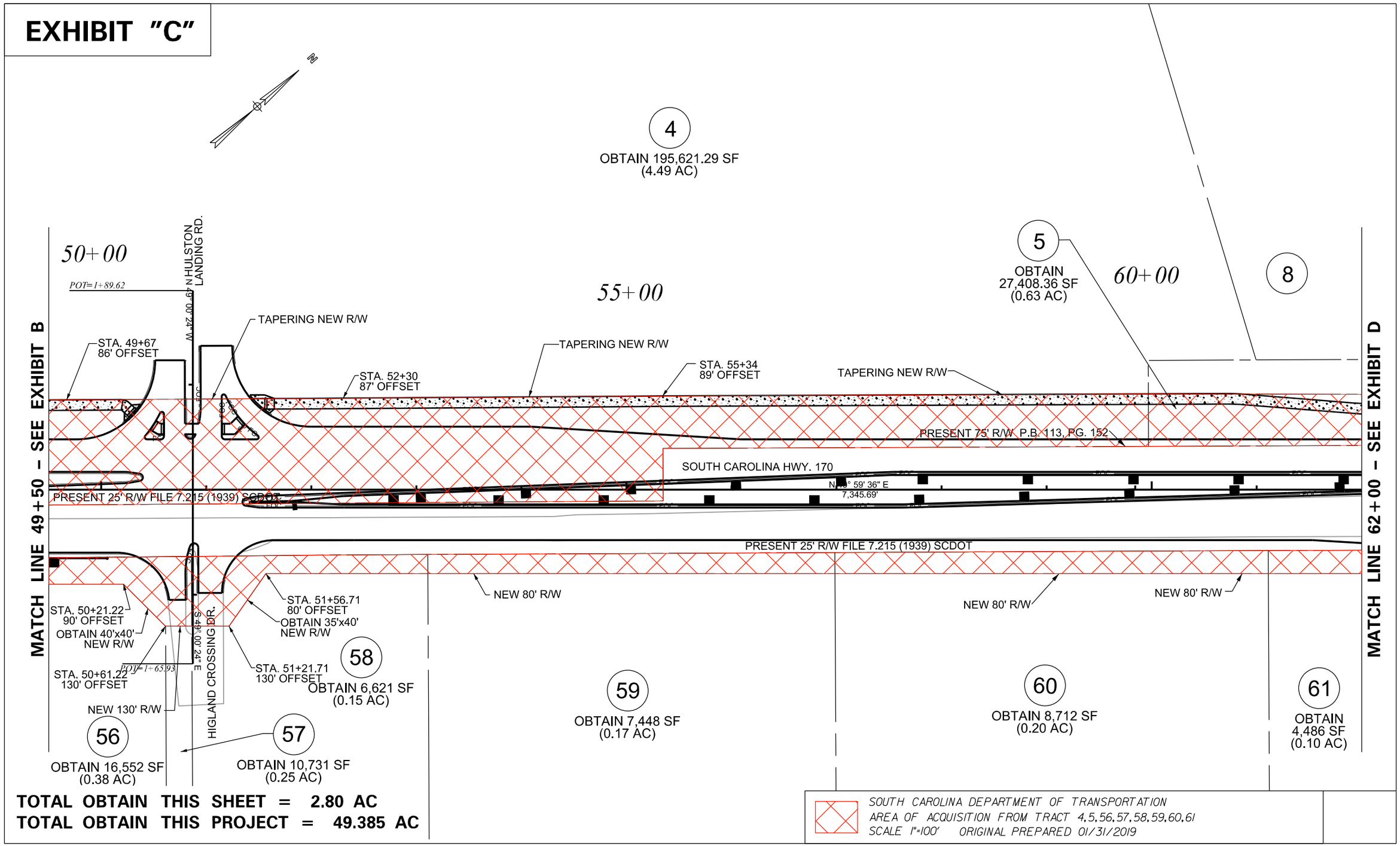
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 4,55,56
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

EXHIBIT "C"



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TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
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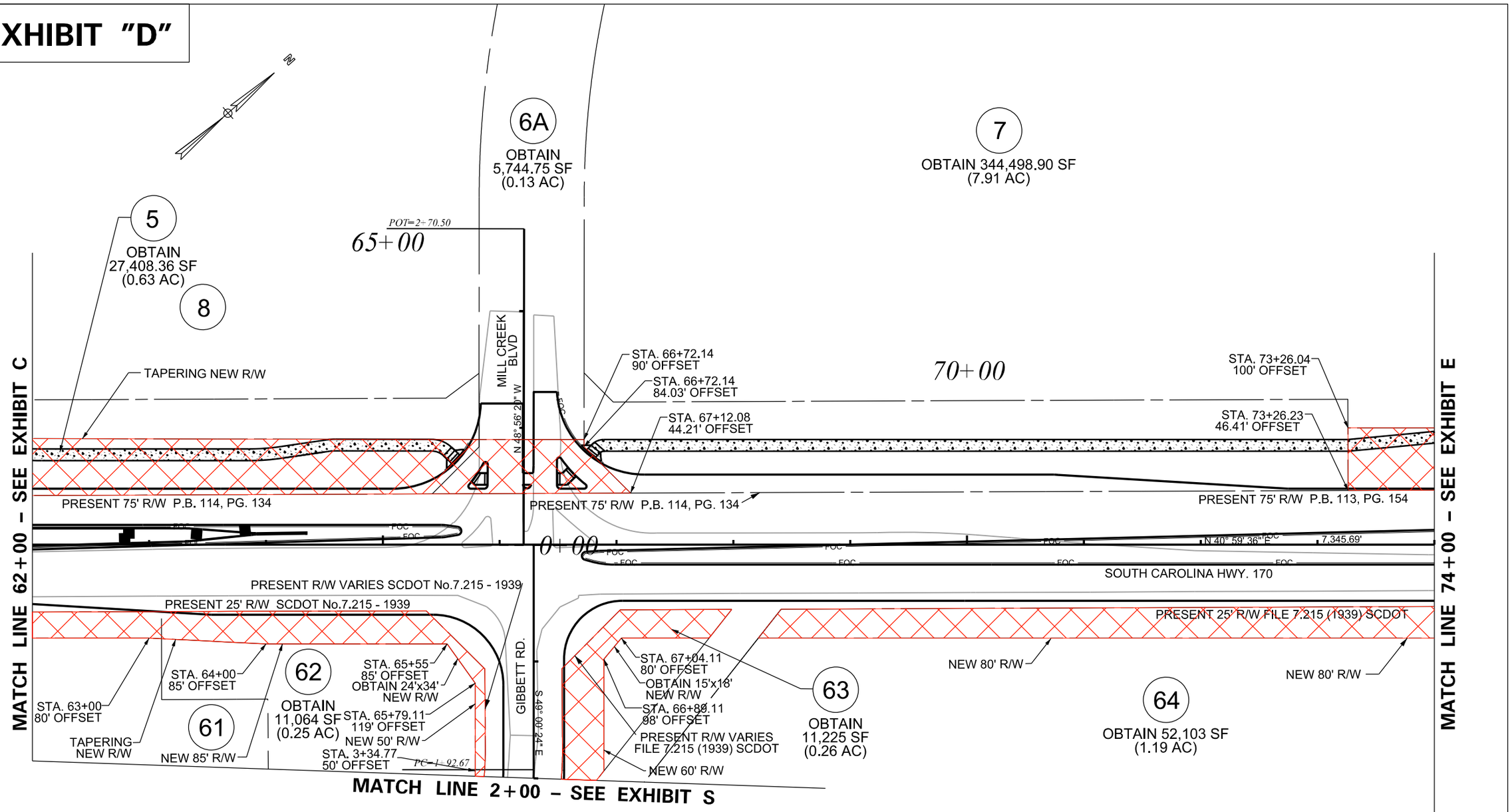
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

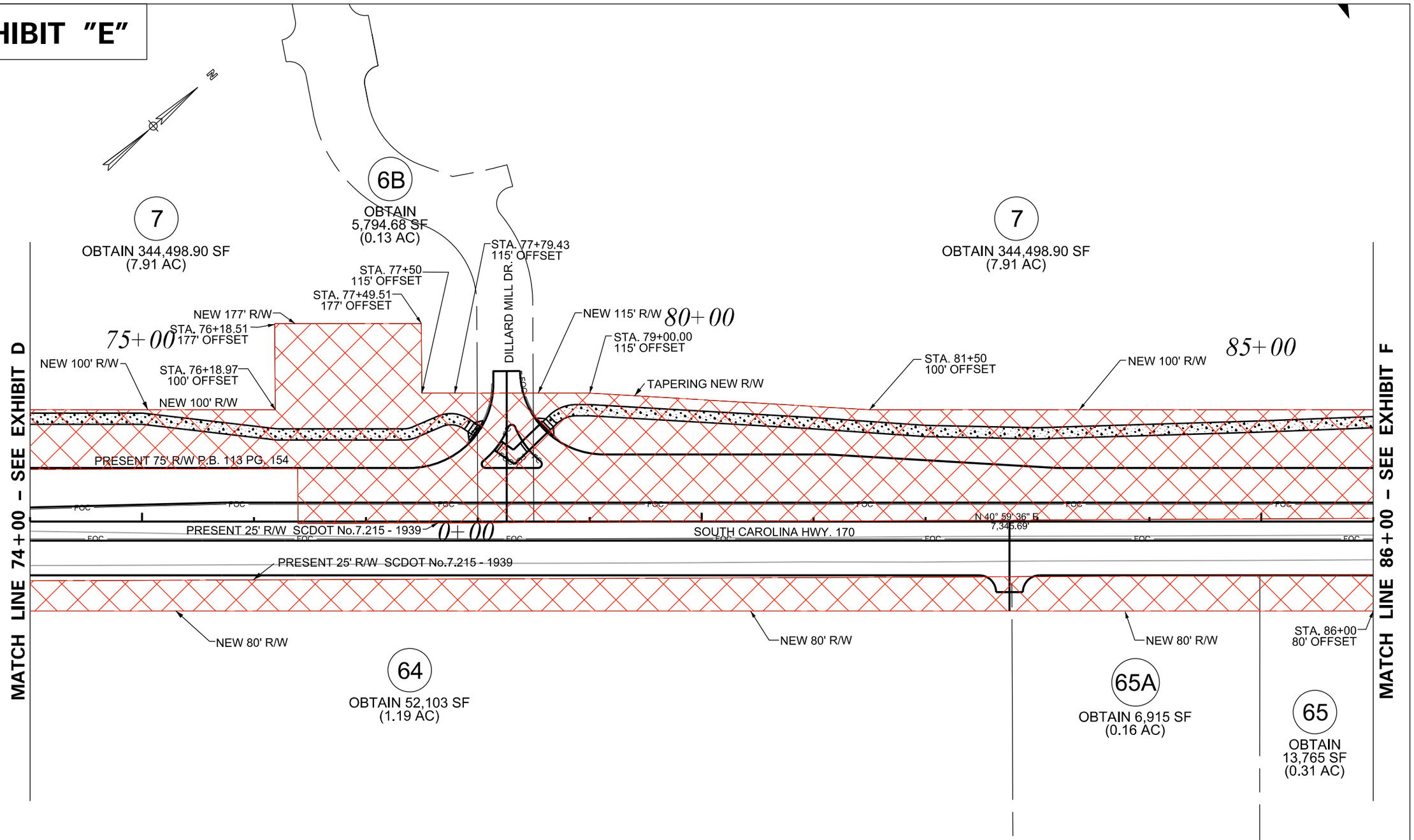
EXHIBIT "D"



TOTAL OBTAIN THIS SHEET = 1.35 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 5,6,7,61,62,63,64
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

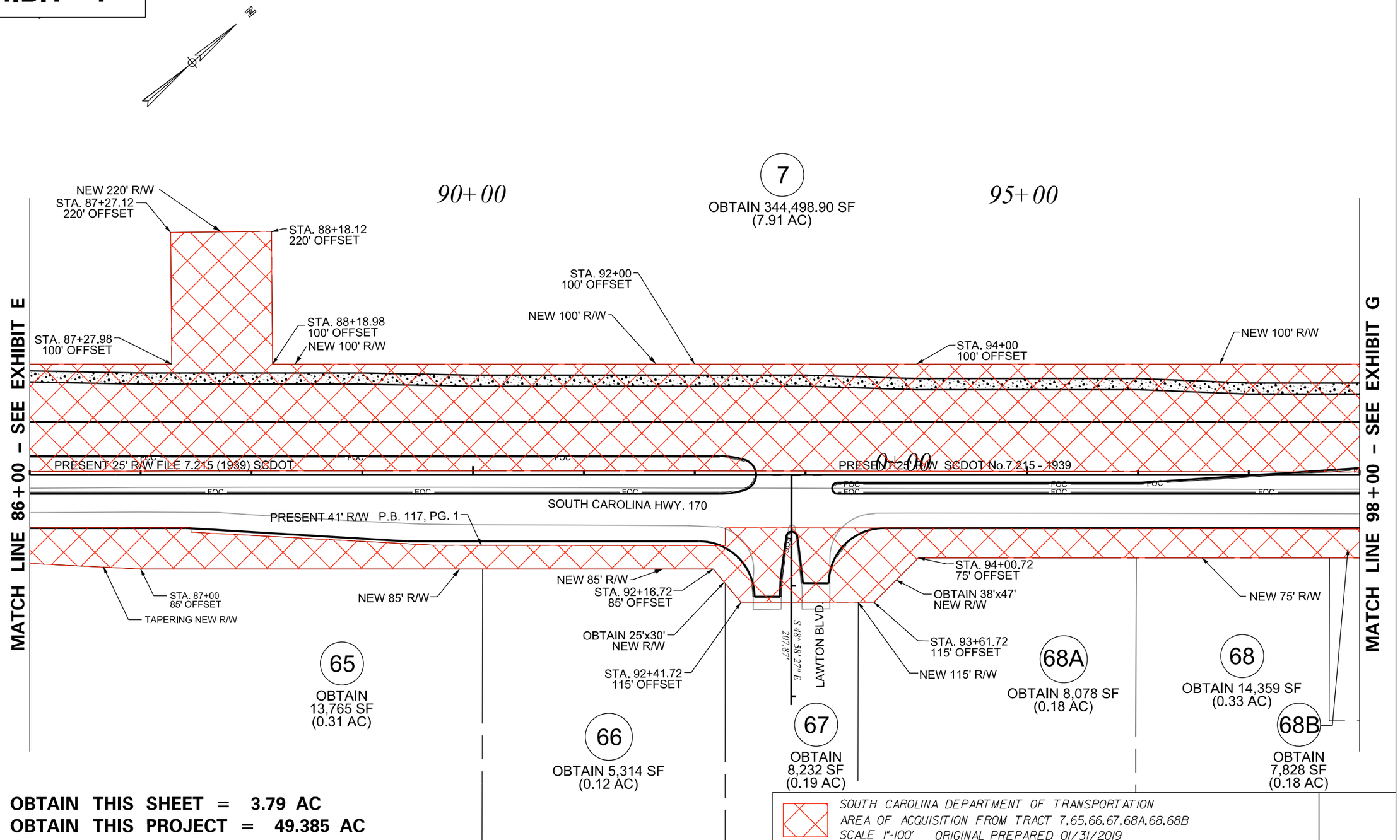
EXHIBIT "E"



TOTAL OBTAIN THIS SHEET = 3.63 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 6,7,64,65A,65
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

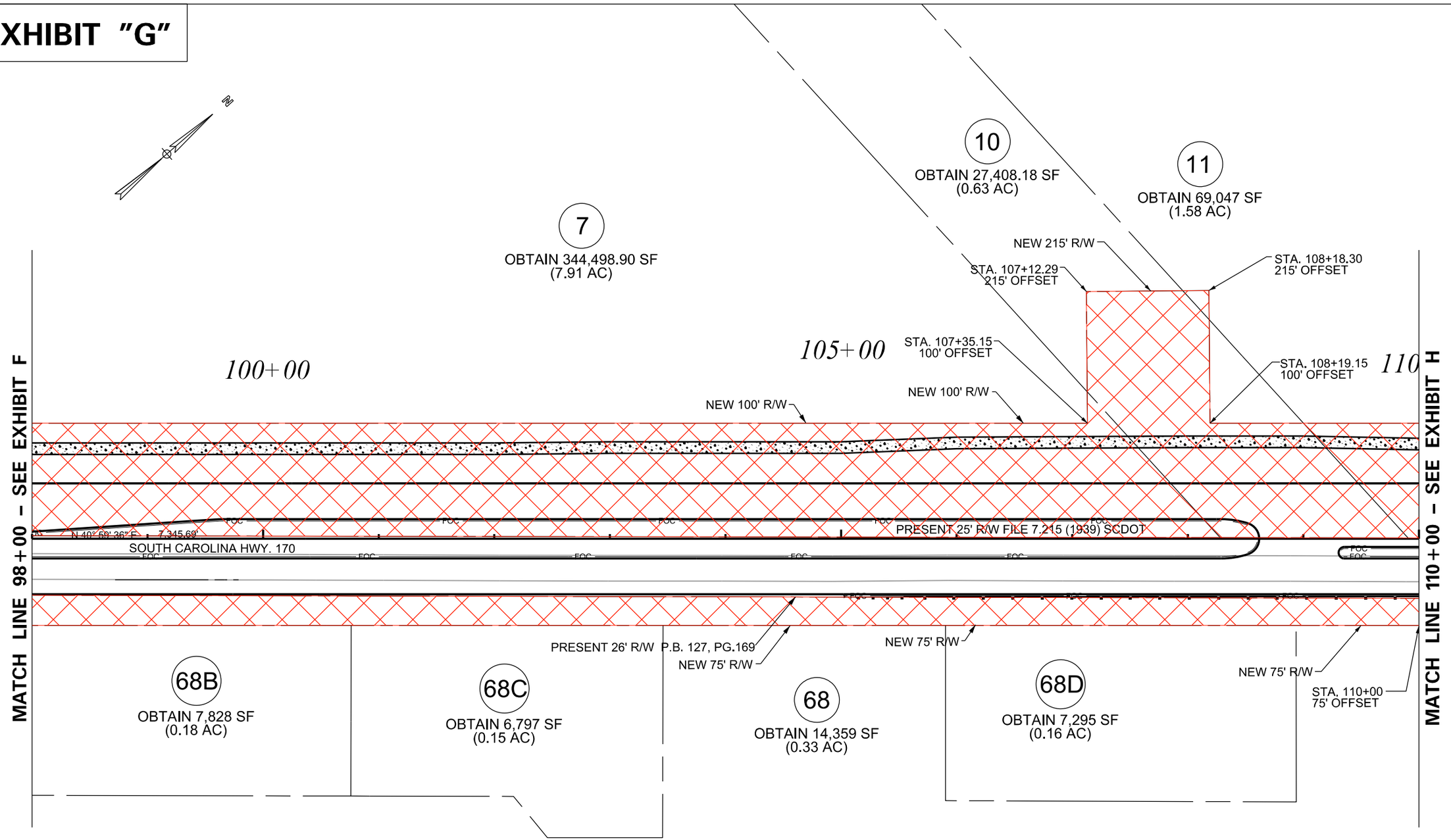
EXHIBIT "F"



TOTAL OBTAIN THIS SHEET = 3.79 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 7,65,66,67,68A,68,68B
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

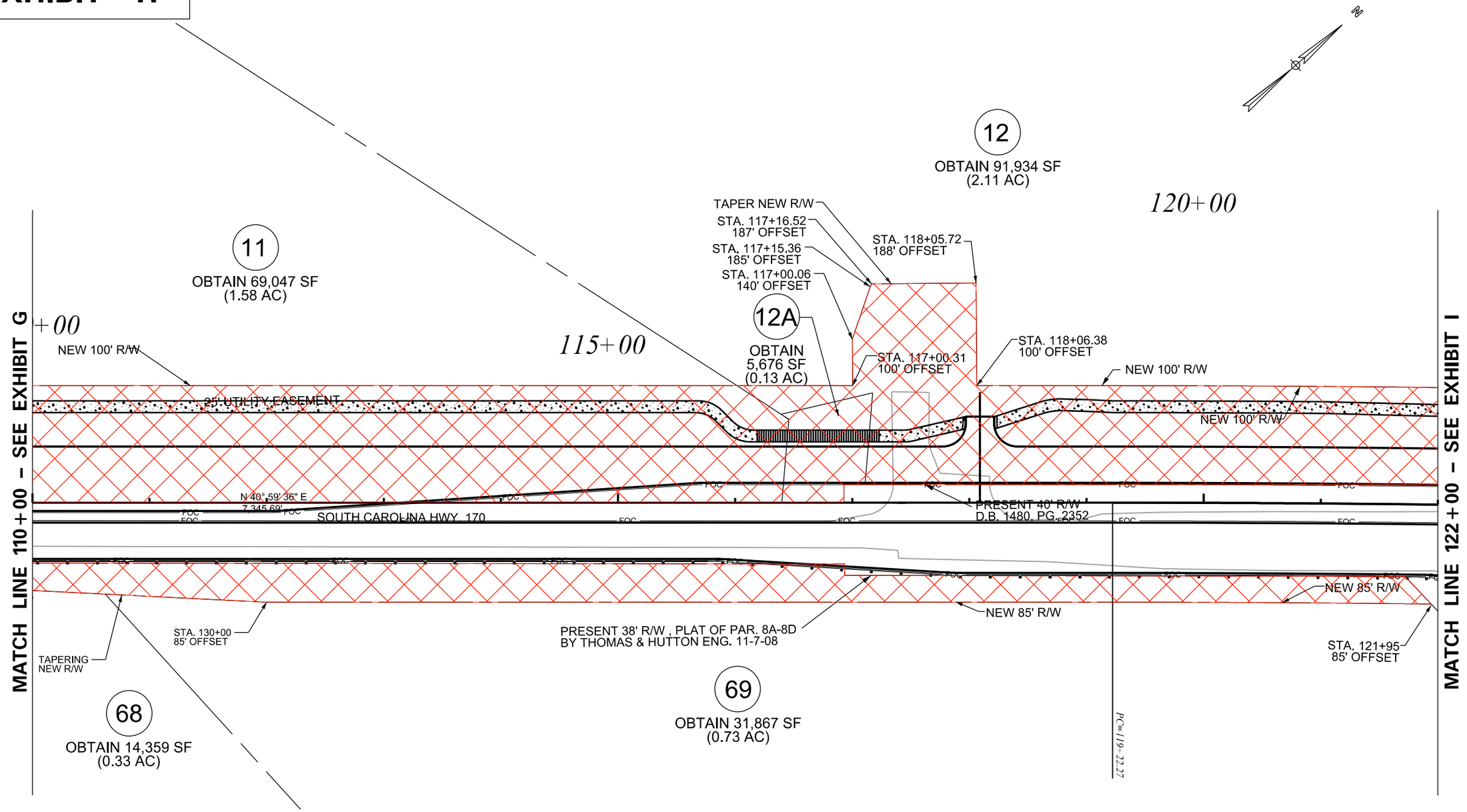
EXHIBIT "G"



TOTAL OBTAIN THIS SHEET = 3.68 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 7, 10, 11, 68, 68B, 68C, 68D
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

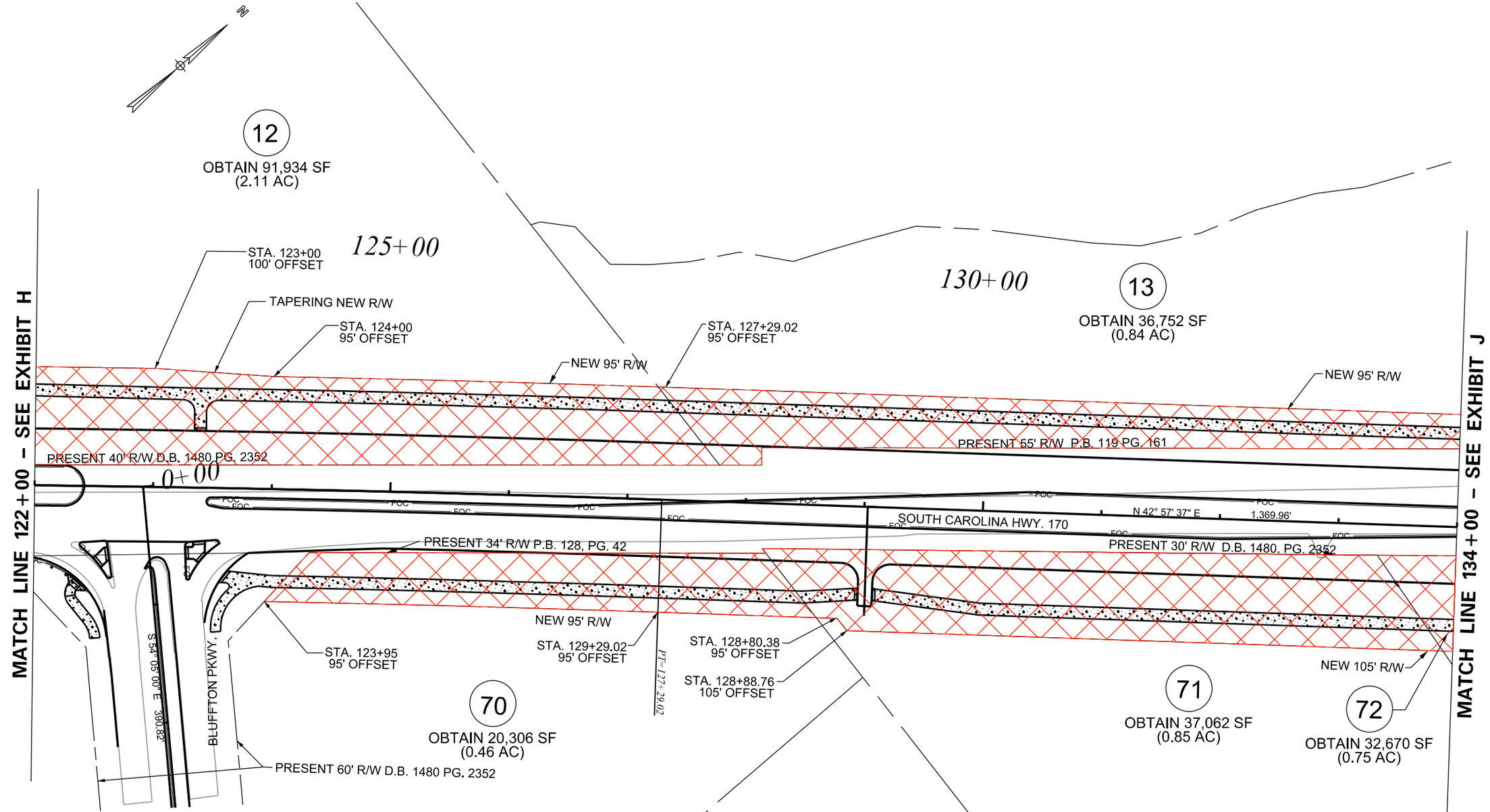
EXHIBIT "H"



TOTAL OBTAIN THIS SHEET = 3.53 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 11,12,68,69
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

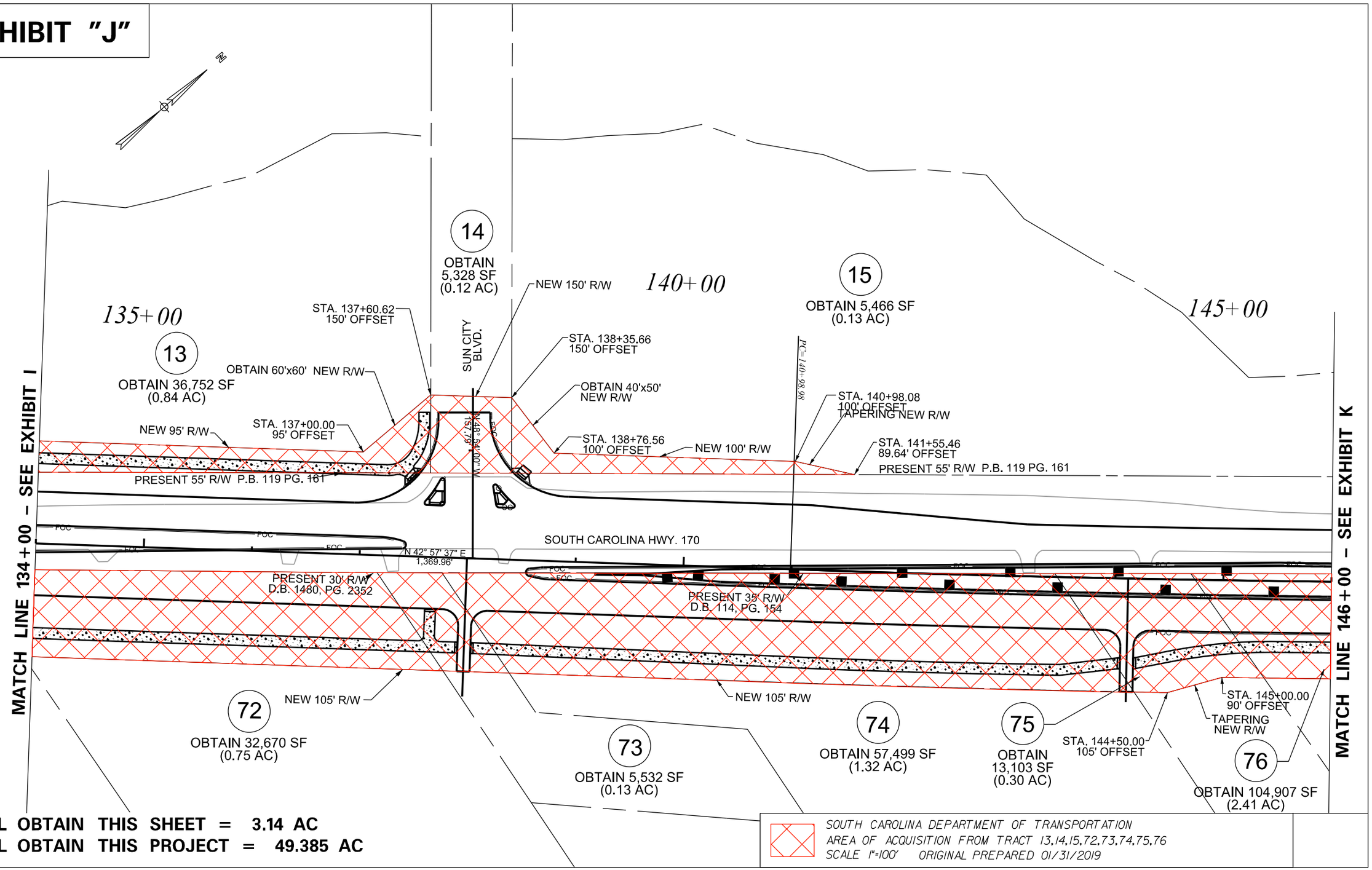
EXHIBIT "I"



TOTAL OBTAIN THIS SHEET = 2.95 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 12,13,70,71,72
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

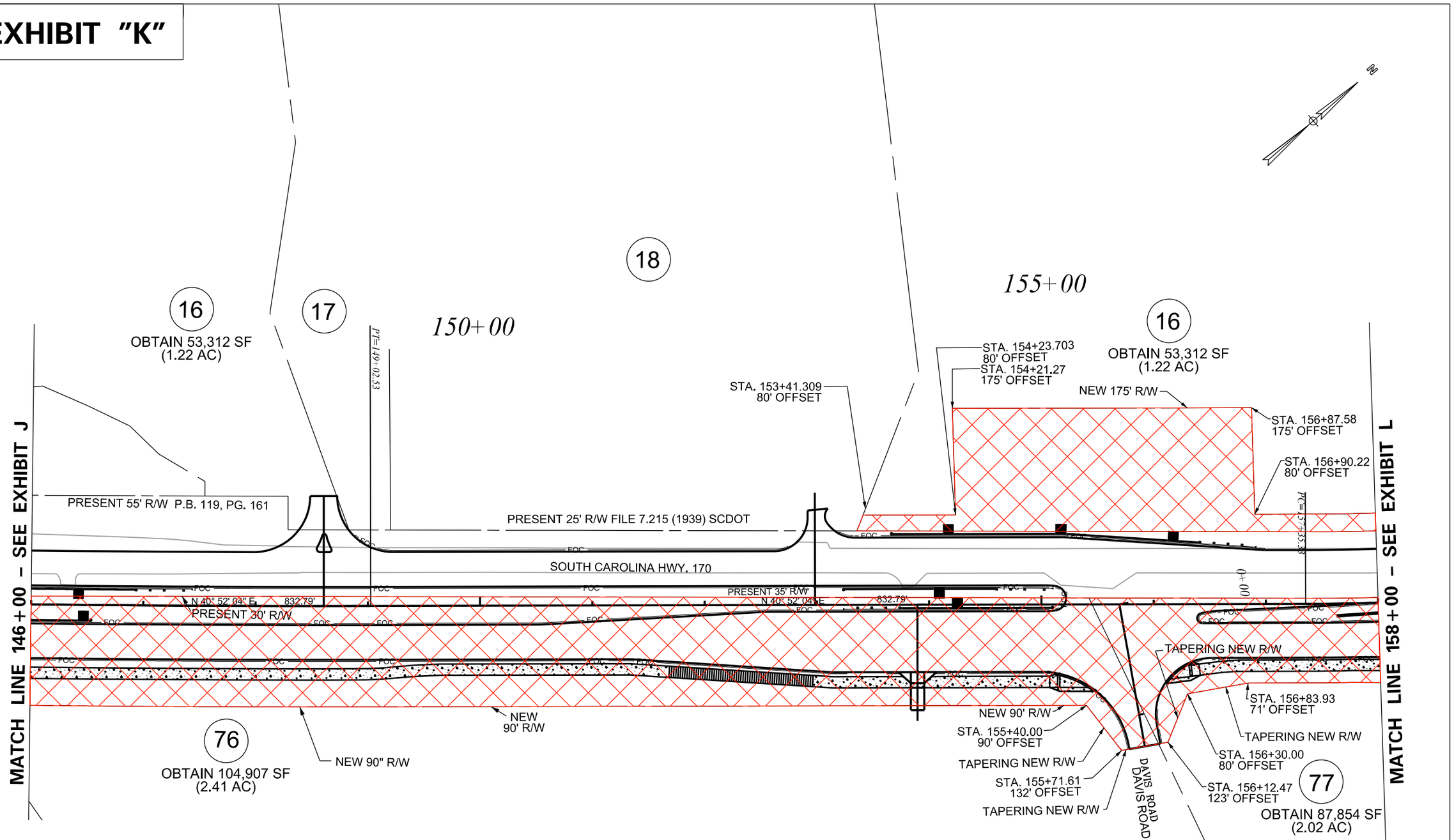
EXHIBIT "J"



TOTAL OBTAIN THIS SHEET = 3.14 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 13,14,15,72,73,74,75,76
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

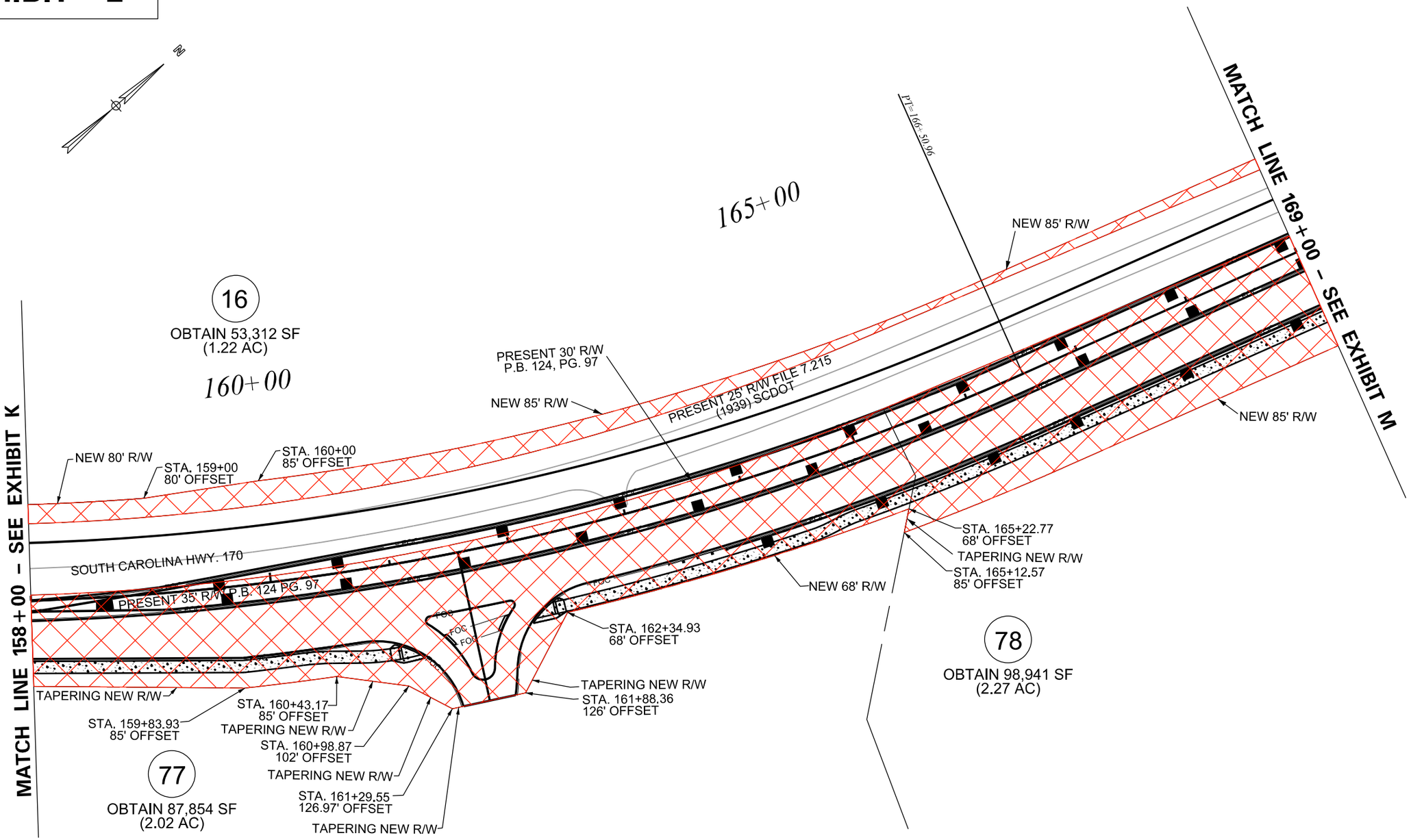
EXHIBIT "K"



TOTAL OBTAIN THIS SHEET = 3.40 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 16,76,77
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

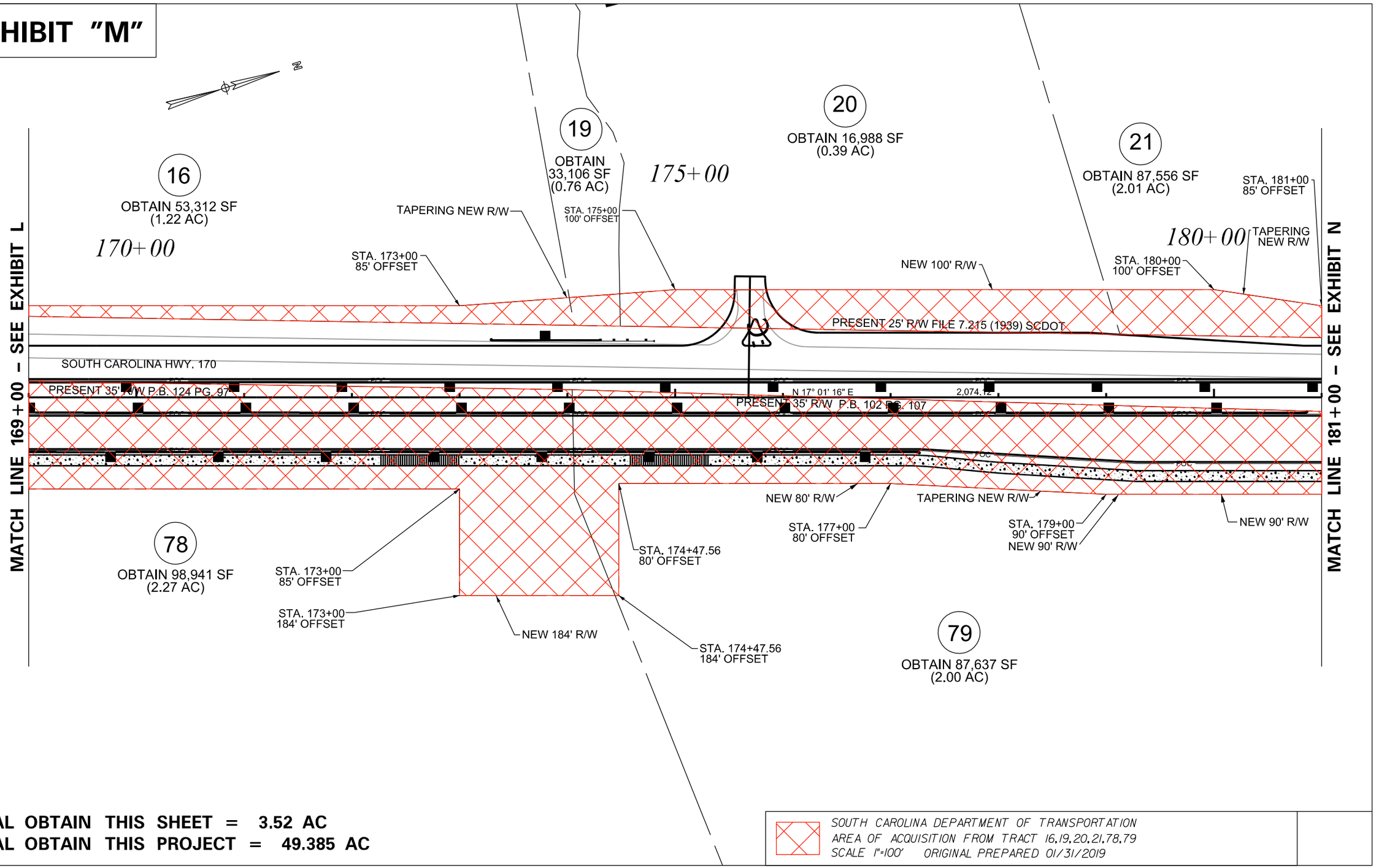
EXHIBIT "L"



TOTAL OBTAIN THIS SHEET = 2.74 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 16,77,78
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

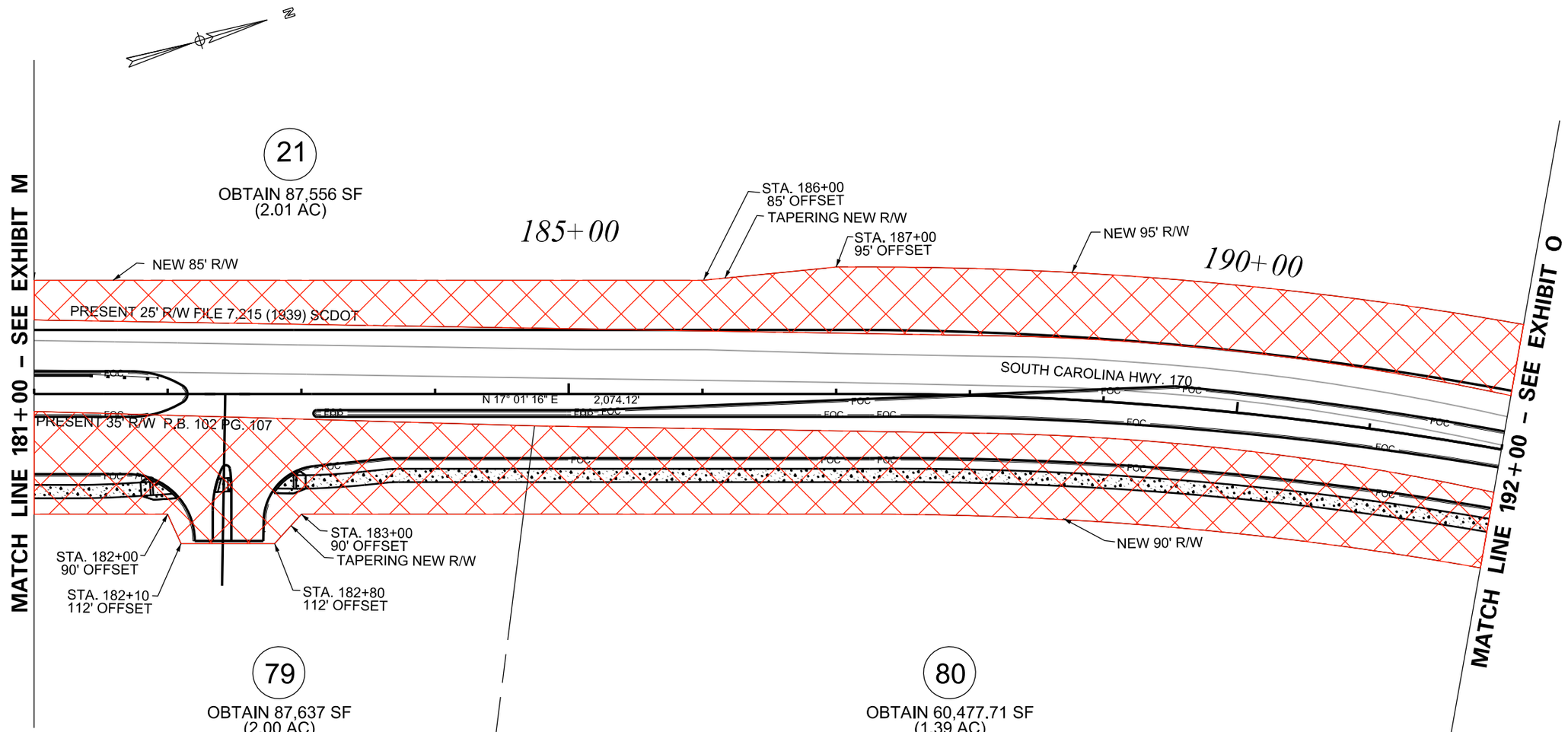
EXHIBIT "M"



TOTAL OBTAIN THIS SHEET = 3.52 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 16,19,20,21,78,79
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

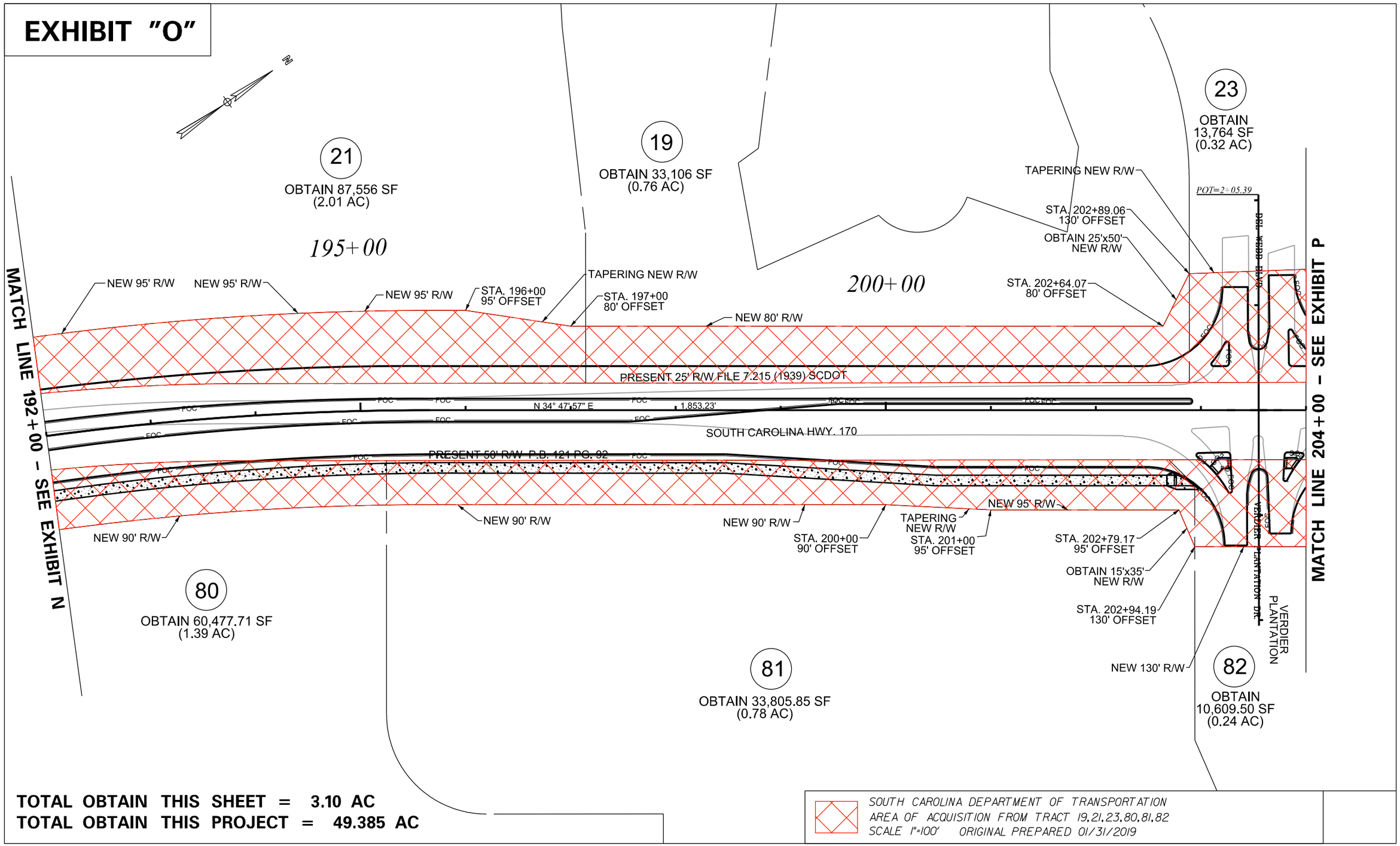
EXHIBIT "N"



TOTAL OBTAIN THIS SHEET = 2.77 AC
TOTAL OBTAIN THIS PROJECT = 2.413 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 21,79,80
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

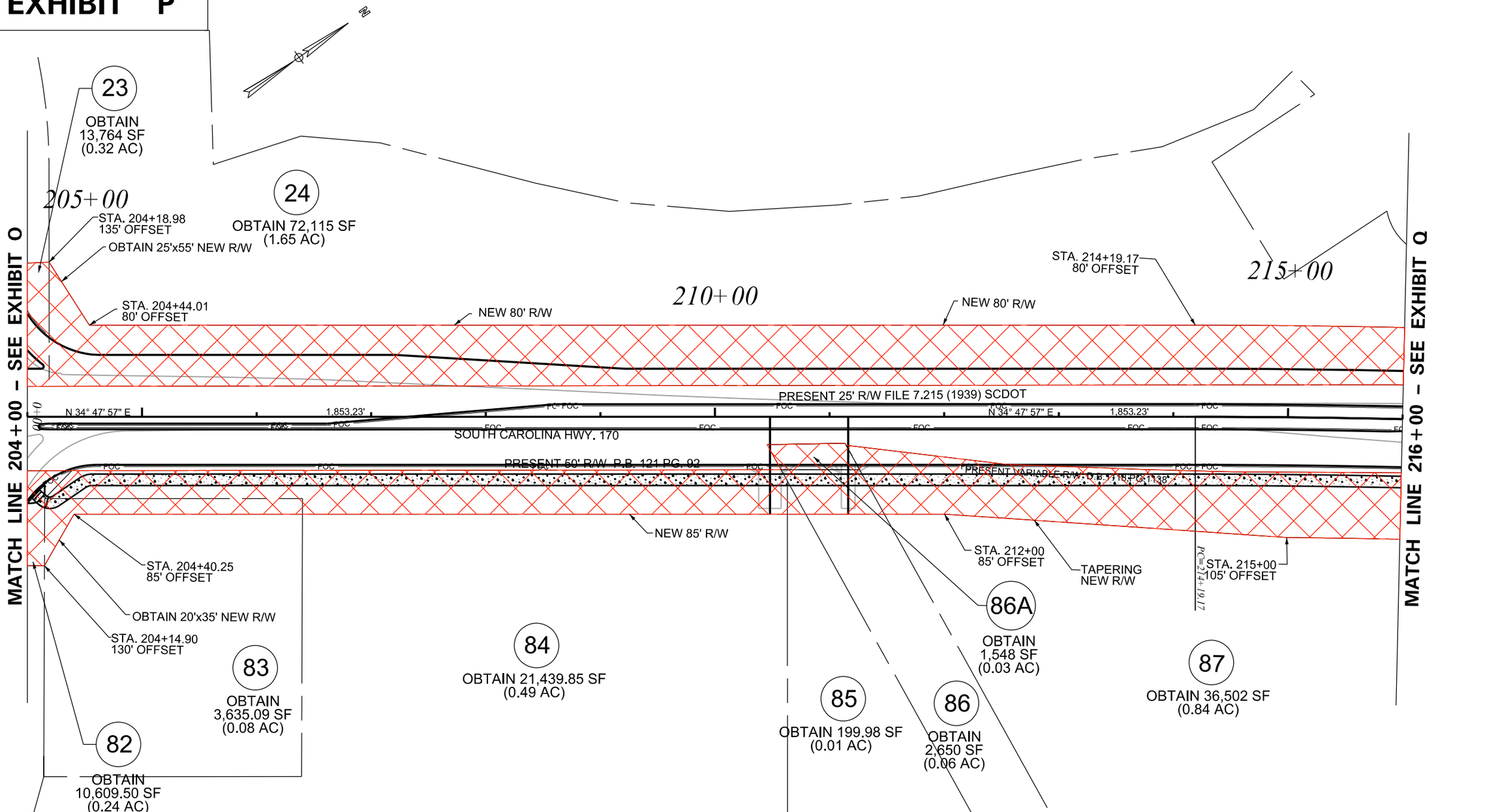
EXHIBIT "O"



TOTAL OBTAIN THIS SHEET = 3.10 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 19,21,23,80,81,82
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

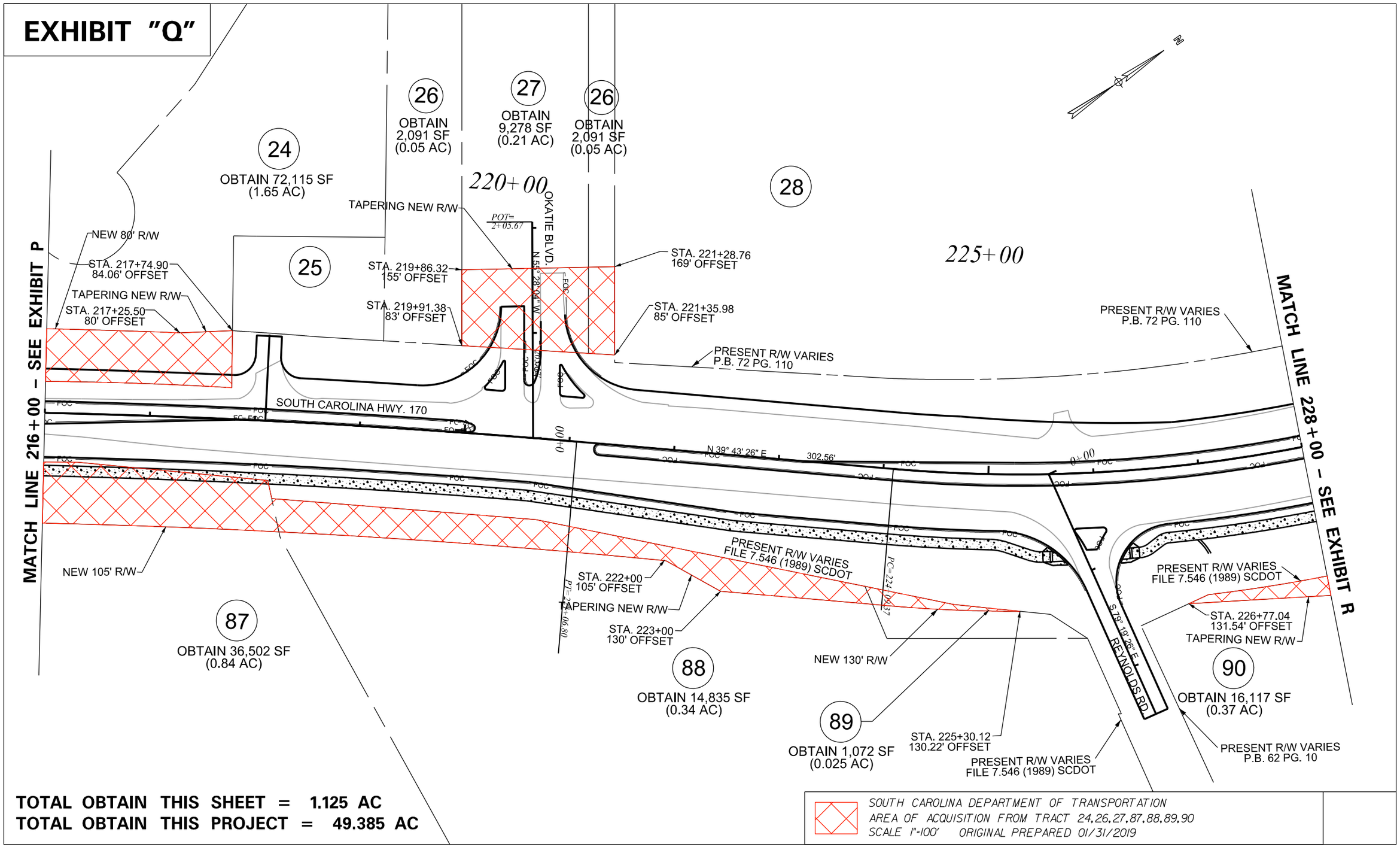
EXHIBIT "P"



TOTAL OBTAIN THIS SHEET = 2.78 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 23,24,82,83,84,85,86,86A,87
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

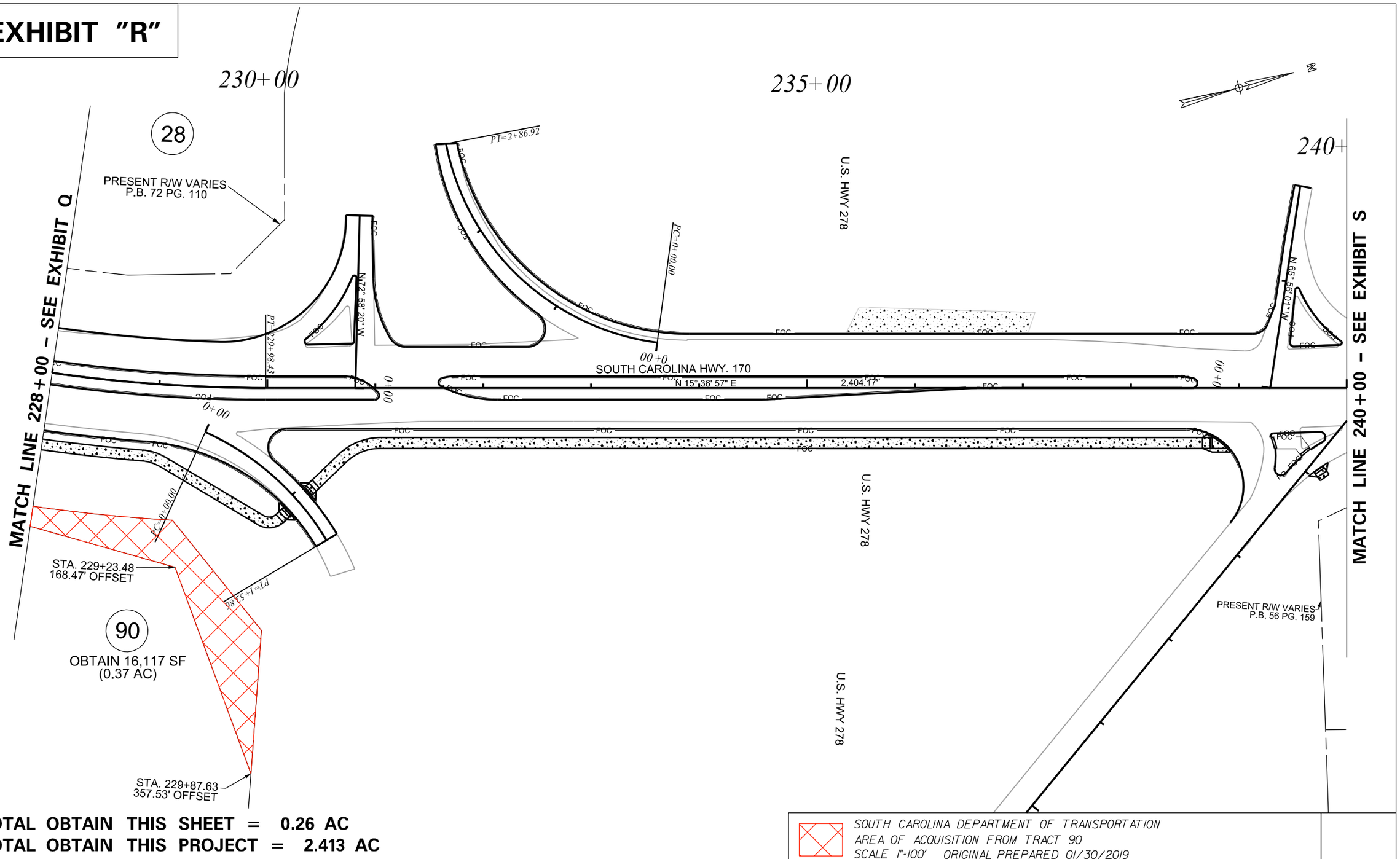
EXHIBIT "Q"



TOTAL OBTAIN THIS SHEET = 1.125 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 24,26,27,87,88,89,90
SCALE 1"=100' ORIGINAL PREPARED 01/31/2019

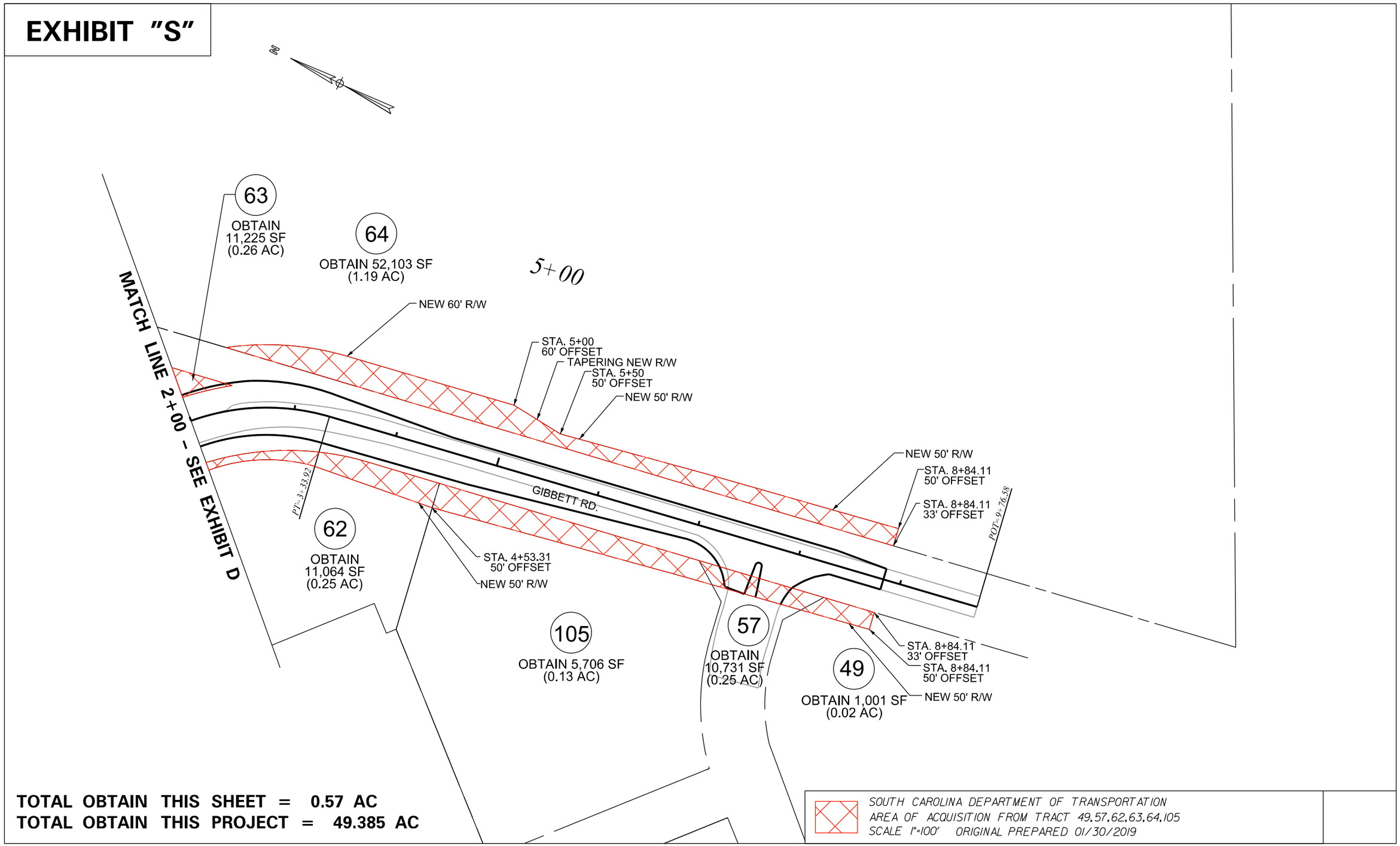
EXHIBIT "R"



TOTAL OBTAIN THIS SHEET = 0.26 AC
TOTAL OBTAIN THIS PROJECT = 2.413 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 90
SCALE 1"=100' ORIGINAL PREPARED 01/30/2019

EXHIBIT "S"



TOTAL OBTAIN THIS SHEET = 0.57 AC
TOTAL OBTAIN THIS PROJECT = 49.385 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 49,57,62,63,64,105
SCALE 1"=100' ORIGINAL PREPARED 01/30/2019

THE STATE OF SOUTH CAROLINA

TITLE TO REAL ESTATE
COUNTY OF BEAUFORT **Approximate**
Survey Station
0+59.27 To 240+60.00

Road/Route…….S.C. 170
File……07.036938A
Item……
Project……
PIN…….

WHEREAS, the Beaufort County acquired certain rights-of-way from Sixty-six (66) conveyances in connection with the widening of SC Highway 170 from SC 46 to the US 278 westbound ramps; and

WHEREAS, the Beaufort County wishes to convey these rights-of-way to the South Carolina Department of Transportation.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS that **Beaufort County,** a political subdivision of the State of South Carolina, P.O. Drawer 1228, Beaufort, SC 29901-1228 ("Grantor"**)**, in consideration of the sum of **Ten and No/100 ($10.00) Dollars** to it in hand paid and before the sealing of these presents by the **South Carolina Department of Transportation, Columbia, South Carolina ("Grantee")**, receipt of which is hereby acknowledged, does hereby grant, bargain, sell and release, unto the said South Carolina Department of Transportation, its successors and assigns, all those certain real properties of the Grantor in fee simple along **SC Highway 46 to the US Highway 278 Westbound Ramps** on **SC Route 170,** State and County aforesaid, and identified in plans prepared by Thomas & Hutton, 50 Park of Commerce Way, P.O. Box 2727, Savannah, GA 31402-2727, entitled "Plan and Profile of Proposed State Highway Widening of SC 170 from SC 46 to US 278 West Bound Ramps Beaufort & Jasper Counties," and dated June 8, 2010.

SPECIAL PROVISIONS: The above consideration is for all those certain Sixty-six conveyances of land, or portions thereof containing 49.38 acres, more or less, and all improvements thereon, if any, owned by the County of Beaufort, shown as "Area[s] of Acquisition" on the aforementioned plans. Said plans are stored in the Office of the Beaufort County Records Management located at 113 Industrial Village Road, Beaufort, SC 29906.

The Rights-Of-Way to Be Transferred To SCDOT includes:

That being a **25,654.06 SF** portion of the property acquired from the Town of Bluffton, by deed dated October 28, 2011 and recorded November 21, 2011 in Deed Book 3099, Page 3124 in the records of the ROD Office for Beaufort County, designated as **Tract 3 and marked and attached as Exhibit A**. This portion property was acquired from the parcel identified as Tax Map No. R614 036 000 0596 0000; and

That being a **195,621.29 SF** portion of property acquired from The Town of Bluffton, by deed dated October 28, 2011 and recorded November 21, 2011 in Deed Book 3099, Page 3128 in the records of the ROD Office for Beaufort County, designated as **Tract 4 and marked and attached as Exhibits A, B, C.** This portion of property was acquired from the parcel identified as Tax Map No. R614 028 000 0916 0000; and

That being a **27,408.36 SF** portion of property acquired from The Town of Bluffton, by deed dated October 28, 2011 and recorded November 21, 2011 in Deed Book 3099, Page 3133 in the records of the ROD Office for Beaufort County, designated as **Tract 5, and marked and attached as Exhibits B, C, D.** This portion of property was acquired from the parcel identified as Tax Map No. R614 028 000 3661 0000; and

That being a **5,744.75 SF** portion of property acquired from The Town of Bluffton, identified as parcel 6A and **5,794.68 SF** identified as parcel 6B consisting of two parcels, by deed dated August 8, 2012 and recorded August 16, 2012 in Deed Book 3167, Page 581 in the records of the ROD Office for Beaufort County, designated as **Tract 6A & 6B and marked and attached as Exhibits D & E, respectively.** This portion of property was acquired from the parcel identified as Tax Map No. R614 028 000 2735 0000; and

That being a **344,498.90 SF** portion of property acquired from The Town of Bluffton, by deed dated October 28, 2011 and recorded November 21, 2011 in Deed Book 3099, Page 3138 in the records of the ROD Office for Beaufort County, designated as **Tract 7 marked and attached as Exhibits D,E, F.** This portion of property was acquired from the parcel identified as Tax Map No. R614 028 000 1138 0000; and

That being a **27,408.18 SF** portion of property acquired from The Town of Bluffton, by deed dated October 28, 2011 and recorded November 21, 2011 in Deed Book 3099, Page 3144 in the records of the ROD Office for Beaufort County, designated as **Tract 10 marked and attached as Exhibit G.** This portion of property was acquired from the parcel identified as Tax Map No. R614 028 000 1107 0000; and

That being a **69,047 SF** portion of property acquired from The Town of Bluffton, by deed dated November 11, 2011 and recorded February 14, 2012 in Deed Book 3119, Page 2466 in the records

of the ROD Office for Beaufort County, designated as **Tract 11 marked and attached as Exhibits G, H.** This portion of property was acquired from the parcel identified as Tax Map No. R622 028 000 1006 0000; and

That being a **91,934 SF** portion of property acquired from Del Webb Communities, Inc. by deed dated February 16, 2012 and recorded September 12, 2012 in Deed Book 3174, Page 445 in the records of the ROD Office for Beaufort County, designated as **Tract 12 marked and attached as Exhibits H, I.** This portion of property was acquired from the parcel identified as Tax Map No. R600 028 0000025 0000; and

That being a **5,676 SF** portion of property acquired from Del Webb Communities, Inc. by deed dated March 5, 2012 and recorded June 27, 2012 in Deed Book 3153, Page 1429 in the records of the ROD Office for Beaufort County, designated as **Tract 12A marked and attached as Exhibit H.** This portion of property was acquired from the parcel identified as Tax Map No. R600 028 000 0025 0000; and

That being a **36,752 SF** portion of property acquired from Del Webb Communities, Inc. by deed dated February 16, 2011 and recorded September 12, 2012 in Deed Book 3174, Page 449 in the records of the ROD Office for Beaufort County, designated as **Tract 13 marked and attached as Exhibits I, J.** This portion of property was acquired from the parcel identified as Tax Map No. R600 028 000 0001 0000; and

That being a **5,328 SF** portion of property acquired from Sun City Hilton Head Community Association, Inc., by deed dated June 22, 2011 and recorded May 4, 2012 in Deed Book 3140, Page 1877 in the records of the ROD Office for Beaufort County, designated as **Tract 14 marked and attached as Exhibit J.** This portion of property was acquired from the parcel identified as Tax Map No. R600 029 000 1594 0000; and

That being a **5,466 SF** (.13 acres) portion of the five acre property which Beaufort County acquired from Del Webb Communities, Inc., by deed dated March 24, 1999 in Deed Book 2561, Page 2268 and recorded in the records of the ROD Office for Beaufort County, designated as **Tract 15 marked and attached as Exhibit J.** This portion of property was acquired from the parcel identified as Tax Map No. R600 029 000 1648 0000 (a portion of R600-029-000-0126-0000); and

That being a **53,312 SF** portion of property acquired from Sun City Hilton Head Community Association, Inc. by deed dated February 16, 2011 and recorded October 10, 2011 in Deed Book 3089, Page 3100 in the records of the ROD Office for Beaufort County, designated as **Tract 16 marked and attached as Exhibits K, L, M.** This portion of property was acquired from the parcel identified as Tax Map No. R600 029 000 1079 0000; and

That being a **33,106 SF** portion of property acquired from Del Webb Communities, Inc. by deed dated February 16, 2011 and recorded September 25, 2012 in Deed Book 3174, Page 453 in the records of the ROD Office for Beaufort County, designated as **Tract 19 marked and attached as Exhibit M.** This portion of property was acquired from the parcel identified as Tax Map No. R600 021 000 0030 0000; and

That being a **16,988 SF** portion of property from Sun City Hilton Head Community Association, Inc. by deed dated February 16, 2011 and recorded October 10, 2011 in Deed Book 3089, Page 3105 in the records of the ROD Office for Beaufort County, designated as **Tract 20 marked and attached as Exhibit M.** This portion of property was acquired from the parcel identified as Tax Map No. R600 021 000 0538 0000; and

That being an **87,556 SF** portion of property acquired from Sun City Hilton Head Community Association, Inc. by deed dated February 16, 2011 and recorded October 10, 2011 in Deed Book 3089, Page 3108 in the records of the ROD Office for Beaufort County, designated as **Tract 21 marked and attached as Exhibits M, N.** This portion of property was acquired from the parcel identified as Tax Map No. R600 020 000 1355 0000; and

That being a **13,764 SF** portion of property acquired from Sun City Hilton Head Community Association, Inc., by deed dated February 16, 2011 and recorded October 10, 2011 in Deed Book 3089, Page 3112 in the records of the ROD Office for Beaufort County, designated as **Tract 23 marked and attached as Exhibits O, P.** This portion of the property was acquired from the parcel identified as Tax Map No. R600 021 000 0202 0000; and

That being a **72,115 SF** portion of property acquired from Sun City Hilton Head Community Association, Inc., by deed dated March 11, 2011 and recorded October 10, 2011 in Deed Book 3089, Page 3115 in the records of the ROD Office for Beaufort County, designated as **Tract 24 marked and attached as Exhibit P, Q.** This portion of the property was acquired from the parcel identified as Tax Map No. R603 021 00C 0178 0000; and

That being a **2,091 SF** portion of property acquired from Okatie Center Commercial Association, Inc., by deed dated August 17, 2011 and recorded May 4, 2012 in Deed Book 3140, Page 1883 in the records of the ROD Office for Beaufort County, designated as **Tract 26 marked and attached as Exhibit Q**. This portion of the property was acquired from the parcel identified as Tax Map No. R603 021 000 0069 0000; and

That being a **9,278 SF** portion of property acquired from Okatie Center Commercial Association, Inc., by deed dated August 17, 2011 and recorded May 4, 2012 in Deed Book 3140, Page 1886 in the records of the ROD Office for Beaufort County, designated as **Tract 27 marked and attached as Exhibit Q**. This portion of the property was acquired from the parcel identified as Tax Map No. R603 021 000 0232 0000; and

That being a **1,001 SF** portion of property acquired from Palmetto Storage of the Lowcountry, LLC, by deed dated July 5, 2012 and recorded September 12, 2012 in Deed Book 3174, Page 457 in the records of the ROD Office for Beaufort County, designated as **Tract 49 marked and attached as Exhibit S.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 036 000 0466 0000; and

That being a **1,263 SF** portion of property acquired from Maye River Baptist Church, by deed dated June 18, 2012 and recorded September 12, 2012 in Deed Book 3174, Page 461 in the records of the ROD Office for Beaufort County, designated as **Tract 54 marked and attached as Exhibit A**. This portion of the property was acquired from the parcel identified as Tax Map No. R610 036 000 0045 0000; and

That being a **23,958 SF** portion of property acquired from Villages at Palmetto Pointe Homeowners Association, Inc., by deed dated July 2, 2012 and recorded September 12, 2012 in Deed Book 3174, Page 465 in the records of the ROD Office for Beaufort County, designated as **Tract 55 marked and attached as Exhibits A, B**. This portion of the property was acquired from the parcel identified as Tax Map No. R614 036 000 0948 0000; and

That being a **16,552 SF** portion of property acquired from Villages at Palmetto Pointe Homeowners Association, Inc., by deed dated July 2, 2012 and recorded September 12, 2012 in Deed Book 3174, Page 469 in the records of the ROD Office for Beaufort County, designated as **Tract 56 marked and attached as Exhibits B, C.** This portion of the property was acquired from the parcel identified as Tax Map No. R614 036 000 0587 0000; and

That being a **10,731 SF** portion of property acquired from Jerri Ann Roseneau, County Clerk of Court for County of Beaufort for Palmetto Point Business Park, POA, Inc., by Annotated Condemnation Notice & Tender of Payment dated August 26, 2013 and recorded in Deed Book 3500, Page 898 in the records of the ROD Office for Beaufort County, designated as **Tract 57 marked and attached as Exhibit S.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 036 000 0470 0000; and

That being a **6,621 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Palmetto Land Associates, LLC, by Annotated Condemnation Notice & Tender of Payment dated February 20, 2014 and recorded in Deed Book 3319, Page 2223 in the records of the ROD Office for Beaufort County, designated as **Tract 58 marked and attached as Exhibit C.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 036 000 0462 0000; and

That being a **7,448 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Palmetto Land Associates, LLC, by Annotated Condemnation Notice &

Tender of Payment dated February 20, 2014 and recorded in Deed Book 3319, Page 2218 in the records of the ROD Office for Beaufort County, designated as **Tract 59 marked and attached as Exhibit C.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 036 000 0461 0000; and

That being a **8,712 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Palmetto Land Associates, LLC, by Annotated Condemnation Notice & Tender of Payment dated February 20, 2014 and recorded in Deed Book 3319, Page 2228 in the records of the ROD Office for Beaufort County, designated as **Tract 60 marked and attached as Exhibit C.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 036 000 0460 0000; and

That being a **4,486 SF** portion of property acquired from FJW Palmetto Point, LLC and Frank Guidobono as Trustee of the Trust Agreement of Lisa Moretti Guidobono dated June 4, 2001, , by deed dated June 20, 2012 and recorded September 12, 2012 in Deed Book 3174, Page 473 in the records of the ROD Office for Beaufort County, designated as **Tract 61 marked and attached as Exhibits C, D.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 036 000 0458 0000; and

That being a **11,064 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Palmetto Point Business Park, POA, Inc., by Annotated Condemnation Notice & Tender of Payment dated August 28, 2013 and recorded in Deed Book 3500, Page 909 in the records of the ROD Office for Beaufort County, designated as **Tract 62 marked and attached as Exhibit D.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 036 000 0471 0000; and

That being a **11,225 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Palmetto Point Business Park, POA, Inc., by Annotated Condemnation Notice & Tender of Payment dated August 28, 2013 and recorded in Deed Book 3500, Page 904 in the records of the ROD Office for Beaufort County, designated as **Tract 63 marked and attached as Exhibit D.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 036 000 0473 0000; and

That being a **52,103 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Charleston-Atlantic Presbytery, by Annotated Condemnation Notice & Tender of Payment dated March 18, 2013 and recorded in Deed Book 3270, Page 122 in the records of the ROD Office for Beaufort County, designated as **Tract 64 marked and attached as Exhibits D, E.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 028 000 0921 0000; and

That being a **13,765 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Parcel 8A, LLC, by Annotated Condemnation Notice & Tender of Payment dated April 30, 2013 and recorded in Deed Book 3270, Page 131 in the records of the ROD Office for Beaufort County, designated as **Tract 65 marked and attached as Exhibits E, F.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 028 000 0920 0000; and

That being a **6,915 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Parcel 8A, LLC, by Annotated Amended Condemnation Notice & Tender of Payment dated April 30, 2013 and recorded in Deed Book 3265, Page 56 in the records of the ROD Office for Beaufort County, designated as **Tract 65A marked and attached as Exhibits E, F.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 028 000 3921 0000; and

That being a **5,314 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Village Park Commercial, LSI, LLC, by Annotated Condemnation Notice & Tender of Payment dated November 7, 2013 and recorded in Deed Book 3500, Page 892 in the records of the ROD Office for Beaufort County, designated as **Tract 66 marked and attached as Exhibit F.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 028 000 2655 0000; and

That being a **8,232 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Parcel 8A, LLC, by Annotated Amended Condemnation Notice & Tender of Payment dated May 10, 2013 and recorded in Deed Book 3655, Page 1225 in the records of the ROD Office for Beaufort County, designated as **Tract 67 marked and attached as Exhibit F.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 028 000 0023 0000; and

That being a **14,359 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Parcel 8B, LLC, by Annotated Condemnation Notice & Tender of Payment dated April 30, 2013 and recorded in Deed Book 3279, Page 182 in the records of the ROD Office for Beaufort County, designated as **Tract 68**, **marked and attached as Exhibits F, G, H.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 028 000 0918 0000; and

That being a **8,078** SF portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Parcel 8B, LLC, by Annotated Condemnation Notice & Tender of Payment dated April 30, 2013 and recorded in Deed Book 3270, Page 149 in the records of the ROD Office for Beaufort County, designated as **Tract 68A marked and attached as Exhibit F.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 028 000 3923 0000; and

That being a **7,828 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Parcel 8B, LLC, by Annotated Condemnation Notice & Tender of Payment dated April 30, 2013 and recorded in Deed Book 3279, Page 172 in the records of the ROD Office for Beaufort County, designated as **Tract 68B marked and attached as Exhibits F, G.** This portion of the property was acquired from the parcel identified as of Tax Map No. R610 028 000 3924 0000; and

That being a **6,797 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Parcel 8B, LLC, by Annotated Condemnation Notice & Tender of Payment dated April 30, 2013 and recorded in Deed Book 3270, Page 161 in the records of the ROD Office for Beaufort County, designated as **Tract 68C marked and attached as Exhibit G.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 028 000 3925 0000; and

That being a **7,295 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Parcel 8B, LLC, by Annotated Condemnation Notice & Tender of Payment dated August 16, 2013 and recorded in Deed Book 3265, Page 2138 in the records of the ROD Office for Beaufort County, designated as **Tract 68D marked and attached as Exhibit G.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 028 000 3926 0000; and

That being a **31,867 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Parcel 8B, LLC, by Annotated Condemnation Notice & Tender of Payment dated October 11, 2013 and recorded in Deed Book 3279, Page 167 in the records of the ROD Office for Beaufort County, designated as **Tract 69 marked and attached as Exhibit H.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 028 000 1106 0000; and

That being a **20,306 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Parcel 8C, LLC, by Annotated Condemnation Notice & Tender of Payment dated October 5, 2018 and recorded in Deed Book 3705, Page 2218 in the records of the ROD Office for Beaufort County, designated as **Tract 70 marked and attached as Exhibit I.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 029 000 0610 0000; and

That being a **37,062 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for James Bush, et al., by Annotated Condemnation Notice & Tender of Payment dated September14, 2011 and recorded in Deed Book 3096, Page 256 in the records of the ROD Office for Beaufort County, designated as **Tract 71 marked and attached as Exhibit I.**

This portion of the property was acquired from the parcel identified as Tax Map No. R600 029 000 0002 0000; and

That being a **32,670 SF,** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Ernest Tolbert, et al., by Annotated Condemnation Notice & Tender of Payment dated September 14, 2011 and recorded in Deed Book 3095, Page 1864 in the records of the ROD Office for Beaufort County, designated as **Tract 72 marked and attached as Exhibits I, J.** This portion of the property was acquired from the parcel identified as Tax Map No. R600 029 000 0003 0000; and

That being a **5,532 SF** portion of property acquired from Ernest Tolbert, by deed dated December 13, 2010 and recorded June 27, 2012 in Deed Book 3153, Page 1426 in the records of the ROD Office for Beaufort County, designated as **Tract 73 marked and attached as Exhibit J.** This portion of the property was acquired from the parcel identified as Tax Map No. R600 029 000 0086 0000; and

That being a **57,499 SF** portion of property acquired from Ephraim Brown, by deed dated December 13, 2010 and recorded May 4, 2012 in Deed Book 3140, Page 1889 in the records of the ROD Office for Beaufort County, designated as **Tract 74 marked and attached as Exhibit J.** This portion of the property was acquired from the parcel identified as Tax Map No. R600 029 000 1194 0000; and

That being a **13,103 SF** portion of property acquired from Williams Reynolds Stewart, by deed dated December 2, 2010 and recorded May 4, 2012 in Deed Book 3140, Page 1892 in the records of the ROD Office for Beaufort County, designated as **Tract 75 marked and attached as Exhibit J.** This portion of the property was acquired from the parcel identified as Tax Map No. R600 029 000 0005 0000; and

That being a **104,907 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Rosalee B. Malloy, et al, by Annotated Condemnation Notice & Tender of Payment dated August 23, 2011 and recorded in Deed Book 3096, Page 250 in the records of the ROD Office for Beaufort County, designated as **Tract 76 marked and attached as Exhibits J, K.** This portion of the property was acquired from the parcel identified as Tax Map No. R600 029 000 0006 0000; and

That being a **87,854 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for National Healthcare Corporation and New Leaf, LLC, by Annotated Condemnation Notice & Tender of Payment dated March 11, 2016 and recorded in Deed Book 3468, Page 105 in the records of the ROD Office for Beaufort County, designated as **Tract 77 marked and attached as Exhibits K, L.** This portion of the property was acquired from the parcel identified as Tax Map No. R617 029 000 1160 0000; and

That being a **98,941 SF** portion of property acquired from New Leaf, LLC, by Limited Warranty Deed dated February 17, 2016 and recorded in Deed Book 3466, Page 1708 in the records of the ROD Office for Beaufort County, designated as **Tract 78 marked and attached as Exhibits L, M.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 029 000 0023 0000; and

That being a **87,637 SF** portion of property acquired from Jerri Ann Roseneau, Clerk of Court for County of Beaufort for Lowcountry Evergreen, LLC, by Annotated Condemnation Notice & Tender of Payment dated December 6, 2012 and recorded in Deed Book 3218, Page 1400 in the records of the ROD Office for Beaufort County, designated as **Tract 79 marked and attached as Exhibits M, N.** This portion of the property was acquired from the parcel identified as Tax Map No. R617 029 000 0483 0000; and

That being a **60,477.71 SF** portion of property acquired from The Town of Bluffton, by deed dated October 28, 2011 and recorded November 21, 2011 in Deed Book 3099, Page 3099 in the records of the ROD Office for Beaufort County, designated as **Tract 80 marked and attached as Exhibits N, O.** This portion of the property was acquired from the parcel identified as Tax Map No. R613 021 000 0313 0000; and

That being a **33,805.85 SF** portion of property acquired from The Town of Bluffton, by deed dated October 28, 2011 and recorded November 21, 2011 in Deed Book 3099, Page 3103 in the records of the ROD Office for Beaufort County, designated as **Tract 81 marked and attached as Exhibit O.** This portion of the property was acquired from the parcel identified as Tax Map No. R613 021 000 0652 0000; and

That being a **10,609.50 SF** portion of property acquired from The Town of Bluffton, by deed dated October 28, 2011 and recorded November 21, 2011 in Deed Book 3099, Page 3108 in the records of the ROD Office for Beaufort County, designated as **Tract 82 marked and attached as Exhibits O, P.** This portion of the property was acquired from the parcel identified as Tax Map No. R613 021 000 0518 0000; and

That being a **3,635.09 SF** portion of property acquired from The Town of Bluffton, by deed dated October 28, 2011 and recorded November 21, 2011 in Deed Book 3099, Page 3112 in the records of the ROD Office for Beaufort County, designated as **Tract 83 marked and attached as Exhibit P.** This portion of the property was acquired from the parcel identified as Tax Map No. R613 021 000 0650 0000; and

That being a **21,439.85 SF** portion of property acquired from The Town of Bluffton, by deed dated October 28, 2011 and recorded November 21, 2011 in Deed Book 3099, Page 3116 in the records of the ROD Office for Beaufort County, designated as **Tract 84 marked and attached as Exhibit**

P. This portion of the property was acquired from the parcel identified as Tax Map No. R613 021 000 0649 0000; and

That being a **199.98 SF** portion of property acquired from The Town of Bluffton, by deed dated October 28, 2011 and recorded November 21, 2011 in Deed Book 3099, Page 3120 in the records of the ROD Office for Beaufort County, designated as **Tract 85 marked and attached as Exhibit P**. This portion of the property was acquired from the parcel identified as Tax Map No. R613 021 000 0520 0000; and

That being a **2,650 SF** portion of property acquired from Exodus Enterprises, LLC, by deed dated January 28, 2011 and recorded May 4, 2012 in Deed Book 3140, Page 1895 in the records of the ROD Office for Beaufort County, designated as **Tract 86 marked and attached as Exhibit P.** This portion of the property was acquired from the parcel identified as Tax Map No. R600 021 000 016A 0000; and

That being a **1,548 SF** portion of property acquired from Exodus Enterprises, LLC, by deed dated October 13, 2011 and recorded March 16, 2012 in Deed Book 3127, Page 1274 in the records of the ROD Office for Beaufort County, designated as **Tract 86A marked and attached as Exhibit P.** This portion of the property was acquired from the parcel identified as Tax Map No. R600 021 000 016A 0000; and

That being a **36,502 SF** portion of property acquired from Provident Health Services, Inc., by deed dated January 27, 2012 and recorded June 4, 2012 in Deed Book 3147, Page 1017 in the records of the ROD Office for Beaufort County, designated as **Tract 87 marked and attached as Exhibits P, Q.** This portion of the property was acquired from the parcel identified as Tax Map No. R600 021 000 0016 0000; and

That being a **14,835 SF** portion of property acquired from the Dorothy Martin Revocable Trust u/t/a dated May 31, 1990 and Albert G. Martin Revocable Trust u/t/a dated May 31, 1990, by Albert G. Martin and Melanie Reeder, Trustees, 4945 Fire Tower Road, Ridgeland, SC 29936, by deed dated April 18, 2012 and recorded July 20, 2012 in Deed Book 3159, Page 1214 in the records of the ROD Office for Beaufort County, designated as **Tract 88 marked and attached as Exhibit Q.** This portion of the property was acquired from the parcel identified as Tax Map No. R600 021 000 015A 0000; and

That being a **1,072 SF** portion of property acquired from the Dorothy Martin Revocable Trust u/t/a dated May 31, 1990 and Albert G. Martin Revocable Trust u/t/a dated May 31, 1990, by Albert G. Martin and Melanie Reeder, Trustees, 4945 Fire Tower Road, Ridgeland, SC 29936, by deed dated April 18, 2012 and recorded July 20, 2012 in Deed Book 3159, Page 1218 in the records of the ROD Office for Beaufort County, designated as **Tract 89 marked and attached as Exhibit Q.**

This portion of the property was acquired from the parcel identified as Tax Map No. R600 021 000 013A 0000; and

That being a **16,117 SF** portion of property acquired from SunTrust Bank, Trustee of the Bernard H. Breedlove Trust, dated May 14,1982, as amended and restated on June 18, 2002 and SunTrust bank, Trustee of the Eleanor A. Breedlove Revocable Trust dated May 14, 1982, as amended and restated on September 16, 2005, PO Box 2600, Norfolk VA 23501-2600, by deed dated August 25, 2011 and recorded May 4, 2012 in Deed Book 3140, Page 1898 in the records of the ROD Office for Beaufort County, designated as **Tract 90 marked and attached as Exhibits Q, R.** This portion of the property was acquired from the parcel identified as Tax Map No. R600 021 000 0021 0000; and

That being a **5,706 SF** portion of property acquired from the FJW Palmetto Point, LLC and Frank Guidobono as Trustee of the Agreement of Lisa Moretti Guidobono dated June 4, 2001, PO Box 7259, Hilton Head, SC 29925, by deed dated June 20, 2012 and recorded September 12, 2012 in Deed Book 3174, Page 477 in the records of the ROD Office for Beaufort County, designated as **Tract 105 marked and attached as Exhibit S.** This portion of the property was acquired from the parcel identified as Tax Map No. R610 036 000 0459 0000.

TOGETHER with all and singular the rights, members, hereditaments and appurtenances to said premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the premises before mentioned unto the **South Carolina Department of Transportation** its successors and assigns, forever.

AND, the said **Beaufort County**, a political subdivision of South Carolina does hereby bind itself and its successors and assigns to warrant and forever defend, all and singular, the said premises unto the said **South Carolina Department of Transportation**, its successors and assigns, against it and its successors and assigns, and all other persons whomsoever lawfully claiming, or to claim the same or any part thereof.

WITNESS ITS HAND(S) AND SEAL(S) this _____ day of _____, 2019

Signed, sealed and delivered in the presence of:

COUNTY OF BEAUFORT

_____
1st Witness

By:_____

John L. Weaver

_____
2nd Witness

Its: Interim County Administrator

THE STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

Personally appeared before me the above named Grantor(s) and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this _____ day of _____, 2019.

NOTARY PUBLIC FOR THE STATE OF SOUTH CAROLINA

Signature of Notary Public

Printed Name of Notary Public
My Commission Expires: _____
(Affix seal if outside SC)

GRANTEE'S ADDRESS: Director, Rights of Way, P.O. Box 191, Columbia, SC 29202-0191

Checked _____ By _____
Recorded _____ By _____ Tract _____
Project _____ File _____

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Sheldon Fire District General Obligation Bond

Council Committee:

Finance

Meeting Date:

February 4, 2019

Committee Presenter (Name and Title):

Alicia Holland, Assistant County Administrator, Finance

Issues for Consideration:

Sheldon Fire District is requesting to borrow $948,511 for improvements to Sheldon Fire Station 40 located at 5 Fire Station Lane.

Points to Consider:

The general obligation bond ordinance will have an amount not to exceed $1 million to allow for the cost of debt issuance.

Funding & Liability Factors:

The general obligation bond will be issued for fifteen (15) years. This will require the Sheldon Fire District to increase their debt millage rate to provide sufficient revenue for the annual debt service.

Council Options:

Approve or deny the Sheldon Fire District's general obligation bonds for funding of Sheldon Fire Station 40 improvements.

Recommendation:

Approve the Sheldon Fire District's general obligation bonds for funding of Sheldon Fire Station 40 improvements.

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF A NOT TO EXCEED $1,000,0000 LIMITED GENERAL OBLIGATION BOND, SERIES 2019B, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION (SHELDON FIRE DISTRICT), OF BEAUFORT COUNTY, SOUTH CAROLINA; FIXING THE FORM AND DETAILS OF THE BOND; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BOND; PROVIDING FOR THE PAYMENT OF THE BOND AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA, AS FOLLOWS:

SECTION 1. Findings and Determinations. The County Council (the "County Council") of Beaufort County, South Carolina (the "County"), hereby finds and determines:

(a) Pursuant to Section 4-9-10, Code of Laws of South Carolina 1976, as amended (the "SC Code"), and the results of a referendum held in accordance therewith, the County Council-Administrator form of government was adopted and the County Council constitutes the governing body of the County.

(b) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (the "Constitution"), provides that each county shall have the power to incur bonded indebtedness in such manner and upon such terms and conditions as the General Assembly shall prescribe by general law within the limitations set forth in Section 14 and Section 12 of Article X.

(c) Article X, Section 12 of the Constitution provides that no law shall be enacted permitting the incurring of bonded indebtedness by any county for fire protection service benefiting only a particular geographical section of the county unless a special assessment, tax or service charge in an amount designed to provide debt service on bonded indebtedness incurred for such purpose shall be imposed upon the area or persons receiving the benefit therefrom.

(d) Article X, Section 14 of the Constitution further provides that general obligation debt may be incurred only for a purpose which is a public purpose and which is a corporate purpose of the County. The power to incur general obligation debt shall include general obligation debt incurred by the County within the limitations prescribed by Article X, Section 12 of the Constitution.

(e) In determining the debt limitations imposed by the provisions of Article X, Section 14 of the Constitution, bonded indebtedness incurred pursuant to Article X, Section 12 shall not be considered.

(f) Pursuant to the provisions of Title 4, Chapter 19 of the SC Code (the "Act"), the County Council has, among other powers, the power to: (1) designate the areas of the County where fire protection service may be furnished by the County under the Act; and (2) levy and collect ad valorem taxes without limit as to rate or amount upon all taxable property in the service area where fire protection services are furnished to effect the payment of principal and interest on all bonds issued pursuant to the Act or required for the maintenance and operation of the fire protection system.

(g) Pursuant to the provisions of Ordinance No. 2013/8 enacted by the County Council on February 11, 2013 (the "Sheldon Ordinance"), the County created the "Sheldon Fire District" or the "Fire District." As such, the Sheldon Fire District is a special taxing district.

(h) Pursuant to the Sheldon Ordinance, the County Council is providing for the levy and collection of an annual ad valorem tax within the Fire District which will be sufficient to provide for the payment of the principal and interest on the Bond (hereinafter defined).

(i) In order to continue to provide fire protection services in the Fire District, there is a need to construct and equip improvements to Sheldon Fire Station 40 (the "Project").

(j) It is necessary and in the best interest of the County and the residents of the Fire District for the County Council to provide for the issuance and sale of a not to exceed $1,000,0000 limited general obligation bond of the County pursuant to the aforesaid provisions of the Constitution and laws of the State of South Carolina (the "State"), the proceeds of which will be used: (i) to defray the cost of the Project; (ii) to pay costs of issuance of the Bond; and (iii) for such other lawful corporate and public purposes as the County Council shall determine.

SECTION 2. Authorization and Details of Bond. Pursuant to the aforesaid provisions of the Constitution and laws of the State, there is hereby authorized to be issued a not to exceed One Million Dollars ($1,000,000) principal amount general obligation bond of the County to be designated "$1,000,000 (or such lesser amount issued) Limited General Obligation Bond, Series 2019B (or such other appropriate series designation) (Sheldon Fire District), of Beaufort County, South Carolina" (the "Bond"), for the purpose set forth in Section 1(j).

The Bond shall be issued in fully registered form; shall be registered as to principal and interest in the name of the purchaser thereof; shall be dated as of the date of its delivery or such other date as the County Administrator determines; shall be in the denomination of not to exceed $1,000,000; shall bear interest on the unpaid principal balance at the interest rate shown thereon; and shall be payable as determined by the County Administrator.

Interest shall be calculated on a 30-day month and 360-day year basis, unless otherwise agreed upon by the County Administrator and the purchaser of the Bond.

Both the principal of and interest on the Bond shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

SECTION 3. Delegation of Authority to Determine Certain Matters Relating to the Bond. Without further authorization, the County Council hereby delegates to the County Administrator or his lawfully-authorized designee the authority to determine (a) the payment schedule of the Bond and the respective principal amounts due on such dates; (b) the interest payment dates of the Bond; (c) redemption provisions, if any, for the Bond; (d) the time and date of sale of the Bond; and (e) whether the Bond shall be designated as a "qualified tax-exempt obligation," as defined in the Internal Revenue Code of 1986 (the "Code"). The County Council further delegates to the County Administrator or his lawfully-authorized designee the authority to receive bids on behalf of the County and the authority to award the Bond to the low bidder therefor, provided the true interest cost does not exceed 4%. After the sale of the Bond, the County Administrator or his lawfully authorized designee shall submit a written report to County Council setting forth the details of the Bond as set forth in this paragraph.

The Administrator may delegate some or all of the duties and responsibilities assigned to him in this Ordinance to a member of County staff or the Fire Chief of the Fire District.

SECTION 4. Execution of Bond. The Bond shall be executed in the name of the County with the manual or facsimile signature of the Chair of County Council attested by the manual or facsimile signature of the Clerk to County Council under the seal of the County to be impressed or affixed thereon.

SECTION 5. Form of Bond. The Bond and the provisions for registration to be endorsed thereon shall be in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 6. Form of Notice of Sale. The Bond shall be sold at public sale. The Request for Proposals shall be in substantially the form attached hereto as Exhibit B and incorporated herein by reference.

SECTION 7. Publication of Summary Notice of Sale. A summary notice of the sale shall be published in a newspaper of general circulation in the State not less than seven (7) days prior to the date set for such sale.

SECTION 8. Security for the Bond. For the payment of the principal of and interest on the Bond, as they respectfully mature, the full faith, credit and taxing power of the County are hereby irrevocably pledged, and pursuant to Section 4-19-140 of the SC Code and Section 12 of Article X of the Constitution, there shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, an ad valorem tax, without limit, on all taxable property in the Fire District, sufficient to pay the principal of and interest on the Bond, as they respectfully mature, and to create such sinking fund as may be necessary therefor.

The County Council shall give the Auditor and Treasurer of the County written notice of the delivery of and payment for the Bond and they are hereby directed to levy and collect annually, on all taxable property in the Fire District, an ad valorem tax sufficient to pay the principal and interest of the Bond and to create such sinking fund as may be necessary therefor.

SECTION 9. Notice of Public Hearing. The County Council hereby ratifies and approves the publication of a notice of public hearing regarding the Bond and this Ordinance, such notice in substantially the form attached hereto as Exhibit C, having been published in *The Beaufort Gazette* and *The Island Packet*, a newspaper of general circulation in the County, not less than fifteen (15) days prior to the date of such public hearing.

SECTION 10. Initiative and Referendum. The County Council hereby delegates to the County Administrator or his lawfully-authorized designee the authority to determine whether the Notice prescribed under the provisions of Section 5 of Title 11, Chapter 27 of the SC Code relating to the initiative and referendum provisions contained in Title 4, Chapter 9, Article 13 of the SC Code shall be given with respect to this Ordinance. If said Notice is given, the County Administrator or his lawfully-authorized designee is authorized to prescribe the form of the Notice and cause such Notice to be published in a newspaper of general circulation in the County in substantially the form attached hereto as Exhibit D.

SECTION 11. Exemption from State Taxes. Both the principal of and interest on the Bond shall be exempt, in accordance with the provisions of Section 12-2-50 of the SC Code, from all State, county,

municipal, school district, and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

SECTION 12. Deposit and Use of Proceeds. The proceeds derived from the sale of the Bond shall be deposited in a special fund, separate and distinct from all other funds, and applied solely to the purposes for which the Bond is issued.

SECTION 13. Tax Covenants. The County hereby covenants and agrees with the holders of the Bond that it will not take any action which will, or fail to take any action which failure will, cause interest on the Bond to become includable in the gross income of the holders of the Bond for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Bond. The County further covenants and agrees with the holders of the Bond that no use of the proceeds of the Bond shall be made which, if such use had been reasonably expected on the date of issue of the Bond would have caused the Bond to be an "arbitrage bond," as defined in Section 148 of the Code, and to that end the County hereby shall:

(a) comply with the applicable provisions of Sections 54(A)(A), 103 and 141 through 150 of the Code and any regulations promulgated thereunder so long as the Bond is outstanding;

(b) establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and

(c) make such reports of such information at the time and places required by the Code.

SECTION 14. Filings with Central Repository. In compliance with Section 11-1-85 of the SC Code, the County covenants that it will file or cause to be filed with a central repository for further availability in the secondary bond market when requested: (a) a copy of the annual audit of the County within thirty (30) days of the County's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the County, adversely affects more than five percent (5%) of the County's revenue or its tax base.

SECTION 15. Miscellaneous. The County Council hereby authorizes the Chair of County Council, Clerk to County Council, the County Administrator, the County Finance Director and the County Attorney to execute such documents and instruments as necessary to effect the issuance of the Bond. The County Council hereby retains Burr & Forman LLP, as bond counsel in connection with the issuance of the Bond.

This Ordinance shall forthwith be codified in the Code of County Ordinances in the manner prescribed by law.

All rules, regulations, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Bond are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its adoption.

Enacted this ____ day of _____, 2019.

BEAUFORT COUNTY, SOUTH CAROLINA

_____
Chairman, County Council

ATTEST:

_____
Clerk, County Council

Date of First Reading:
Date of Second Reading:
Date of Public Hearing
Date of Third Reading:

EXHIBIT A

FORM OF BOND

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
BEAUFORT COUNTY
GENERAL OBLIGATION BOND, SERIES 2019B
(SHELDON FIRE DISTRICT)

$_____

KNOW ALL MEN BY THESE PRESENTS, that Beaufort County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to _____ in _____, South Carolina (the "Bank"), its successors or registered assigns, the principal sum of $_____ together with interest thereon at the rate of ____% per annum. This Bond is payable in annual installments of principal and interest on _____, _____ to and including _____ in the amount of $_____.

Both the principal of and interest on this Bond are payable at the principal office of the Bank, in _____, in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

[Redemption provisions, if any]

For the payment hereof, the full faith, credit and taxing power of Beaufort County, South Carolina, are hereby irrevocably pledged, and pursuant to Section 4-19-140 of the Code of Laws of South Carolina 1976, as amended (the "SC Code"), and Section 12 of Article X of the Constitution of the State of South Carolina, 1895, as amended (the "Constitution"), there shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, an ad valorem tax, without limit, on all taxable property in the Sheldon Fire District (the "District"), sufficient to pay the principal of and interest on the Bond, as they respectfully mature, and to create such sinking fund as may be necessary therefor.

The County Council of the County (the "County Council") shall give the Auditor and Treasurer of the County written notice of the delivery of and payment for the Bond and they are hereby directed to levy and collect annually, on all taxable property in the District, an ad valorem tax sufficient to pay the principal and interest of the Bond and to create such sinking fund as may be necessary therefor.

This Bond is issued pursuant to and in accordance with the Constitution, including Article X; and laws of the State of South Carolina (the "State"), including Title 4, Chapter 19 and Title 11, Chapter 27 of the SC Code; and Ordinance No. _____ duly enacted by the County Council on _____, 2019 (the "Ordinance").

This Bond and the interest hereon are exempt from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise. It should be noted, however, that Section 12-11-20 of the SC Code imposes upon every bank engaged in business in the State a fee or

franchise tax computed on the entire net income of such bank which would include any interest paid on this Bond to any such bank.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State to exist, to happen and to be performed precedent to or in the issuance of this Bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the amount of this Bond, together with all other indebtedness of the County, does not exceed the applicable limitation of indebtedness under the laws of the State.

IN WITNESS WHEREOF, Beaufort County, South Carolina, has caused this Bond to be signed with the manual or facsimile signature of the Chair of the County Council, attested by the manual or facsimile signature of the Clerk to County Council under the seal of the County impressed, imprinted or reproduced hereon and this Bond to be dated the _____ day of _____, 2019.

BEAUFORT COUNTY, SOUTH CAROLINA

_____
Chair, County Council

(SEAL)

ATTEST:

_____
Clerk, County Council

REGISTRATION

This Bond has been registered in the name of _____ in _____, _____, on the registration books kept by the Clerk to County Council of Beaufort County, South Carolina.

Dated this _____ day of _____, 2019.

_____
Clerk, County Council, Beaufort County, South Carolina

EXHIBIT B

FORM OF REQUEST FOR PROPOSALS

$1,000,000 LIMITED GENERAL OBLIGATION BOND, SERIES 2019B
(SHELDON FIRE DISTRICT)
OF BEAUFORT COUNTY, SOUTH CAROLINA

_____

Time and Place of Sale:

Electronic Mail Bids: Proposals will be accepted by e-mail transmission to the County's Chief Financial Officer at llj@Beaufortcounty.org with copies to Chad Cowan at avitner@firsttryon.com and Frannie Heizer at fheizer@burr.com. The County shall not be responsible for the confidentiality of bids submitted by e-mail transmission.

The Bond: The Bond will be issued in fully registered form, as one single fully registered bond and will be dated its date of delivery.

The Bond will bear interest from the date thereof payable _____ _____ on _____ 1 [and _____ 1] of each year, commencing _____, _____. Interest shall be calculated on a 30-day month and a 360-day year basis, unless otherwise agreed upon by the County Administrator and the purchaser of the Bond.

Principal payments on the Bond will be made in each of the years and in the principal amounts as follows:

(March 1) Year	Principal Amount*

*Preliminary, subject to adjustment.

Adjustment of Principal Payment Schedule. The schedule of principal payments set forth above (the "Principal Schedule") represents an estimate of the principal amounts of the Bond which will be sold. If, after final computation of the bids, the County determines that the Principal Schedule of the Bond should be adjusted in order to maintain structured debt service on all of its outstanding bonds, the County reserves the right either to increase or decrease the principal amount of any principal payment on the Bond and to decrease the par amount of the Bond provided that any such decrease in par amount shall not exceed 15% of the par amount. If increased, the par amount of the Bond shall not exceed the total amount of the Bond authorized to be issued.

In the event of any such adjustment of the Principal Schedule for the Bond as described herein, no rebidding or recalculation of the bids submitted will be required or permitted. Nevertheless, the award of the Bond will be made to the bidder whose proposal produces the lowest true interest cost, without

taking into account any adjustment in the amount of the principal payments on the Bond pursuant to this paragraph.

Redemption: The Bond [will] [will not] be subject to redemption prior to maturity.

Bid Requirements: Bidders shall specify a single, fixed rate of interest for the Bond. Bidders shall specify the rate of interest per annum which the Bond is to bear, to be expressed in multiples of 1/100 of 1%. A bid for less than the entire issue, or a bid at a price less than par, will not be considered. The Bond will be awarded to the bidder or bidders offering to purchase the Bond at the lowest net interest cost to the County, such interest cost to be determined by computing the total dollar interest cost from the date of the Bond to the respective maturity dates. In the case of a tie bid, the winning bid will be awarded based on the earliest bid time. Any fees or costs to be paid by the County to the bidder will be treated as additional interest cost. The County reserves the right to reject any and all bids or to waive irregularities in any bid. Bids will be accepted or rejected no later than 3:00 p.m., South Carolina time, on _____, 2019.

Bid Form: No good faith check is required. It is requested, but not required, that your bid be submitted on the bid form included with this Request for Proposals.

Security: For the payment of the principal of and interest on the Bond, as they respectfully mature, the full faith, credit and taxing power of the County are hereby irrevocably pledged, and pursuant to Section 4-19-140 of the Code of Laws of South Carolina 1976, as amended (the "SC Code"), and Section 12 of Article X of the Constitution of the State of South Carolina, 1895, as amended, there shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, an ad valorem tax, without limit, on all taxable property in the Sheldon Fire District (the "District"), sufficient to pay the principal of and interest on the Bond, as they respectfully mature, and to create such sinking fund as may be necessary therefor.

Legal Opinion: The County shall furnish upon delivery of the Bond the final approving opinion of Burr & Forman LLP, Columbia, South Carolina, which opinion shall accompany the Bond, together with the usual closing documents, including a certificate that no litigation is pending affecting the Bond.

Tax Exemption and Other Tax Matters: The Internal Revenue Code of 1986, as amended (the "Code"), includes provisions that relate to tax-exempt obligations, such as the Bond, including, among other things, permitted uses and investment of the proceeds of the Bond and the rebate of certain net arbitrage earnings from the investment of such proceeds to the United States Treasury. Noncompliance with these requirements may result in interest on the Bond becoming subject to federal income taxation retroactive to the date of issuance of the Bond. The County has covenanted to comply with the requirements of the Code to the extent required to maintain the exclusion of interest on the Bond from gross income for federal tax purposes. Failure of the County to comply with the covenant could cause the interest on the Bond to be taxable retroactively to the date of issuance.

The Code imposes an alternative minimum tax on a taxpayer's alternative minimum taxable income. Interest on the Bond is not an item for tax preference for purposes of the individual alternative minimum tax.

Purchasers of the Bond should consult their tax advisors with respect to collateral tax consequences of ownership of the Bond, such as the calculation of alternative minimum tax, environmental tax or foreign branch profits tax liability, the tax on passive income of S corporations, the inclusion of Social Security or other retirement payments in taxable income, or the portion of interest expense of a financial institution which is allocable to tax-exempt interest.

South Carolina Taxation: The interest on the Bond is exempt from all State taxation except estate or other transfer taxes. Section 12-11-20 of the SC Code imposes upon every bank engaged in business in the State a fee or franchise tax computed at the rate of 4-1/2% of the entire net income of such bank. Regulations of the South Carolina Department of Revenue and Taxation require that the term "entire net income" includes income derived from any source whatsoever including interest on obligations of any state and any political subdivision thereof. Interest on the Bond will be included in such computation.

Investment Letter: The successful purchaser of the Bond will be required to execute a letter to the County acknowledging, among other things, that (1) no official statement or other offering material has been furnished other than the Request for Proposals; (2) the purchaser had an opportunity to make inquiries of, and receive answers from such officials, employees, agents and attorneys of the County; (3) the purchaser has knowledge and experience in financial and business matters and that it is capable of evaluating the merits and risks of its investment in the Bond and is financially able to bear the economic risk of its investment in the Bond; (4) the purchaser is acquiring the Bond as a vehicle for making a commercial loan and without a present view to the distribution or resale thereof (subject, nevertheless, to any requirement of law that the disposition of its property shall at all times be under its control) within the meaning of the Federal securities laws; and (5) the purchaser is acquiring the Bond solely for its own account and no other person now has any direct or indirect beneficial ownership or interest therein.

The purchaser will also be requested to covenant that it will not voluntarily dispose of all or any portion of the Bond unless it procures from each assignee thereof representations and covenants in form and content substantially the same as those made by the purchaser.

Miscellaneous: Bidders are requested to indicate their intentions with respect to subsequent sales or transfers of the Bond. Bidders are also requested to indicate whether any commitment fee will be required or whether the County will be requested to reimburse the successful bidder for out-of-pocket expenses and counsel fees.

Delivery: The Bond will be delivered on or about _____, 2019 in _____, South Carolina. The purchase price then due must be paid in federal funds or other immediately available funds. The costs of issuance of the Bond will be borne by the County.

Additional Information:

BEAUFORT COUNTY, SOUTH CAROLINA

EXHIBIT C

FORM OF NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the County Council of Beaufort County, South Carolina (the "County"), in Beaufort County Council Chambers, 100 Ribaut Road, Beaufort, South Carolina, at 6:00 p.m. on _____, 2019.

The purpose of the public hearing is to consider an Ordinance providing for the issuance and sale of a not to exceed $1,000,000 Limited General Obligation Bond, Series 2019B, or such other appropriate designation (Sheldon Fire District), of Beaufort County, South Carolina (the "Bond"). The proceeds of the Bond will be used for (i) funding capital improvements within the District including constructing and equipping improvements to Sheldon Fire Station 40; (ii) paying costs of issuance of the Bond; and (iii) such other lawful purposes as the County Council shall determine.

For the payment of the principal of and interest on the Bond, as they respectfully mature, the full faith, credit and taxing power of the County are hereby irrevocably pledged, and pursuant to Section 4-19-140 of the Code of Laws of South Carolina 1976, as amended, and Section 12 of Article X of the Constitution of the State of South Carolina, 1895, as amended, there shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, an ad valorem tax, without limit, on all taxable property in the Sheldon Fire District, sufficient to pay the principal of and interest on the Bond, as they respectfully mature, and to create such sinking fund as may be necessary therefor.

At the public hearing all taxpayers and residents of the County and any other interested persons who appear will be given an opportunity to express their views for or against the Ordinance and the issuance of the Bond.

COUNTY COUNCIL OF BEAUFORT COUNTY,
SOUTH CAROLINA

EXHIBIT D

FORM OF NOTICE

NOTICE IS HEREBY GIVEN that the County Council (the "County Council") of Beaufort County, South Carolina (the "County"), on _____, 2019, adopted Ordinance No. ____ entitled "AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF A NOT TO EXCEED $1,000,000 LIMITED GENERAL OBLIGATION BOND, SERIES 2019B, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION (SHELDON FIRE DISTRICT), OF BEAUFORT COUNTY, SOUTH CAROLINA; FIXING THE FORM AND DETAILS OF THE BOND; AUTHORIZING THE COUNTY ADMINISTRATOR OR HIS LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BOND; PROVIDING FOR THE PAYMENT OF THE BOND AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO" (the "Ordinance"). The Ordinance authorizes the issuance and sale of a not to exceed $1,000,000 Limited General Obligation Bond, Series 2019B (Sheldon Fire District) (the "Bond") of the County.

The proceeds of the Bond will be used for (i) funding capital improvements within the District including constructing and equipping improvements to Sheldon Fire Station 40; (ii) paying costs of issuance of the Bond; and (iii) such other lawful purposes as the County Council shall determine.

Pursuant to Section 11-27-40(8) of the South Carolina Code of Laws, 1976, as amended, unless a notice, signed by not less than five (5) qualified electors of the County, of the intention to seek a referendum is filed both in the office of the Clerk of Court of the County and with the Clerk of the County Council, the initiative and referendum provisions of South Carolina law, Sections 4-9-1210 to 4-9-1230, South Carolina Code of Laws 1976, as amended, shall not be applicable to the Ordinance. The notice of intention to seek a referendum must be filed within twenty (20) days following the publication of this notice of the adoption of the aforesaid Ordinance in a newspaper of general circulation in the County.

COUNTY COUNCIL OF BEAUFORT COUNTY,
SOUTH CAROLINA

Sheldon Fire District

	DEBT SERVICE REQUIREMENTS							
	EXISITING LOAN #1	EXISTING LOAN #2	*PROPOSED GO BOND*	TOTAL DEBT SERVICE	MILLAGE RATE	AD VALOREM TAX REVENUES	Estimated Value of 1 Mil	Calculated Value of 1 Mil
FY 2018	$ 10,112	$ 61,934	$ -	**$ 72,046**	3.21	**$ 107,284**	$ 35,228	$ 33,422
FY 2019	$ 10,112	$ 61,934	$ -	**$ 72,046**	3.21	***$ 115,339***	*$ 37,873*	*$ 35,931*
FY 2020	$ 10,112	$ 61,934	*$ 84,715*	**$ 156,761**	*4.36*	***$ 156,761***		
FY 2021	$ 10,112	$ -	*$ 84,715*	**$ 94,827**	*2.64*	***$ 94,827***		
FY 2022	$ 10,112	$ -	*$ 84,715*	**$ 94,827**	*2.64*	***$ 94,827***		
FY 2023	$ 10,112	$ -	*$ 84,715*	**$ 94,827**	*2.64*	***$ 94,827***		
FY 2024	$ -	$ -	*$ 84,715*	**$ 84,715**	*2.36*	***$ 84,715***		
FY 2025	$ -	$ -	*$ 84,715*	**$ 84,715**	*2.36*	***$ 84,715***		
FY 2026	$ -	$ -	*$ 84,715*	**$ 84,715**	*2.36*	***$ 84,715***		
FY 2027	$ -	$ -	*$ 84,715*	**$ 84,715**	*2.36*	***$ 84,715***		
FY 2028	$ -	$ -	*$ 84,715*	**$ 84,715**	*2.36*	***$ 84,715***		
FY 2029	$ -	$ -	*$ 84,715*	**$ 84,715**	*2.36*	***$ 84,715***		
FY 2030	$ -	$ -	*$ 84,715*	**$ 84,715**	*2.36*	***$ 84,715***		
FY 2031	$ -	$ -	*$ 84,715*	**$ 84,715**	*2.36*	***$ 84,715***		
FY 2032	$ -	$ -	*$ 84,715*	**$ 84,715**	*2.36*	***$ 84,715***		
FY 2033	$ -	$ -	*$ 84,715*	**$ 84,715**	*2.36*	***$ 84,715***		
FY 2034	$ -	$ -	*$ 84,715*	**$ 84,715**	*2.36*	***$ 84,715***		
	$ 50,560	**$ 123,868**	***$ 1,270,725***	**$ 1,445,153**				

Sheldon Fire District's Debt Service Fund Balance as of June 30, 2018, was $77,872.

Notes:

The annual debt service of the proposed general obligation bond is assuming an interest rate of 3.9%.

Fiscal Year 2019 revenues and value of 1 mil are projected, not actual. Fiscal Years 2020 - 2034 are projections based on Fiscal Year 2019 mil value staying constant.

The estimated value of 1 mil is derived using the County Assessor's projections in the spring of each year to estimate the value of 1 mil for each taxing district in Beaufort County. The estimated value of 1 mil does not account for appeals, changes in valuation, adjustments, exemptions, etc. that can occur throughout each tax year.

The calculated value of 1 mil is derived using the fiscal year's ad valorem tax revenues divided by the approved millage rate to determine the revenue producing value of 1 mil.

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Animal Control Ordinance Amendments

Council Committee:

Governmental February 25, 2019 recommend approval with amendments

Meeting Date:

County Council March 25, 2019

Committee Presenter (Name and Title):

Tallulah Trice, Animal Services Director and Chris Inglese, Assistant County Attorney

Issues for Consideration:

Amendments coming out of Committee:
1. Added definition of "provocation"
2. removed Sec. 14-32 paragraph 6 down to a subset (b) and added language clarifying discretionary power of magistrate
3. added language holding in abeyance the temporary restraints in instance when ASO takes temporary possession of a dangerous animal

Points to Consider:

Municipalities have all passed first reading. Once County Council approves on first reading and second reading (with public hearing) we will request the municipalities move forward with second/final reading.

Funding & Liability Factors:

None.

Council Options:

Approve, Deny, Approve with Amendments

Recommendation:

Approve proposed amendments as recommended by Governmental Committee.

Proposed Amendments to address comments from Governmental Cmte. January 28, 2019

Definitions- add definition of "Provocation"

- **Provocation**- an intentional action or statement made to incite anger, aggression, annoyance or a violent response.

- **Sec. 14-32. – Dangerous animals.**
  (a) For the purposes of this section, a dangerous or vicious animal *shall* be defined to be any one of the following:
  (1) An animal which the owner knows or reasonably should know has a propensity, tendency, or disposition to attack unprovoked, cause injury, or to otherwise endanger the safety of human beings or domestic animals;
  (2) An animal which makes an unprovoked attack that causes bodily injury to a human being and the attack occurs in a place other that the place where the animal is confined;
  (3) An animal which commits unprovoked acts in a place other than the place where the animal is confined and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being;
  (4) An animal which is owned or harbored primarily or in part for the purpose of fighting or which is trained for fighting;
  (5) An animal which is used as a weapon in the commission of a crime;
  (~~6) An animal which causes serious injury to a human being, other than the owner, regardless of provocation or location.~~

  (b) Notwithstanding paragraph (a) above, a Magistrate Judge *may* deem an animal a Dangerous Animal, after considering the totality of the circumstances, regardless of location of an attack or provocation, *when an attack results in serious injury to a human*.

- (~~b~~c) Declaration of a dangerous animal, confinement requirements, and final determination of danger animal declaration~~.~~…
  (2) When, in the discretion of an animal services officer or law enforcement officer, the animal initially determined to be dangerous has caused injury to another animal or human, the officer may take temporary possession of the animal during the pendency of the final dangerous dog determination hearing before a Magistrate Judge. When an animal services officer or law enforcement officer takes temporary possession of an animal pursuant to this section, the requirements of paragraphs a through e below shall be held in abeyance during the pendency of a hearing.

ORDINANCE NO. 2019 / ___

TEST AMENDMENTS TO THE BEAUFORT COUNTY CODE OF ORDINANCES, CHAPTER 14: ANIMALS

WHEREAS, Beaufort County Animal Services ("BCAS") have been engaged in the enforcement of Chapter 14 of the Beaufort County Code of Ordinance; and

WHEREAS, BCAS have the experience to make recommendations for the improvements and amendments to Chapter 14; and

WHEREAS, BCAS have been enforcing Chapter 14 in the municipalities pursuant to those certain Intergovernmental Agreements entered into between Beaufort County and the four municipalities in 2016; and

WHEREAS, the Town of Hilton Head Island, the Town of Bluffton, City of Beaufort and the Town of Port Royal have all considered and approved (on First Reading) the recommended amendments; and

NOW, THEREFORE, BE IT ORDAINED that County Council, at a duly assembled meeting, hereby approves the text amendment shown below where in added text is highlighted in yellow and deleted text is ~~struck through~~:

DONE this ___ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

First Reading,
Second Reading:
Public Hearing:
Third and Final Reading:

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Chapter 14 - ANIMALS[1]

Footnotes:

--- (**1**) ---

Cross reference— Environment, ch. 38; health and sanitation, ch. 46; agricultural use regulations, § 106-1156 et seq.

ARTICLE I. - IN GENERAL

Secs. 14-1—14-25. - Reserved.

ARTICLE II. - ANIMAL CONTROL[2]

Footnotes:

--- (**2**) ---

Editor's note— Ord. No. 2015/27 , adopted Oct. 12, 2015, amended art. II in its entirety to read as herein set out. Former art. II pertained to the same subject matter, consisted of §§ 14-26—14-37, and derived from Ord. No. 2010/7, adopted Apr. 26, 2010 ; Ord. No. 2010/27, adopted Nov. 8, 2012 ; Ord. No. 2015/18, adopted Jun. 23, 2015 ; Ord. No. 2015/23, adopted Aug. 10, 2015 ; and Ord. No. 2015/26, adopted Sept. 28, 2015 .

Sec. 14-26. - Authority for and enactment of chapter.

Sec. 14-26. - Authority for and enactment of chapter.

This article is hereby authorized by S.C. Code 1976, § 47-3-20, as amended. (Ord. No. 2015-27, 10-12-2015)

Sec. 14-27. - Definitions.

Whenever used in this chapter, unless a contrary intention is clearly evidenced, the following terms shall be interpreted as herein defined.

Abandonment shall mean to desert, forsake, or intend to give up absolutely a pet or livestock without securing another owner or without providing for adequate food, water, shelter, and care. An animal is considered abandoned when it has been left unattended for 24 hours.

Animal shall mean a live vertebrate creature except a human being.

Animal services director means any person so appointed by the county administrator.

Animal services facility shall mean any facility so designated by the county council.

Animal services officer shall mean any person employed by the county as an enforcement officer of the provisions of this chapter.

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BCAS shall mean Beaufort County Animal Services, any place or premises designated by Beaufort County Council for the purpose of impounding, care, adoption, or euthanasia of dogs and cats held under the authority of this chapter.

Breeder shall mean any person owning unaltered pets with the intent of selling pets' offspring.

Domestic shall mean any animal which shares the genetic makeup and/or physical appearance of its ancestors, which were historically domesticated for human companionship and service.

Dub shall mean to trim or remove.

Feral shall mean any animal that was domesticated at one time, but now lives in the wild or a controlled colony, or that have been born in the wild and have not been domesticated.

Infraction shall mean a breach, violation, or infringement of this chapter for which the only sentence authorized is a fine and which violation is expressly designated as an infraction. Infractions are intended to carry a civil penalty without the possibility of jail and thus are non-criminal in nature.

Kennel shall mean a small shelter for a dog, cat or other animal.

Livestock shall mean all classes and breed of animals, domesticated or feral, raised for use, sale or display.

Muzzle shall mean a guard, typically made of straps or wire, fitted over part of an animal's face to stop it from biting or feeding.

Non-domestic shall mean any animal which shares the genetic makeup and/or physical appearance of its ancestors, which were not historically domesticated for human companionship and service.

Nuisance shall mean a pet or livestock that disturbs the rights of, threatens the safety of, or damages a member of the general public, or interferes with the ordinary use and enjoyment of their property.

Owner shall mean any person who:

1. Has a property right in an animal;

2. Keeps or harbors an animal or who has it in his or her care or acts as its custodian; or

3. Permits an animal to remain on or about any premises occupied by him or her for three or more days.

Pet shall mean any animal which may be legally held as a pet by a private citizen without special permit or permission; i.e., dog (canis familiaris) and/or a domestic cat (felis catus domesticus).

Pit Bull shall mean any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, American Bulldog, American Bully, Cane Corso, or any dog that exhibits physical characteristics which predominantly conform to the standards established by the American

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Kennel Club (AKC), United Kennel Club (UKC), or American Dog Breeders Association (ADBA) for any of the above breeds.

Provocation shall mean an intentional action or statement made to incite anger, aggression, annoyance or a violent response.

Serious injury shall mean death or any physical injury that results in severe bruising, muscle tears, or skin lacerations requiring sutures or other professional medical treatment or requires corrective or cosmetic surgery.

Shelter shall mean a structure made of durable material with 4 walls, a roof and floor, that allows retention of body heat and is of suitable size to accommodate the animal and will reasonably be expected to protect the animal from physical suffering or impairment of health due to exposure to the elements or adverse weather.

Tethering shall mean a chain, rope, leash, cable, or other device that attaches the pet via a collar or harness to a single stationary point.

Strict voice control shall mean demonstrable control or governance of the behavior of any animal as if such animal were controlled by a leash. However, when an animal destroys or damages any property, attacks, threatens to attack, or interferes with any person in any manner, becomes a nuisance, or strays onto the private property of another, there shall be a presumption of law that the animal was not under strict voice control.

Unaltered shall mean a pet which has not been spayed or neutered.

Under restraint shall mean when any pet that is off the property of the owner is controlled by a leash; is within the property limits of its owner and is confined by fence, chain, or other appropriate measure; or confined by fence, chain, or other appropriate measure within the property of another with permission of the person in control of the property.

(Ord. No. 2015/27, 10-12-2015)

Cross reference— Definitions generally, § 1-2. **Sec. 14-28. - County pet license; rabies vaccination tags.**

It shall be unlawful for the owner of any pet to fail to provide any pet over four months of age with a current county annual or lifetime license. The owner of any pet over four (4) months of age must also have a current rabies vaccination tag securely attached to a collar or harness and be visible as proof the pet has been vaccinated by a licensed veterinarian. No county license will be issued unless proof of rabies inoculation is shown. Any pet owner who moves into the county for the purpose of establishing residency shall have 30 days in which to obtain the license.

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-29. - Lifetime/annual pet license issuance, fees and exemptions.

(a) Eligibility. The owner of a pet after being spayed/neutered and permanently identified, may apply to BCAS for a lifetime license; the lifetime pet license is only for Beaufort County, South Carolina.

(b) Permanent identification requirement. A person applying for an annual license or lifetime license shall choose either a tattoo, a BCAS approved tag, or implantation of a microchip as the means of permanent identification for the pet. Lifetime licenses are transferable to new owners, upon the new owner completing a new BCAS pet license application, permanent identification form and when applicable, a new registration with the micro-chipping company. For permanent identification of restricted breeds, see Section 14-30.

(c) Pets previously microchipped. If a person has previously had a microchip implanted for his/her pet and seeks to obtain a lifetime license for the pet, the applicant shall:

(1) Obtain and complete both a lifetime license application and a verification of permanent identification form as prescribed by BCAS.

(2) Have a licensed veterinarian or shelter employee scan the pet to assure the microchip has been properly implanted and to obtain the identifying number of the microchip.

(3) The pet owner and the licensed veterinarian shall complete, date, and sign the verification of a permanent identification form for the pet in which the microchip was scanned. The verification of permanent identification form must set forth the identifying number of the microchip scanned, identify the pet by breed and delineate the age, sex, color, and markings and whether it has been spayed or neutered. In addition, it must contain the name, address, and phone number of the pet's owner and the name, business address, and phone number of the person scanning the microchip number. If a veterinarian is involved, the veterinarian shall set forth his/her veterinary practice license number on the verification of permanent identification form.

(d) County license and fees.

The Director of BCAS shall establish a fee schedule subject to the approval of County Council.

All pet owners of dogs and cats in Beaufort County shall obtain either a lifetime or annual pet license.

Lifetime pet license. To be eligible for a lifetime pet license a pet shall:

(1) Be spayed or neutered

(2) Microchipped

(3) Pay the appropriate one-time fee per the published fee schedule.

Annual Pet license. All other pets shall be subject to an annual pet license and annual fee, except that the following exemptions may be eligible for a lifetime license:

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(1) Any owner of a pet who can furnish a statement from a licensed veterinarian that the pet, due to health reasons, could not withstand spay/neuter surgery may receive a lifetime license.

(2) Any owner of a dog that is currently being used for hunting purposes. Owner must provide a copy of a valid South Carolina hunting license by the proper state agency and proof that the dog is properly registered with the South Carolina Department of Natural Resources. Under this exemption, the dog owner may receive a lifetime license without spaying or neutering the dog.

(Ord. No. 2015/27, 02-01-2018)

Sec. 14-30. - Declaration of restricted dog, appeal of breed determination.

(a) For the purposes of this section, a restricted dog shall be defined as a Pit bull.

(b) No person may own, keep, or harbor a restricted dog in violation of this section.

(c) An owner or custodian of restricted dogs must have the dog spayed or neutered unless the owner of the restricted dog provides BCAS written proof one of the following exemptions applies:

(1) The restricted dog is less than four months of age;

(2) A licensed veterinarian has examined the animal and signed a written certificate stating that at such time spaying or neutering would endanger the animal's health because its age, infirmity, disability or other medical consideration. The certificate shall state the period of exemption from this requirement and shall not be valid for more than 12 months from the date of issuance.

(3) The determination of the dog's breed is under appeal pursuant to section 14-30(f);

(4) The owner or custodian has owned or had custody of the dog less than 30 days.

(d) An owner or custodian of a restricted dog must provide for the dog's permanent identification by implantation of a BCAS approved microchip.

(e) Determination of breed and appeal of determination.

(1) Determination. The director of BCAS or his or her designee, in his or her discretion, may make an initial breed determination upon contact with, or impoundment of a dog. The determination shall be made by the director or designee in accordance with BCAS's breed determination checklist. Technical deficiency in the dog's conformance to the standards defined in section 14-27 for pit bulls shall not be construed to indicate the dog is not a pit bull dog under this section.

(2) Notice. Upon determination of the breed, the animal services officer shall deliver written notice of determination to the owner or any adult residing at the premises where the animal is located or by posting on the premises if no adult is present. The notice shall include the

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determination of breed, mandatory spay and neuter requirements, an administrative penalty and notice of appeal process.

(3) [Compliance.] The owner or custodian of an unaltered restricted dog shall comply with this article within 10 days after receipt of notice of restricted dog determination. Upon compliance, the owner or custodian shall submit written documentation to BCAS confirming compliance. If ownership of the dog is transferred within the time for compliance the original owner or custodian must provide BCAS with the new owner's name and address.

(f) Appeal. Notice of a declaration of breed determination constitutes a final determination that the dog is a restricted dog, unless the owner or custodian requests a hearing in writing to the Beaufort County Magistrate Court within ten days of service of the notice.

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-31. - Pet breeder license, inspection and fees.

It shall be unlawful for a pet breeder to fail to obtain a county pet breeder license. The requirements for such a license are as follows:

(a) Individuals engaged or intending to engage in breeding, , must obtain a non-transferable, pet breeder license from BCAS.

(b) Applicants must have a valid county annual pet license and microchip for all pets before applying for the pet breeder license.

(c) BCAS shall conduct an inspection of the identified property for the pet breeders license requested by the applicant to determine whether the applicant qualifies to hold a pet breeder license pursuant to this section.

(d) To qualify for a pet breeder license the applicant must demonstrate the following:

(1) The enclosure where the pets are being kept shall be constructed in such a manner that any pets housed there will be adequately and comfortably kept in any season of the year.

(2) All pet enclosures must be constructed in such a manner they can be easily cleaned and sanitized. Any kennels or yards that are connected or are used to confine the pets must be kept clean and free from accumulations of feces, filth, mud, and debris.

(3) Every pet on the premises must have access to sufficient good and wholesome food, and water at all times.

(4) The premises must be set up in such a manner as to not allow pets to stray beyond its enclosed confines. The setup must also prevent the public and stray animals from obtaining entrance into or gaining contact with any pets on the premises.

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(e) A license will not be issued to an applicant that has pled no contest, or has been found to have violated any federal, state, or local laws or regulations pertaining to animal cruelty within five years of the date of application.

(f) The pet breeder license fee published in the fee schedule approved by County Council. The license shall expire 365 days after the date it is issued.

(g) Any violations found under the provisions of this chapter shall be grounds for the suspension of the pet breeder license if deemed necessary by the Beaufort County Animal Services.

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-32. – Dangerous animals.

(a) For the purposes of this section, a dangerous or vicious animal shall be defined to be any one of the following:

(1) An animal which the owner knows or reasonably should know has a propensity, tendency, or disposition to attack unprovoked, cause injury, or to otherwise endanger the safety of human beings or domestic animals;

(2) An animal which makes an unprovoked attack that causes bodily injury to a human being and the attack occurs in a place other that the place where the animal is confined;

(3) An animal which commits unprovoked acts in a place other than the place where the animal is confined and those acts cause a person to reasonably believe that the animal will attack and cause bodily injury to a human being;

(4) An animal which is owned or harbored primarily or in part for the purpose of fighting or which is trained for fighting;

(5) An animal which is used as a weapon in the commission of a crime;

~~(6) An animal which causes serious injury to a human being, other than the owner, regardless of provocation or location.~~

(b) Notwithstanding paragraph (a) above, a Magistrate Judge may (or may not) deem an animal a Dangerous Animal, after considering the totality of the circumstances, regardless of location of an attack or provocation, *when an attach results in serious injury to a human*.

(c) Declaration of a dangerous animal, confinement requirements, and final determination of danger animal declaration.

(1) Declaration. An animal services officer or law enforcement officer, in his or her discretion, may make an initial determination that an animal is dangerous. Upon the initial determination, the officer shall deliver written notice to the owner or any adult residing at the premises where the animal is located or by posting on the premises if no adult is present. The notice shall include a description of the animal, a hearing date, confinement requirements and registration requirements.

(2) When, in the discretion of an animal services officer or law enforcement officer, the animal initially determined to be dangerous has caused injury to another animal or human, the officer may take temporary possession of the animal during the pendency of the final dangerous dog determination hearing before a Magistrate Judge. When an animal services officer or law enforcement officer take temporary possession of an animal pursuant to the section, the

requirements of paragraph “a” through “e” below shall be held in abeyance during the pendency of a hearing.

(3) Confinement requirements and registration. Every dangerous animal, as determined under this section, shall be confined by the owner within 72 hours of the notice of dangerous dog determination and until the final determination of the dangerous dog declaration:

a. All dangerous animals shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides.

b. The pen or kennel must be clearly marked as containing a dangerous animal.

c. No person shall permit a dangerous animal to go outside its kennel or pen unless such animal is securely leashed and muzzled with a leash no longer than six feet in length.

d. The owner of a dangerous animal must provide BCAS with proof of liability insurance or surety bond of at least $50,000.00.

e. The owner must obtain a dangerous animal registration/license from BCAS and pay a fee on the BCAS fee schedule subject to County Council approval.

(3) Final determination of dangerous animal declaration. Notice of a declaration of a dangerous animal constitutes an initial determination that the animal is dangerous or potentially dangerous. A final determination shall be made by the Beaufort County Magistrate Court within 30 days or as soon as practicable.

(e) Exemptions. A dog working in a law enforcement capacity with a governmental agency and in the performance of the dog's official duties.

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-33. - Running at large.

(a) [Unlawful.] It shall be unlawful for any owner or custodian of any dog to permit the same to run at large except on property owned or rented by the owner or custodian. All dogs, must be kept under restraint or confinement and under the physical control of the owner or custodian by means of a leash or other physically attached similar restraining device.

(b) Exemption. Except as provided herein, no person shall bring or allow any dog, or any other animal on the beach that is not at all times on a leash between the hours of 10:00 a.m. and 5:00 p.m. from April 1 through the Thursday before Memorial Day weekend and from the Tuesday after Labor Day weekend through September 30. No person shall bring or allow any dog, or any other animal, on the beach between the hours of 10:00 a.m. and 5:00 p.m. from the Friday before Memorial Day weekend through the Monday of Labor Day weekend. No person shall bring or allow any dog or any other animal on the beach that is not on a leash or under positive voice control of the responsible person between 5:00 p.m. and 10:00 a.m. from April 1 through September 30. No person shall bring or allow any dog or any other animal on the beach that is not on a leash or under positive voice control at any hour from October 1 through March 31.

No person shall permit any excrement from any animal under that person's control to remain on the beach, but shall dispose of same in a sanitary manner.

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From April 1 through the Thursday before Memorial Day weekend and from the Tuesday after Labor Day weekend through September 30 of each year, dogs or any other animal, other than seeing-eye dogs, shall not be allowed in any designated swimming area unless on a leash and walking through the area between 10:00 a.m. and 5:00 p.m.

(c) Exempt dogs. Dogs that are participating in hunting events, obedience trials, conformation shows, tracking tests, herding trials, lure courses and other events similar in nature shall not be considered "at large."

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-34. - Nuisance pets or livestock.

(a) The actions of a pet or livestock constitute a nuisance when a pet or livestock disturbs the rights of, threatens the safety of or injures a member of the general public, or interferes with the ordinary use and enjoyment of their property.

(b) It shall be unlawful for any person to own, keep, possess, or maintain a pet or livestock in such a manner so as to constitute a public nuisance. By way of example, and not of limitation, the following acts or actions by an owner or possessor of any pet or livestock are hereby declared to be a public nuisance and are, therefore, unlawful:

(1) Failure to exercise sufficient restraint necessary to control a pet or livestock as required by section 14-33.

(2) Allowing or permitting a pet or livestock to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers or damaging gardens, flowers, or vegetables.

(3) Failure to maintain a dangerous animal in a manner other than that which is described in section 14-32.

(4) Maintaining pets or livestock in an environment of unsanitary conditions which results in offensive odors or is dangerous to the pet or livestock or to the public health, welfare, or safety.

(5) Maintaining his or her property in a manner that is offensive, annoying, or dangerous to the public health, safety, or welfare of the community because of the number, type, variety, density, or location of the pets or livestock on the property.

(6) Allowing or permitting a pet or livestock to bark, whine, or howl in an excessive, unwarranted, and continuous or untimely fashion, or make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises.

(7) Maintaining a pet or livestock that is diseased and dangerous to the public health.

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(8) Maintaining a pet or livestock that habitually or repeatedly chases, snaps at, attacks, or barks at pedestrians, bicycles, or vehicles.

(9) Every female pet or livestock in heat shall be confined in a building or secure enclosure in such a manner as will not create a nuisance by attracting other pets or livestock.

(c) A pet or livestock that has been determined to be a habitual nuisance by BCAS may be impounded and may not be returned to the owner until said owner can produce evidence to demonstrate that the situation creating the nuisance has been abated.

(Ord. No. 2015/27, 10-12-2015)

(d) It shall be unlawful for any owner of any animal to allow the animal to disturb any person by excessive, unrelenting, or habitual barking, howling, yelping, or other audible sound. In addition to being a violation of this Section, the same is hereby declared to be a public nuisance that may be abated pursuant to the provisions specified in Chapter 14 of this Code.

(1) No person shall be charged with violating this Section unless a written warning was given to the owner or person in custody of the animal by an Animal Services Officer or police officer within 12 months preceding the first date alleged as a date of violation in the complaint. A warning is given under this subsection if it is personally given to the owner or person in custody of the animal, or it is posted upon the property of the owner or person in custody or mailed first-class to such person. Such records are prima facie evidence that such warnings were given.

(2) No administrative penalty or summons shall be issued and no person shall be convicted at trial for violating this Section unless two or more witnesses from different households testify to the loud and persistent or loud and habitual nature of the noise, or unless there is other evidence corroborating the testimony of a single witness.

(Ord. No. 2015/27, 02-01-2018)

Sec. 14-35. - Animal cruelty.

(a) Animal care generally. It shall be unlawful for an owner to fail to provide his animals with sufficient good and wholesome food, water at all times, proper shelter and protection from weather, and humane care and treatment.

(b) Mistreatment. It shall be unlawful for a person to beat, cruelly treat, torment, overload, overwork, or otherwise abuse an animal or cause, instigate, or permit any dogfight or other combat between animals or between animals and humans.

(c) Physical alteration. It shall be unlawful for a person to dye or color artificially any animal or fowl, including, but not limited to, rabbits, baby chickens, and ducklings, or to bring any dyed or colored animal or fowl into the county. No person shall crop or dub a pet or livestock's ears or tail or wattle or comb, except a licensed veterinarian.

(d) Abandonment. It shall be unlawful for any owner to abandon an animal.

(e) Unlawful tethering. No person owning or keeping a dog shall chain or tether a dog to a stationary object, including, but not limited to, a structure, dog house, pole, stake, or tree in any manner or by any method that allows the dog to become entangled or injured. A tethering device employed shall not allow the dog to leave the owner's, guardian's or keeper's property. The tether shall be designed for dogs and devices not designed for tethering dogs shall not be used. Only a properly fitted harness, collar or other tethering device specifically designed for the dog may be used. No chain or tether shall weigh more than one-eighth of the dog's body weight. When tethered to a stationary object, the tethering device shall be attached to the dog's harness or collar and not directly to the dog's neck. Nothing in this section shall be construed to prohibit a person from walking a dog on a hand-held leash. No dog under the age of six months shall be tethered outside for any length of time, unless under direct supervision of an adult over the age of 18 years old.

(f) No animal shall be tethered during any named Tropical Storm or named Hurricane expected to impact Beaufort County or whenever flooding could occur. For the purpose of this section, a Tropical Storm or named Hurricane is expected to impact Beaufort County when a Tropical Storm Watch, Warning or evacuation or a Hurricane Watch, Warning or evacuation is in effect for Beaufort County.

(1) A person owning or keeping a dog may confine such dog outside, subject to the restrictions in this section, through the use of any of the following methods:

a. Inside a pen or secure enclosure; or

b. A fully fenced, electronically fenced or otherwise securely enclosed yard, wherein a dog has the ability to run but is unable to leave the enclosed yard; or

c. The length of the tether from the cable run to the dog's collar or harness shall allow continuous access to clean water and appropriate shelter at all times.

(2) Exceptions to the above restrictions on outdoor confinement shall be made for dogs actively engaged in conduct directly related to the business of shepherding or herding cattle or other livestock or engaged in conduct that is directly related to the business of cultivating agricultural products, if the restraint is reasonably necessary for the safety of the dog.

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-36. - Sale of animals, pets or livestock.

(a) No person shall sell, trade, barter, auction, lease, rent, give away, or display for commercial purpose, any live animal, pet or livestock on any roadside, public right-of-way, public property, commercial parking lot or sidewalk, or at any flea market, fair, or carnival.

(b) No person shall offer an animal, pet or livestock as an inducement to purchase a product, commodity, or service.

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(c) No person shall sell, offer for sale, or give away any animal or pet four (4) weeks of age, except as surrender to the county animal services facility or to a licensed pet rescue organization.

(d) Licensed pet shops, commercial kennels, county animal services facilities, and licensed pet rescue organizations are exempt from the requirements of this section 14-36.

(e) Any sale of wildlife will be reported to the South Carolina Department of Natural Resources, United States Department of Agriculture, and United States Fish and Wildlife Service.

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-37. - Seizure and right of entry to protect abandoned, neglected, or cruelly treated pets or livestock.

(a) Seizure and right of entry. If the owner does not give permission to the animal services officers for right of entry on private property to examine suspected abandoned, neglected or cruelly treated pets or livestock, the animal services officers shall petition the appropriate magistrate for an animal pickup order or a search warrant for the seizure of the pet or livestock to determine whether the owner, if known, is able to adequately provide for the pet or livestock and is a fit person to own the pet or livestock.

(b) Citation. The animal services officers shall cause to be served upon the owner, if known, and residing within the jurisdiction wherein the pet or livestock is found, a written citation at least five days prior to the hearing containing the time and date and place of the hearing. If the owner is not known or cannot be found within the jurisdiction wherein the pet or livestock was found, the animal services officers shall post a copy of the notice at the property where the animal was seized.

(c) Custody. The pet or livestock shall remain in the custody and care of BCAS until such matter is heard before a magistrate. The magistrate shall make the final determination as to whether the pet or livestock is returned to the owner or whether ownership is transferred to the BCAS whereby the pet or livestock may be put up for adoption or humanely euthanized. If the magistrate orders the return of the pet or livestock to its owner, BCAS shall release the pet or livestock upon receipt from the owner of all redemption fees as described in section 14-39, below.

(d) Nothing in this section shall be construed to prohibit the euthanasia of a critically injured or ill animal for humane purposes.

(Ord. No. 2015/27, 02-01-2018)

Sec. 14-38. - Impoundment.

(a) Any pet or livestock found within the county in violation of the provisions of this chapter may be caught and impounded by BCAS. BCAS may, thereafter, make available for adoption or humanely euthanize impounded pets or livestock not positively identified or redeemed within five working days.

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(b) When a person arrested is, at the time of arrest, in charge of an animal, BCAS may take charge of the animal and deposit the animal in a safe place of custody or impound the pet or livestock at its animal care facility.

(c) The owner of a pet or livestock that may be positively identified shall be notified at the owner's last known address by registered mail if attempts by telephone are not successful. The owner has 10 days from the date of mailing to contact BCAS for pick-up. Redemption costs will include the cost of mailing, any established costs, fines, fees, or other charges. If the owner does not make contact within 10 days of the date of mailing, the pet or livestock will be deemed abandoned and becomes the property of BCAS. For pets or livestock impounded at BCAS, the director of animal services, or his/her designee in agreement with a licensed veterinarian, shall either place the pet or livestock for adoption or have the pet or livestock humanely euthanized, pursuant to S.C. Code, § 47-3-540 (Supp. 1999).

(d) Notwithstanding the above, pets or livestock impounded at BCAS, which are deemed by the director of animal services, or his/her designee or a licensed veterinarian to constitute a danger to other pets, livestock or persons at the facility, or which are infectious to other pets or livestock, in pain or near death may be humanely euthanized immediately.

(e) Any pet or livestock surrendered to BCAS may be adopted or euthanized at any time provided there is a completed and signed surrender form on file for the pet or livestock concerned.

(Ord. No. 2015/27, 10-12-2015)

(f) Only government agencies or organizations that are contracted with a government agency to perform animal control services have the authority to impound animals. All stray animals must be taken or reported to the Beaufort County Animal Shelter and or affiliated organizations as soon as possible for the mandatory holding period.

Sec. 14-39. - Redemption.

(a) The owner or keeper of any pet or livestock that has been impounded under the provisions of this chapter, and which has not been found to be dangerous or vicious, shall have the right to redeem such pet or livestock at any time when proper ownership has been confirmed by BCAS personnel; upon payment of a fee as follows:

(1) For a pet or livestock that has not been properly inoculated, licensed, micro chipped, and spayed or neutered, the BCAS director of animal services or his/her designee, may issue a warning or Administrative Citation for the first offense at their discretion after a thorough investigation of the circumstances. Redemption fees shall be published on the BCAS fee schedule and be subject to County Council approval.

(2) In addition to the administrative penalty, for a pet or livestock not properly inoculated, licensed, microchipped and spayed or neutered, an appropriate microchip license fee, the

charge for rabies inoculation, and the cost of spaying or neutering the pet or livestock may be charged to the owner.

(3) Pets or livestock will not be released without proof of inoculation and without an implanted microchip. The requirements of spaying or neutering shall not be waived under the exceptions in subsections 14-29(e)(1)—(4) when the pet or livestock (as appropriate) has been impounded a second time for any violations of sections14-32, 14-33, 14-34, or 14-35.

(b) In addition to the redemption fee, a boarding fee after 24 hours per the published fee schedule per day per pet or livestock shall be paid by the owner or keeper when a pet or livestock is redeemed.

(c) The fees set out in this section shall be doubled for any pet or livestock impounded twice or more within the same 12-month period.

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-40. - Adoption. (a) Any pet or livestock impounded under the provisions of this chapter may, at the end of the legal detention period, be adopted provided the new owner will agree to comply with the provisions contained herein.

(b) Any pet or livestock surrendered to BCAS may be adopted at any time provided there is a completed and signed surrender form on file for the pet or livestock concerned.

(c) Those individuals adopting puppies or kittens too young to be neutered or spayed or receive rabies inoculations will pay the cost of these procedures at the time of adoption and be given an appointment for a later time to have these procedures completed. In the event the pet is deceased prior to the appointment date, the applicable portion of the adoption fee will be returned.

(d) The county animal services director or designee shall have the authority to refuse adoption of any animal to any person deemed unable to provide proper shelter, confinement, medical care and food or to any person who has a past history of inhumane treatment of or neglect to pets or livestock. Any person seeking adoption of a pet or livestock more frequently than 90 from the last adoption shall be subject to refusal of adoption. Any person who has been refused adoption of a pet or livestock may appeal his case to the assistant county administrator for public safety. If any person surrenders an owned pet or livestock to the animal services department, they will not be able to adopt a pet or livestock for 90 days from the date of the original surrender.

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-41. - Trapping.

(a) It shall be unlawful for any person or business to conduct trapping of any pets, livestock or domestic animals within Beaufort County without prior approval from the animal services department. Any pets, livestock or domestic animals trapped with prior approval from the animal services department will be reported or delivered to the animal services department for purposes of identification of the pet's

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owner and record keeping of the trapping. It shall be unlawful for any person to remove, destroy, or liberate any trap and/or trapped animal set by the Beaufort County Animal Services Department or enter any animal services vehicle with the intent to rescue or deliver it from the custody of the animal services department. If a trapped animal is in need of immediate attention, the animal services department or 911 will be notified immediately of the animal in distress.

(b) Exemption. Trapping is permitted for hogs.

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-42. - Management of feral cat colonies.

(a) Definitions.

Caregiver means any person who provides food, water or shelter to or otherwise cares for a feral cat colony and has made application to the animal services department for management of a feral cat colony.

Caregiver manager means any person in charge of a caregiver program.

Ear tipping means straight-line cutting of the tip of the left ear of a cat while the cat is anesthetized.

Feral cat means a cat which currently exists in a wild or untamed state.

Feral cat colony means a group of cats that congregate. Although not every cat in a colony may be feral, non-feral cats routinely congregate with a colony shall be deemed to be a part of it.

Nuisance means disturbing the peace by:

(1) Habitually or continually howling, crying or screaming, or

(2) The habitual and significant destruction of property against the wishes of the owner of the property.

Suitable shelter means shelter that provides protection from rain, sun and other elements and is adequate to protect the health of the cat.

TNR means trap, neuter/spay and release.

TNA program means a program pursuant to which cats are trapped, neutered or spayed, vaccinated against rabies, ear tipped or tattooed and released to a designated location of a managed colony.

(b) Feral cat colony management. Feral cat colonies shall be permitted (no fee) by the Beaufort County Animal Services Department and caregivers shall be responsible for applying for the permit for each colony and be entitled to maintain them in accordance with the terms and conditions of the BCAS policy on feral cat colony management, once the permit is approved by animal services department.

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(Ord. No. 2015/27, 10-12-2015)

Sec. 14-43. - Livestock.

(a) All livestock shall be properly housed with adequate food, water and confined within a fenced enclosure. The fenced enclosure shall be maintained in such a manner as to keep any average livestock animal from escaping the enclosed compound and causing damage, accidents or injury to any person or property. No person shall tie, stake or fasten any livestock within any street, highway, road, alley, sidewalk, right-of-way, or other public place within the county or in such manner that the animal has access to any portion of any street, highway, road, alley, sidewalk, right-of-way, or other public place.

(b) Owners or possessors of livestock impounded for violation of this article or any state and/or federal laws, will be charged in accordance with actual costs of impoundment plus impounding and boarding fees.

(c) Impounded livestock shall be held for a period of ~~21~~ 10 days. If such impounded animals are not claimed by the owners during that period of time, the animals may be given to persons willing to accept them, in the discretion of the Beaufort County Animal Services Department.

(d) Exception: No other swine or livestock shall be kept within the corporate limits of Port Royal and Bluffton except as is permissible under the municipal zoning regulations. No approval shall be granted or continued if such keeping shall constitute a menace to health or welfare of the public. To the extent that other section within this chapter reference livestock this section shall be controlling.

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-44. - Importation of exotic animals prohibited.

(a) Definition. An "exotic animal" shall be defined as one which would ordinarily be confined to a zoo, or one which would ordinarily be found in the wilderness of this or any other country or one which is a species of animal not indigenous to the United States or to North America, or one which otherwise causes a reasonable person to be fearful of significant destruction of property or of bodily harm and the latter includes, but would not be limited to, such animals as monkeys, raccoons, squirrels, ocelots, bobcats, lions, tigers, bears, wolves, hybrid wolves, and other such animals or one which causes zoonotic diseases. Such animals are further defined as being those mammals or those nonvenomous reptiles weighing over 50 pounds at maturity which are known at law as Ferae naturae. Wild or exotic animals specifically do not include animals of a species customarily used in South Carolina as ordinary household pets, animals of a species customarily used in South Carolina as domestic farm animals, fish contained in an aquarium, birds or insects.

(b) Unlawful act. It shall be unlawful for any person, firm, or corporation to import into Beaufort County, any venomous reptile or any other exotic animal.

(c) Exceptions. This division shall not apply to following entities:

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(1) An entity licensed as a Class R Research Facility by the United States of America or any agency thereof pursuant to the Animal Welfare Act (7 U.S.C. 2131 et seq.).

(2) An entity properly accredited by the Association of Zoos and Aquariums or the Zoological Association of America.

(3) An entity licensed as a Class C Facility by the United States of America or any agency thereof pursuant to the Animal Welfare Act (7 U.S.C. 2131 et seq.) for exhibition not to exceed seven days within a 52-week period.

(4) A team mascot for a university or educational facility.

(Ord. No. 2015/27, 10-12-2015)

Sec. 14-45. - Rabies Control Act (S.C. State Law 47-5-10).

This law is strictly enforced by South Carolina Department of Health and Environmental Control (DHEC) in cooperation with Beaufort County Animal Services Department and any state, county or municipal law enforcement agencies.

(Ord. No. 2015/27, 10-12-2015)

(A) Vaccinations: It shall be unlawful for any owner of a dog or cat four (4) months of age or older to fail to have such animal vaccinated against rabies, unless recommended otherwise by veterinarian for medical reasons. All dogs and cats shall be vaccinated at four (4) months of age (unless recommended otherwise by veterinarian) and revaccinated thereafter at the expiration of the validity of the vaccine used, as shown on the written document prepared by a licensed veterinarian. The vaccination shall be valid for the period shown on the document. Any person moving into the County from a location outside the County shall comply with this Section within 30 days after having moved into the County by having the animal vaccinated or showing proof of current, valid vaccination. If the dog or cat has inflicted a bite on any person or another animal within the last ten days, the owner of said animal shall report such fact to a veterinarian, and no rabies vaccine shall be administered until after the required observation or quarantine period.

(B) Proof of Vaccination: It shall be unlawful for any person who owns a vaccinated animal to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this Chapter. A current rabies tag, if provided by the veterinarian administering the vaccine, shall be attached to a collar, harness or other device and shall be worn by the vaccinated dog or cat at all times. The requirement for a dog to display a current rabies tag shall not apply to a dog that is displaying a current dog license tag affixed to a collar, harness or other device worn on the dog

(C) Harboring Unvaccinated Dogs and Cats: It shall be unlawful for any person to harbor any dog or cat that has not been vaccinated against rabies, as provided herein, or that cannot be identified as having a current vaccination certificate.

(D) Non-transferability: Vaccination certificates and tags are not transferable and cannot be used for any animal other than the animal that received the vaccination and for which the certificate was originally issued.

(E) Exceptions: No person charged with violating 14-45 Rabies Control shall be convicted if he produces in Court a bona fide and valid certificate of vaccination that was in full force and effect at the time of the alleged violation.

Sec. 14-46. - Interference with animal services officers.

It shall be unlawful for any person to interfere with, hinder, or molest an animal services officers in the performance of his or her duties or seek to release any pet or livestock in his/her custody without his/her consent.

(Ord. No. 2015/27, 10-12-2015)

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Sec. 14-47. - Enforcement and penalties.

(a) The animal services officers of the Beaufort County Animal Services Department shall be charged with the responsibility of enforcing all ordinances enacted by the county and contracts entered into with the county for the care, control and custody of pets or livestock covered by this article. All violations of this article shall be heard by the Beaufort County Magistrate Court.

(b) The provisions of this article shall not apply to any dog or cat owned within the confines of any incorporated municipality within the county, unless and until the governing body of a municipality requests in writing that county council include the area of such municipality within the coverage of this article, and county council has acted favorably on such request and has so notified such municipality of its approval of such request.

(c) Any person who violates the provisions of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not exceeding the maximum allowed within the jurisdiction of the magistrate courts or imprisonment not exceeding 30 days, or both. However, infractions as provided in paragraph (f) below, are intended to be non-criminal, civil penalties and not subject to jail time.

(d) When any person is found guilty of a violation of the provisions of this chapter, or has been found in non-compliance of a Final Dangerous Dog Determination of the Court, a Magistrate may order possession and custody of the animal to be surrendered permanently to the Beaufort County Animal Shelter.

–(f) Infractions Resulting in Administrative citations and penalties.

In addition to the remedies and penalties contained in this chapter, and in accordance with S.C. Code Section 47-3-20, an administrative citation may be issued for certain infractions of county animal control ordinances. Infractions of this Chapter subject to administrative citation and penalty are in the discretion of the Animal Services Officer and include but are not limited to: Mandatory dog licenses/registration, mandatory rabies vaccination, permitting a dog to run at large, mandatory spay/neuter, and warnings for a noisy public nuisance animal. Animal cruelty charges and Dangerous Dog Determinations are not violations subject to administrative citations.

The following procedures shall govern infractions of this chapter and the imposition, enforcement, collection and administrative review of administrative citations and penalties.

A. Notice of infraction. If an animal is owned, kept, maintained, or found to be in violation of a county animal control ordinance, an administrative citation may be issued by the animal services officer.

B. Content of citation. The administrative citation shall be issued on a form approved by the Director of Beaufort County Animal Services and shall contain the following information:

1. Date, location and approximate time of the infraction;
2. The ordinance violated and a brief description of the infraction;

3. The amount of the administrative penalty imposed for the infraction;

4. Instructions for payment of the penalty, and the time period by which it shall be paid and the consequences of failure to pay the penalty within the required time period;

5. Instructions on how to appeal the citation;

6. The signature of the animal control officer.

The failure of the citation to set forth all required contents shall not affect the validity of the proceedings.

C. Service of citation.

1. If the person who has violated the county animal control ordinance is present at the scene of the infraction, the animal control officer shall attempt to obtain his signature on the administrative citation and shall deliver a copy of the administrative citation to him/her.

2. If the owner, occupant or other person who has an infraction of a county animal control ordinance is a business, and the business owner is on the premises, the animal control officer shall attempt to deliver the administrative citation to him/her. If the animal control officer is unable to serve the business owner on the premises, the administrative citation may be left with the manager or employee of the business. If left with the manager or employee of the business, a copy of the administrative citation shall also be mailed to the business owner by certified mail, return receipt requested.

3. If no one can be located at the property where the infraction occurred, then the administrative citation shall be posted in a conspicuous place on or near the property and a copy mailed by certified mail, return receipt requested to the owner, occupant or other person who has violated the ordinance. The citation shall be mailed to the property address and/or the address listed for the owner on the last county equalized assessment roll. The citation shall also be mailed to any additional addresses for the owner in department records.

D. Administrative penalties.

1. The penalties assessed for each infraction of a county animal control ordinance shall not exceed the following amounts:

i. One hundred dollars ($100.00) for a first infraction;

ii. Two hundred dollars ($200.00) for a second infraction of the same administrative abatement order within one year;

iii. Five hundred dollars ($500.00) for each additional infraction of the administrative abatement order within one year.

2. If the infraction is not corrected, additional administrative citations may be issued for the same infraction. The amount of penalty shall increase at the rate specified above.

3. Payment of the penalty shall not excuse the failure to correct the infraction nor shall it bar further enforcement action.

4. The penalties assessed shall be payable to the Beaufort County Treasurer.

5. Where the infraction would otherwise be a violation, the administrative penalty shall not exceed the maximum fine or infraction amount.

6. Failure to pay an administrative penalty may result in prosecution or petition for the original violation(s) in the Magistrate court of Beaufort County.

E. Administrative appeal of administrative citation.

1. Notice of appeal. The recipient of an administrative citation may appeal the citation by filing a written notice of appeal with the Department. The written notice of appeal must be filed within twenty (20) days of the service of the administrative citation set forth in subsection C. above. Failure to file a written notice of appeal within this time period shall constitute a waiver of the right to appeal the administrative citation. The notice of appeal shall be submitted on county forms and shall contain the following information:

i. A brief statement setting forth the appellant's interest in the proceedings;

ii. A brief statement of the material facts which the appellant claims supports his contention that no administrative penalty should be imposed or that an administrative penalty of a different amount is warranted;

iii. An address at which the appellant agrees notice of any additional proceeding or an order relating to the administrative penalty may be received by mail;

iv. The notice of appeal must be signed by the appellant;

v. A check or money order is required, as a deposit, for the total penalty amount shown on the front side of the citation, before the Administrative Appeal will be scheduled;

vi. Indigence must be proved to have the deposit waived.

2. Administrative hearing of appeal. Upon a timely written request by the recipient of an administrative citation, an administrative hearing shall be held as follows:

i. Notice of hearing. Notice of the administrative hearing regarding the administrative citation shall be given at least ten (10) days before the hearing to the person requesting the hearing.

ii. The administrative hearing regarding the administrative citation shall be held before the Public Safety Director, or a designee. The hearing officer shall not be the investigating animal control officer who issued the administrative citation or his immediate supervisor. The Director may contract with a qualified provider to conduct the administrative hearings or to process administrative citations.

iii. Conduct of the hearing. The investigating animal control officer who issued the administrative citation shall be required to participate in the administrative hearing regarding the citation. The contents of the investigating animal control officer's file may be admitted in support of the administrative citation. The hearing officer shall not be limited by the technical rules of evidence. If the person requesting the appeal of the administrative citation fails to appear at the administrative hearing, the hearing officer shall make a determination based on the information available at the time of the hearing.

iv. Hearing officer's decision. The hearing officer's decision regarding the administrative citation following the administrative hearing may be personally delivered to the person requesting the hearing or sent by mail. The hearing officer may allow payment of the administrative penalty in installments, if the person provides evidence satisfactory to the hearing officer of an inability to pay the penalty in full at one time. The hearing officer's decision shall contain instruction for obtaining review of the decision by the circuit court.

F. Appeal to Circuit Court. Any person who receives an unfavorable decision from the decision of an Administrative Appeal may file an appeal with the Circuit Court in Beaufort County. The appeal to

Circuit Court must be filed within thirty (30) days of the notice of the Administrative Officer's decision being mailed to the recipient of an Administrative citation.

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

RFP #011719 Lease Agreement recommendation for Daufuskie Marsh Tacky Society for the lease of the Beaufort County owned Duncan Farms

Council Committee:

Natural Resources Committee (February 18, 2019)

Meeting Date:

March 25, 2019

Committee Presenter (Name and Title):

Dave Thomas, Purchasing Director and Stefanie M. Nagid, Passive Parks Manager

Issues for Consideration:

1. Lease property for equestrian use at an annual maximum rate of $4,800 per year.
2. Initial five year term with four additional 5 year extensions upon mutual agreement by both parties.
3. Phased land improvements to include paddocks, barns, stables, a manager apartment, and fencing.

Points to Consider:

1. The land is currently not being used and this was the only firm interested in leasing the property.
2. The property will be maintained by the Society.
3. Four new jobs will be created.
4. Public access and education will be conducted by the Society.
5. Protection of a critically endangered horse breed in the context of their historical native Lowcountry habitat.

Funding & Liability Factors:

NA, the revenue will return to the passive parks operating/maintenance revenue fund account.

Council Options:

Approve by committee and County Council since this is real property.

Recommendation:

The Purchasing Department recommends that the Natural Resources Committee and County Council approves the Interim County Administrator to enter into a lease agreement with Daufuskie Marsh Tacky Society for the lease of the Duncan Farms property at a maximum annual cost of $4,800.

ORDINANCE 2019 /___

AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE A FIVE (5) YEAR LEASE AGREEMENT WITH THE DAUFUSKIE MARSH TACKY SOCIETY FOR THE DUNCAN FARMS PROPERTY

WHEREAS, Beaufort County owns and manages the Duncan Farms property located at Washington Farms Road, Beaufort, South Carolina; and

WHEREAS, on November 21, 2018 Beaufort County solicited for Requests for Proposals ("RFP") (RFP/#011719) for the potential future use of the Duncan Farms property; and

WHEREAS, the Daufuskie Marsh Tacky Society ("DMTS"), duly submitted a response to the RFP requesting use of the land for hay fields, equestrian barn and stables, and public education; and

WHEREAS, The County and DMTS will enter into a lease agreement for the DMTS's use of Duncan Farms property pursuant to RFP #011719 and the submitted proposal, for an initial term of five (5) years, with the option of four (4) additional 5-year extensions, beginning May 1, 2019 and ending April 31, 2024; and

WHEREAS, on February 18, 2019 the Natural Resource Committee unanimously recommends that County Council enter into the lease; and

WHEREAS, Beaufort County Council believes that it is in the best interests of its citizens to enter into the lease of Duncan Farms upon such terms and conditions and amendments expressed herein.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that the Interim County Administrator is hereby authorized to execute a five (5) year lease agreement with the Daufuskie Marsh Tacky Society for the use of the Duncan Farms property.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

APPROVED AS TO FORM:

_____
Thomas J. Keaveny II, County Attorney

ATTEST:

_____
Clerk to Council

First Reading:
Second Reading:
Public Hearing:
Third and Final Reading:

COUNTY OF BEAUFORT)

) LEASE AGREEMENT

STATE OF SOUTH CAROLINA)

IN CONSIDERATION of the mutual promises, obligations and agreements herein set forth, this Lease Agreement (referred to as the "Lease") is made and entered into on this **22nd day of April, 2019**, between **Beaufort County**, a political subdivision of the State of South Carolina, hereinafter referred to as "Landlord" whose mailing address is County of Beaufort, Attention Beaufort County Staff Attorney, P.O. Drawer 1228, Beaufort, South Carolina 29901-1228, and **Daufuskie Marsh Tacky Society**, hereinafter referred to as "Tenant" whose mailing address is 94 Carvin Rd., Box 27, Daufuskie Island, SC 29915.

Whereas Landlord leases to Tenant the following described premises:

1. DESCRIPTION OF LEASED PREMISES. The available property, known as Duncan Farms, is located in northern Beaufort County off of Highway 21 and Washington Farm Road , SC on Parcel Number R700 028 000 0134 0000. The leased portion of the property is approximately 38 acres of previously utilized farm land located on the western half of the parcel.

2. TERM. The term of this Lease shall be for an initial period of five (5) years, with the option for four (4) additional 5-year extensions, unless otherwise terminated as per Section 17.

3. RENT. Tenant covenants to pay to Landlord 1) the annual property taxes and 2) 10% of net revenue earned exclusively upon the subject property, which shall never exceed $400/month, on the first day of each month. Net revenue is defined as any monetary proceeds generated from activities occurring on the leased premises after Tenant's costs for administration and utility expenses incurred on the leased premises. A check, with **Account #45020001** in the memo line, for the Rent will be payable to Beaufort County Treasurer, with mailing address of County of Beaufort, Attn: Controller, P.O. Drawer 1228, Beaufort, SC 29901·1228.

4. COMPLIANCE WITH LAWS. Tenant shall not make or permit any use of the Leased Premises which will be unlawful, improper, or contrary to any applicable law or ordinance, including without limitation all zoning, building, or sanitary statutes, codes, rules, regulations or ordinances, or which will make voidable or increase the cost of any insurance maintained on the leased premises by Landlord.

5. CONDITION OF THE LEASED PREMISES. Tenant is fully familiar with the physical condition of the Leased Premises. Landlord has made no representation in connection with the Leased Premises and shall not be liable for any latent defects therein; provided, however, that if such latent defects render

the Leased Premises unusable for the purposes of this Lease, Tenant may at its option, and upon written notice to Landlord, terminate this Lease.

Tenant stipulates that he/she has examined the demised premises and grounds, and that they are, at the time of this Agreement, in good order and in a safe, clean and tenantable condition.

6. USE OF PREMISES. The demised premises shall be used and occupied by Tenant exclusively as described in the Tenant's submitted proposal for RFP #011719 and neither the premises nor any part thereof shall be used at any time during the term of this lease by Tenant for any purpose other than as described in RFP #011719 and associated proposal. The Tenant's submitted proposal states use of the property will be for equestrian hay fields, paddocks, a hay and equipment storage barn, a stall barn with a covered riding arena, and a stable manager's apartment. Tenant shall comply with all the sanitary laws, ordinances, rules, and orders of appropriate governmental authorities affecting the cleanliness, occupancy, and preservation of the demised premises, during the term of this Agreement. Tenant and County agree to share the cost for installation of a water well, as specified in a future quote but not to exceed $2,500 by the County.

7. TENANTS OBLIGATIONS. Tenant agrees and shall maintain the Leased Premises as follows: (1) comply with all obligations primarily imposed upon Tenants by applicable provisions of building and housing codes materially affecting health and safety; (2) keep the premises reasonably safe and clean; (3) dispose from the premises all ashes, garbage, rubbish, and other waste in a reasonably clean and safe manner; (4) keep all plumbing fixtures in the facility or used by the Tenant reasonably clean and in working order; (5) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating air-conditioning, and other facilities and appliances in the premises and to keep said systems in good working order; (6) not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or knowingly permit any person to do so who is on the premises with the Tenant's permission or who is allowed access to the premises by the Tenant; (7) conduct him/herself and require other persons on the premises with the Tenant's permission or who are allowed access to the premises by the Tenant to conduct themselves in a manner that will not disturb other tenant's or neighboring property owner's peaceful enjoyment of their premises; (8) dispel or cause to have dispelled from the property any individual(s) that do not have the express authorization or permission to occupy said premises either from the Tenant or the Landlord; and (9) comply with the Agreement and rules and regulations which are enforceable pursuant to S.C. Code of Laws Section 27-35-75.

In addition to the obligations stated above, Tenant shall also be responsible for 1) any and all janitorial services that may be necessary during those dates and times that Tenant shall enjoy possession and use of the facility and 2) routine mowing of the property fields located outside of the Tenant's fenced area, if not otherwise occupied by a secondary tenant.

8. QUIET ENJOYMENT / PERMITTED OCCUPANTS. Landlord covenants that upon Tenant's performance of the covenants and obligations herein contained, Tenant shall peacefully and quietly have, hold, and enjoy the demised premises for the agreed term. Tenant shall not allow or permit the premises to be occupied for purposes that may injure the reputation, safety, or welfare of the property.

Landlord shall have the right to terminate this agreement should Tenant fail to comply with the terms of this provision.

9. MAINTENANCE AND REPAIRS. Tenant will, at his/her sole expense, keep and maintain the leased premises and appurtenances in good and sanitary condition during the term of this lease and any renewal thereof. Subject to applicable law, the Tenant shall keep and maintain the Leased Premises and all equipment and fixtures thereon or used therewith, whole and of the same kind, quality and description and in such good repair, order and condition as the same are at the beginning of the Term of this Lease or may be put in thereafter, reasonable and ordinary wear and tear and damage by fire and other unavoidable casualty (not due to Tenant's negligence) only excepted.

10. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this Lease, sublet or grant any concession or license to use the premises or any part thereof without prior written consent of Landlord. A consent by Landlord to one assignment, subletting, concession or license shall not be deemed to be a consent to any subsequent assignment, subletting, or license. An assignment, subletting, concession, or license without the prior written consent of Landlord or an assignment or subletting by operation of law, shall be void and shall at Landlord's option, terminate this Agreement immediately.

11. RIGHT OF INSPECTION. Landlord and his or her agents shall have the unfettered right at all reasonable times during the term of this Lease and any renewal thereof to enter the demised premises for any reason whatsoever. Landlord agrees, when able, to provide Tenant with reasonable notice of said entry upon the premises. No notice will be required in emergent situations or for access or entry upon the land.

12. INSURANCE. Tenant must obtain any and all applicable insurance policies, including in an amount of no less than $1,000,000 in general liability, or other appropriate policy to cover damage or loss resulting from Lessee's negligence.

13. INDEMNIFICATION. Tenant hereby agrees to indemnify and hold harmless Landlord against and from any and all claims or property damage, or personal injury, arising out of or with respect to Tenant's use of the demised premises or from any activity, work, or thing done, permitted or suffered by Lessee in or about the demised premises.

14. SURRENDER OF PREMISES. At the expiration of the lease term, Tenant shall quit and surrender the premises hereby demised quietly, peacefully and in as good state and condition as they were at the commencement of this Lease, reasonable use and wear thereof excepted. Tenant may remove all non-permitted self-installed above-ground structures, buildings, and improvements within ninety (90) days of surrender of premises if this Agreement expires or is terminated, unless otherwise mutually agreed to in writing by Tenant and Landlord prior to expiration/termination. Any permitted structures/buildings will be considered permanent and shall be affixed to the land, unless otherwise mutually agreed to in writing at the time of vacating the property.

15. DEFAULT. In the event that Tenant shall default in the observance or performance of any other of Tenant's covenants, agreements or obligations hereunder and such default shall not be corrected

within ten (10) days after written notice thereof, Landlord may elect to enter upon said Leased Premises and to take possession thereof, whereupon this Lease shall absolutely terminate and it shall be no defense to Tenant that previous violations of any covenants have been waived by Landlord either expressly or impliedly. Any such election by Landlord shall not discharge Tenant's obligations under this Lease and Tenant shall indemnify Landlord against all loss or damages suffered by reason of such termination.

16. ABANDONMENT. If Landlord's right of entry is exercised following abandonment of the premises by Tenant, then Landlord may consider any personal property belonging to Tenant and left on the premises to also have been abandoned, in which case Landlord may dispose of all such personal property in any manner Landlord shall deem proper and is hereby relieved of all liability for doing so.

17. TERMINATION. Tenant agrees to quit and deliver up the Leased Premises peaceably and quietly to Landlord, or it's Attorney, or other duly authorized agent, at the expiration or other termination of this Lease. This Lease may be terminated prior to the date identified in Section 2 above, upon sixty (60) days' written notice from Landlord to Tenant, or vice-versa, or upon the occurrence of any default event as set forth in Paragraph 15.

18. BINDING EFFECT. This Lease is to be construed as a South Carolina lease; is to take effect as a sealed instrument; sets forth the entire agreement between the parties; is binding upon and inured to the benefit of the parties hereto and may be cancelled, modified, or amended only by written instrument signed by both Landlord and Tenant.

19. SEVERABILITY. If any portion of this lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this lease is invalid or unenforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

20. NOTICES. All notices hereunder by Landlord to Tenant, or vice-versa, shall be given in hand or in writing through certified mail addressed to Landlord and Tenant as indicated below. Such notice shall be deemed delivered, if by hand when hand delivered or if by mail when deposited with the U.S. Postal Service.

Landlord:
Beaufort County
Attn: County Administrator
100 Ribaut Rd.
Beaufort, SC 29901

Tenant:
Daufuskie Marsh Tacky Society
Attn: Erica Veit
94 Carvin Rd., Box 27
Daufuskie Island, SC 29915

IN WITNESS THEREOF, the parties hereto have executed this Lease Agreement the day and year first above written.

LANDLORD:

Beaufort County

_____ By:_____

Witness John Weaver, Interim County Administrator

_____

Witness

TENANT:

Daufuskie Marsh Tacky Society

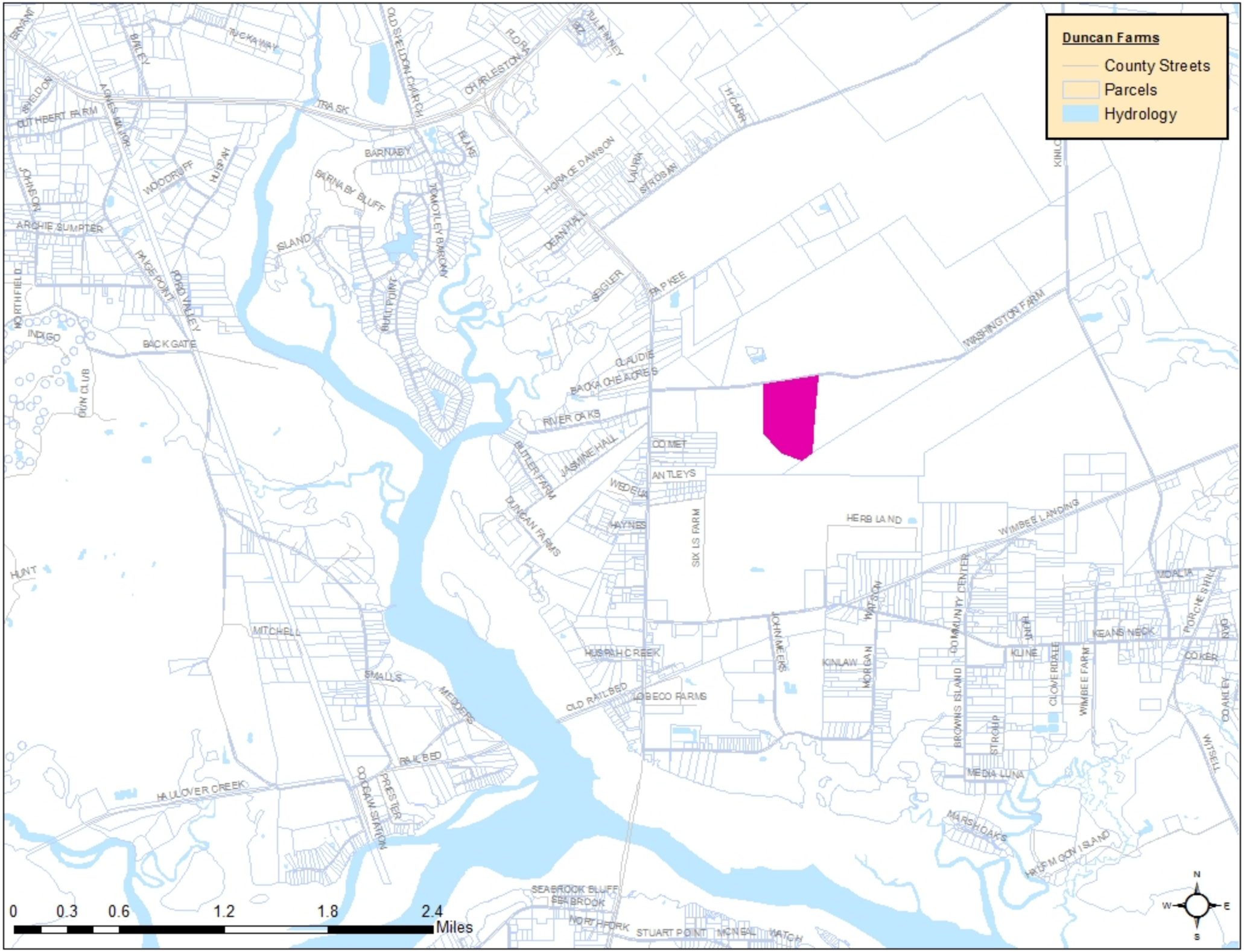
_____ By:_____

Witness Erica Veit, Founder/Director

_____

Witness

NOTICE: State law establishes rights and obligations for parties to rental agreements. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person.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BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Contract Award RFP# 103118 Marshside Mama's Restaurant Lease with The Pointed Feather, LLC

Council Committee:

Approved by the Public Facilities Committee on March 4, 2019. This is for the March 25, 2019 County Council Meeting

Meeting Date:

March 25, 3019

Committee Presenter (Name and Title):

Dave Thomas, Purchasing Director

Issues for Consideration:

The Public Facilities Committee approved the contract award for the leasing of the County's Property known as Marshside Mama's Restaurant located on Daufuskie Island. In accordance with the Beaufort County Code concerning Real Property, the Public Facilities Committee is requesting County Council's approval along with the required three public readings.

Points to Consider:

The Pointed Feather Company offered $900 per month for rent, which is $10,800 annually, plus $100,000 in capital investments to the building with a ten year lease agreement. See the attached lease agreement.

Funding & Liability Factors:

No funding is required by the County for this project.

Council Options:

County Council may approve or reject the contract award. Final approval may be made by County Council after three public readings.

Recommendation:

Staff recommends County Council approve the contract award to the Pointed Feather Company as noted in the attached lease agreement.

ORDINANCE 2019 /___

AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE NECESSARY DOCUMENTS TO LEASE A PORTION OF A BUILDING ON DAUFUSKIE ISLAND KNOWN AS MARSHSIDE MAMAS

WHEREAS, Beaufort County is the owner of Parcel Number R800 024 000 0032 0000 and also known as 15 Haig Point Road; and

WHEREAS, a portion of the above referenced parcel, the portion known as Marshside Mama's is available for lease; and

WHEREAS, Beaufort County advertised a request for proposals (RFP#103118) for the purpose of leasing the property to an appropriate tenant; and

WHEREAS, Pointed Feather Foods LLC provided a proposal offering, among other things, $900 per month to lease the property and $100,000 in capital investments; and

WHEREAS, County staff have evaluated the Pointed Feather Foods LLC proposal and recommends approval; and

WHEREAS, the Public Facilities committee considered the proposal at the March 4, 2019 meeting and recommends approval; and

WHEREAS, it is necessary, in accordance with Beaufort County Code of Ordinances Section 2-514, for County Council to provide prior approval to the county administrator to lease property; and

WHEREAS, County Council finds that it is in the best interests of Beaufort County citizens, residents and visitors to lease the Daufuskie Island Marshside Mama's property.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council, duly assembled, does hereby authorize the Interim County Administrator to execute any and all documents necessary to lease a portion of 15 Haig Point Road, Parcel Number R800 024 000 0032 0000 the portion known as the Marshside Mama's Restaurant and more particularly described in the RFP #103118 and the attached lease.

DONE this _____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

DRAFT

APPROVED AS TO FORM:

_____
Thomas J. Keaveny, II, County Attorney

ATTEST:

_____
Clerk to Council

First Reading:
Second Reading:
Public Hearing:
Third and Final Reading:

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COUNTY OF BEAUFORT)

) LEASE AGREEMENT

STATE OF SOUTH CAROLINA)

IN CONSIDERATION of the mutual promises, obligations and agreements herein set forth, this Lease Agreement (referred to as the "Lease") is made and entered into on this ____ day of _____, 2019, between **Beaufort County**, a political subdivision of the State of South Carolina, hereinafter referred to as "Landlord" whose mailing address is County of Beaufort, Attention Beaufort County Facilities Maintenance, P.O. Drawer 1228, Beaufort, South Carolina 29901-1228, and **Pointed Feather Foods LLC and Property Management Company LLC**, whose mailing address is respectively 10 Hunting Lodge Road Bluffton, SC, 29936, and 264 Palm Key Place, Ridgeland, SC 29936 hereinafter referred to as "Tenant".

Whereas Landlord leases to Tenant the following described premises:

1. DESCRIPTION OF LEASED PREMISES. An approximately one-acre parcel including an approximately 1800 square feet portion of the building located at 15 Haig Point Road, Daufuskie Island, SC on Parcel Number R800 024 000 0032 0000 and known as Marshside Mama's. This lease excludes the portion of the adjacent store and excludes the docks on the same site. Tenant shall not impede public use of the docks, boat landing, and the parking area for the docks and boat landing.

2. TERM. The initial term of this Lease shall be ten (10) years. The lease may be renewed up to two (2) times. A renewal period shall be for an additional five (5) years term. Renewals must be by written agreement of both parties. Tenant shall notify the Landlord in writing of its intention to renew no later than ninety (90) days before the expiration of the initial term or a renewal term.

3. RENT. Tenant agrees to pay rent of $900 per month. Additionally, tenant promises to provide a minimum of a $100,000 in capital for improvements to the building. After the expiration of the initial ten (10) year term, and during any renewal period, tenant will provide a minimum $2,500 annual contribution to capital improvements to ensure the building is maintained and continuously improved. Tenant shall be responsible for maintaining the grounds surrounding the restaurant in a neat and orderly manner. Landlord shall not make any repairs or improvements to the property.

4. COMPLIANCE WITH LAWS. Tenant shall not make or permit any use of the Leased Premises which will be unlawful, improper, or contrary to any applicable law or ordinance, including without limitation all zoning, building, or sanitary statutes, codes, rules, regulations or ordinances, or which will make voidable or increase the cost of any insurance maintained on the leased premises by Landlord.

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5. CONDITION OF THE LEASED PREMISES. Tenant is fully familiar with the physical condition of the Leased Premises. Landlord has made no representation in connection with the Leased Premises and shall not be liable for any latent defects therein; provided, however, that if such latent defects render the Leased Premises uninhabitable for the purposes of this Lease, Tenant may at its option, and upon written notice to Landlord, terminate this Lease.
Tenant stipulates that he or she has examined the demised premises, including the grounds and all buildings and improvements, and agrees to accept the premises in "as-is" condition.

6. USE OF PREMISES. The demised premises shall be used and occupied by Tenant exclusively as a restaurant called the Marshside Mama's 2 and neither the premises nor any part thereof shall be used at any time during the term of this lease by Tenant for any purpose other than as Marshside Mama's 2. Tenant shall comply with all the sanitary laws, ordinances, rules, and orders of appropriate governmental authorities affecting the cleanliness, occupancy, and preservation of the demised premises, during the term of this Agreement.

7. TENANTS OBLIGATIONS. Tenant agrees and shall maintain the Leased Premises as follows: (1) comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety; (2) keep the premises reasonably safe and clean; (3) dispose from the premises all ashes, garbage, rubbish, and other waste in a reasonably clean and safe manner; (4) keep all plumbing fixtures in the facility or used by the Tenant reasonably clean and in working order; (5) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating air-conditioning, and other facilities and appliances in the premises and to keep said systems in good working order; (6) not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or knowingly permit any person to do so who is on the premises with the tenant's permission or who is allowed access to the premises by the Tenant; (7) conduct himself and require other persons on the premises with the Tenant's permission or who are allowed access to the premises by the Tenant to conduct themselves in a manner that will not disturb other tenant's or neighboring property owner's peaceful enjoyment of their premises; (8) dispel or cause to have dispelled from the property any individual(s) that do not have the express authorization or permission to occupy said premises either from the Tenant or the Landlord; and (9) comply with the Agreement and rules and regulations which are enforceable pursuant to S.C. Code of Laws Section 27-35-75. In addition to the obligations stated above, Tenant shall also be responsible for any and all janitorial services that may be necessary during those dates and times that Tenant shall enjoy possession and use of the facility.

8. QUIET ENJOYMENT / PERMITTED OCCUPANTS. Landlord covenants that upon Tenant's performance of the covenants and obligations herein contained, Tenant shall peacefully and quietly have, hold, and enjoy the demised premises for the agreed term. Tenant shall not allow or permit the premises to be occupied for purposes that may injure the reputation, safety, or welfare of the property. Landlord shall have the right to terminate this agreement should Tenant fail to comply with the terms of this provision.

9. MAINTENANCE AND REPAIRS. Tenant will, at his sole expense, keep and maintain the leased premises and appurtenances in good and sanitary condition during the term of this lease and any renewal

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thereof. Subject to applicable law, the Tenant shall keep and maintain the Leased Premises and all equipment and fixtures thereon or used therewith, whole and of the same kind, quality and description and in such good repair, order and condition as the same are at the beginning of the Term of this Lease or may be put in thereafter, reasonable and ordinary wear and tear only excepted.

10. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this Lease, sublet or grant any concession or license to use the premises or any part thereof. A consent by Landlord to one assignment, subletting, concession or license shall not be deemed to be a consent to any subsequent assignment, subletting, or license. An assignment, subletting, concession, or license without the prior written consent of Landlord or an assignment or subletting by operation of law, shall be void and shall at Landlord's option, terminate this Agreement immediately.

11. RIGHT OF INSPECTION. Landlord and his or her agents shall have the unfettered right at all reasonable times during the term of this Lease and any renewal thereof to enter the demised premises for any reason whatsoever. Landlord agrees, when able, to provide Tenant with reasonable notice of said entry upon the premises. No notice will be required in emergent situations or for access or entry upon the land.

12. INSURANCE. Landlord has obtained insurance to cover fire damage to the building itself and liability insurance which does not cover Tenant's possessions or Tenant's negligence. Tenant must obtain a renter's insurance policy, in an amount of no less than $1,000,000 in general tort liability, or other appropriate policy to cover damage or loss resulting from Lessee's negligence.

13. INDEMNIFICATION. Tenant hereby agrees to indemnify and hold harmless Landlord against and from any and all claims or property damage, or personal injury, arising out of or with respect to Tenant's use of the demised premises or from any activity, work, or thing done, permitted or suffered by Lessee in or about the demised premises.

14. SURRENDER OF PREMISES. At the expiration of the lease term, Tenant shall quit and surrender the premises hereby demised quietly, peacefully and in as good state and condition as they were at the commencement of this Lease, reasonable use and wear thereof excepted.

15. DEFAULT. In the event that Tenant shall default in the observance or performance of any other of Tenant's covenants, agreements or obligations hereunder and such default shall not be corrected within ten (10) days after written notice thereof, Landlord may elect to enter upon said Leased Premises and to take possession thereof, whereupon this Lease shall absolutely terminate and it shall be no defense to Tenant that previous violations of any covenants have been waived by Landlord either expressly or impliedly. Any such election by Landlord shall not discharge Tenant's obligations under this Lease and Tenant shall indemnify Landlord against all loss or damages suffered by reason of such termination.

16. ABANDONMENT. If Landlord's right of entry is exercised following abandonment of the premises by Tenant, then Landlord may consider any personal property belonging to Tenant and left on the premises to also have been abandoned, in which case Landlord may dispose of all such personal property in any manner Landlord shall deem proper and is hereby relieved of all liability for doing so.

DRAFT

17. TERMINATION. Tenant agrees to quit and deliver up the Leased Premises peaceably and quietly to Landlord, or its attorney, or other duly authorized agent, at the expiration or other termination of this Lease. This Lease may be terminated prior to the date identified in section 2 above, upon thirty (30) days notice from Landlord to Tenant or upon the occurrence of any default event as set forth in Paragraph 15.

18. BINDING EFFECT. This Lease is to be construed as a South Carolina lease; is to take effect as a sealed instrument; sets forth the entire agreement between the parties; is binding upon and inured to the benefit of the parties hereto and may be cancelled, modified, or amended only by written instrument signed by both Landlord and Tenant.

19. SEVERABILITY. If any portion of this lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this lease is invalid or unenforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

20. NOTICES. All notices hereunder by Landlord to Tenant shall be given in hand or in writing through certified mail addressed to Tenant at the leased premises, or to such other address as Tenant may from time to time give to Landlord for this purposes, and all notices by Tenant to Landlord shall be given in hand or by registered or certified mail addressed to Landlord's address shown in the initial paragraph of this Lease, or to such other address as Landlord may from time to time give in writing to Tenant for this purpose. Such notice shall be deemed delivered, if by hand when hand delivered or if by mail when deposited with the U.S. Postal Service.

21. SPECIAL PROVISIONS. Tenant acknowledges the special character of the Daufuskie Community. The Daufuskie Island Community Council coordinates a few special events each year. The demised premises have traditionally been made available for these events. The tenant does hereby agree to make the demised premises available for the mutual benefit of the tenant and the Daufuskie Island Community for the following events:

1. Daufuskie Days celebration, typically held on the 4th Saturday in June.

2. Community Thanksgiving dinner typically held the Sunday before Thanksgiving between the times of 11:00 a.m. and 4:00 p.m.

3. Community Christmas Parade and Santa event, typically held on a Saturday afternoon in December as coordinated by the Daufuskie Island Community Council.

IN WITNESS THEREOF, the parties hereto have executed this Lease Agreement the day and year first above written.

DRAFT

LANDLORD:

Beaufort County

_____ By:_____

Witness Ashley Jacobs, County Administrator

_____

Witness

TENANT:

_____

(Pointed Feather Foods LLC)

_____ By:_____

Witness Its:

_____

Witness

TENANT:

_____

(Property Management Company LLC)

_____ By:_____

Witness Its:

_____

Witness

NOTICE: State law establishes rights and obligations for parties to rental agreements. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person.

DRAFT

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Passive Park Bond Funding Resolution

Council Committee:

Natural Resources

Meeting Date:

February 18, 2019

Committee Presenter (Name and Title):

Stefanie Nagid, Passive Parks Manager

Issues for Consideration:

Council to consider a formal dedication of funding towards passive park improvement projects from the Rural and Critical Lands Preservation bond funding. All Tier 1 and Tier 2 priority projects, and some Tier 3 projects, could be completed with this dedicated funding request.

Points to Consider:

1) The 2012, 2014, and 2018 bonds state that an amount "not to exceed 20%" of those respective bond totals may be used to improve existing and newly acquired lands. 2) Formal dedication of funding will allow for more efficient planning on both the acquisition and park improvement sides of the Program. 3) Formal dedication of funding will reduce/remove competitive conflicts between the acquisition and park improvement sides of the Program. 4) A firm budget allows both sides of the Program to have a clear vision for project goals.

Funding & Liability Factors:

20% of each of the three bonds totals $14 million, some of which has already been expensed and obligated, therefore $10.6 million is requested from what is available from previous bonds ($5.6M) and what will become available with the new bond ($5M).

Council Options:

1) Approve the resolution as written, 2) Approve the resolution with revisions, 3) Do not approve the resolution

Recommendation:

Approve the Resolution as written to Support the Passive Parks Program and recommend to County Council for the March 25, 2019 agenda.

RESOLUTION 2019 / __

A RESOLUTION TO SUPPORT THE PASSIVE PARKS PROGRAM

WHEREAS Beaufort County has been a frontrunner among local governments in land preservation since 1999 with the creation of the Rural and Critical Land Preservation Program, and;

WHEREAS the 2012, 2014, and 2018 Land Preservation Bond referenda passed with 62%, 73%, and 70% approval, respectively, by the citizens of Beaufort County, and;

WHEREAS the 2012, 2014, and 2018 Land Preservation Bond referenda state that an amount not to exceed 20% of the funds may be used to improve existing and newly acquired open space and natural areas protected under the Program, and;

WHEREAS Beaufort County has acquired over 13,000 acres of fee-simple properties with Land Preservation funding, and anticipates acquiring additional fee-simple properties with Land Preservation funding, and;

WHEREAS Beaufort County understands and recognizes the benefits of open space and passive recreation on community health and vibrancy, tourism, education, and quality of life for its citizens, and;

WHEREAS Beaufort County believes and supports that the preserved lands should be publically accessible with passive recreation improvements, and;

WHEREAS Beaufort County adopted the Passive Parks Public Use Work Plan (Resolution 2018/22) on October 22, 2018, and the Passive Parks Ordinance (2018/53) on December 10, 2018.

NOW THEREFORE, BE IT RESOLVED, THAT THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA provides $5.6 million from the 2012 and 2014 remaining Land Preservation Bond funding and $5 million from the 2018 Land Preservation Bond funding towards the Passive Parks Program for the implementation of passive recreation on County fee-simple owned Rural and Critical Preservation lands.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

APPROVED AS TO FORM:

_____
Thomas J. Keaveny, II, County Attorney

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

DRAFT

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Property donation near Hampton Lakes in Bluffton

Council Committee:

Natural Resources (February 18, 2019)

Meeting Date:

March 25, 2019

Committee Presenter (Name and Title):

Thomas J. Keaveny, II/County Attorney; Stefanie M. Nagid /Passive Parks Manager; Philip Foot / Public Safety Director

Issues for Consideration:

Beaufort County has been asked to accept a tract of land, which is under a Conservation Easement (CE), and has limited use for active and/or passive parks only. The property will be deeded to the County in fee-simple without conditions except as set forth in the CE.

Points to Consider:

Arguments against accepting the property are: (1) doing so removes it from the property tax roles; (2) doing so will require County to assume responsibility for developing and maintaining it.

Arguments in favor of accepting the property: (1) doing so will increase the amount of land available in the Bluffton area for active and passive County parks.

Funding & Liability Factors:

The property is being donated without condition or limitation other than those which are set forth in the CE. County will be responsible for development and maintenance costs. County will be legally responsible and liable for this property as with any other real property owned by the County.

Council Options:

1) Accept the property; 2) Reject the property.

Recommendation:

Staff (Legal, Community Development and Parks & Recreation Departments) recommend acceptance of the property.

RESOLUTION 2019 /____

A RESOLUTION AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS TO ACCEPT THE DONATION OF 53.43 ACRES AT 88 HAMPTON PARKSIDE ROAD, BLUFFTON, SC FOR USE AS A FUTURE ACTIVE PARK

WHEREAS, Sandlapper Hill, LLC ("Sandlapper") owns a parcel of land (#R614 029 000 0609 0000) more particularly described in Exhibit A attached hereto and incorporated herein ("Property"); and

WHEREAS, the Sandlapper's Property as shown in Exhibit A is 53.43 acres of vacant land; and

WHEREAS, Sandlapper has placed a Conservation Easement on the Property in favor of the North American Land Trust as more particularly described in Exhibit B; and

WHEREAS, Sandlapper has agreed to gift the property to Beaufort County for the education and recreation of the general public as a park and for the preservation of open space pursuant to the Conservation Easement as stated in Letter of Intent dated February 4, 2019 as shown in Exhibit C; and

WHEREAS, the Property will provide active recreation potential for the Bluffton area through the development, management, and maintenance by the County's Parks and Recreation Department; and

WHEREAS, the Natural Resource Committee did recommend acceptance of the Property to be conveyed to the County; and

WHEREAS, because it is the acceptance of land, prior authority of County Council is required to authorized the Interim County Administrator to enter into a binding agreement.

NOW, THEREFORE, BE IT RESOLVED by Beaufort County Council, duly assembled, does hereby authorize the Interim County Administrator to execute any and all documents necessary for the acceptance of the Property donation as identified in Exhibit A subject to the terms of the Conservation Easement described in Exhibit B.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

_____
Connie Schroyer, Clerk to Council

EXHIBIT A

See attached parcel description and plat

EXHIBIT "A"

PROPERTY DESCRIPTION

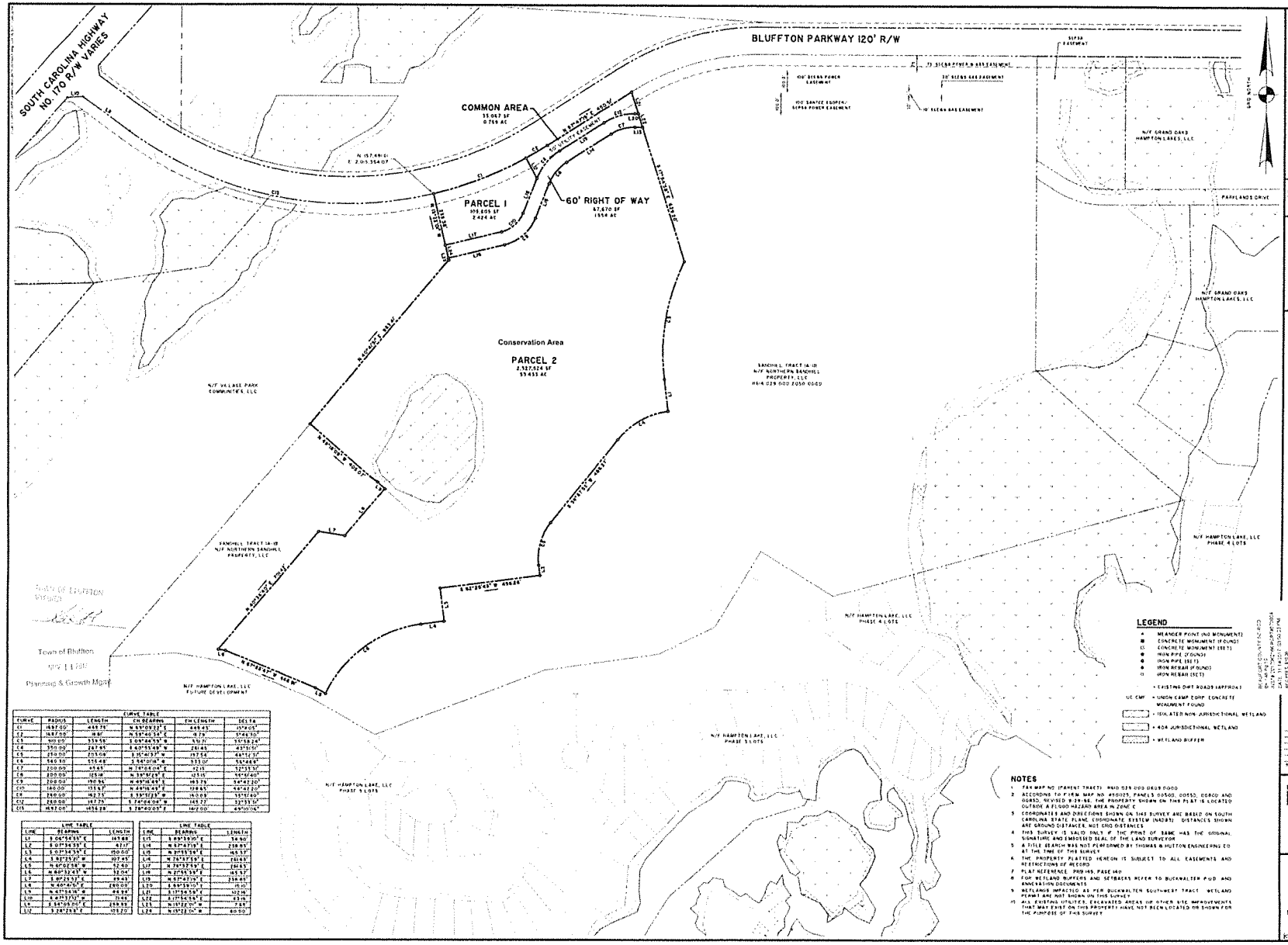
PARCEL 2 – SANDHILL TRACT

ALL THOSE CERTAIN PIECES, PARCELS OR TRACTS OF LAND, SITUATE, LYING AND BEING IN THE TOWN OF BLUFFTON, BEAUFORT COUNTY, SOUTH CAROLINA, SHOWN AND DESCRIBED AS "PARCEL 2 CONTAINING 53.433 ACRES, ON THAT CERTAIN PLAT DATED OCTOBER 19, 2017, ENTITLED "SUBDIVISION PLAT OF SANDHILL TRACT 1A-1A, A PORTION OF THE BUCKWALTER TRACT" PREPARED FOR INLAND CAPITAL MANAGEMENT, LLC, PREPARED BY THOMAS & HUTTON ENGINEERING CO., CERTIFIED BY ROBERT K. MORGAN, III, PLS (SC #26957), AND RECORDED NOVEMBER 14, 2017, IN PLAT BOOK 148 AT PAGE 10, IN THE OFFICE OF THE REGISTER OF DEEDS FOR BEAUFORT COUNTY, SOUTH CAROLINA (THE "PLAT"), REFERENCE TO WHICH IS HEREBY CRAVED AS FORMING A PART AND PARCEL HEREOF.

COMMENCING AT THE SOUTHWEST QUADRANT OF SOUTH CAROLINA HIGHWAY NO. 170(R/W VARIES) AND BLUFFTON PARKWAY(120' R/W); THENCE ALONG THE SOUTHERLY RIGHT OF WAY LINE OF BLUFFTON PARKWAY N 87°37'12" E A DISTANCE OF 71.46 FEET TO A POINT; THENCE S 54°05'00" E A DISTANCE OF 259.99 FEET TO A POINT; THENCE WITH THE ARC OF A CURVE TURNING TO THE LEFT, HAVING AN ARC LENGTH OF 1456.27 FEET, A RADIUS OF 1696.99 FEET, A CHORD LENGTH OF 1412.00 FEET, AND A CHORD BEARING S 78°40'03" E TO A POINT; THENCE LEAVING SAID RIGHT OF WAY S 13°22'01" E A DISTANCE OF 295.38 FEET TO A POINT, POINT BEING THE POINT OF BEGINNING; THENCE N 76°37'59" E A DISTANCE OF 261.63 FEET TO A POINT; THENCE WITH THE ARC OF A CURVE TURNING TO THE LEFT, HAVING AN ARC LENGTH OF 190.96 FEET, A RADIUS OF 200.00 FEET, A CHORD LENGTH OF 183.79 FEET, AND A CHORD BEARING N 49°16'49" E TO A POINT; THENCE N 21°55'39" E A DISTANCE OF 165.37 FEET TO A POINT; THENCE WITH THE ARC OF A CURVE TURNING TO THE RIGHT, HAVING AN ARC LENGTH OF 125.18 FEET, A RADIUS OF 200.00 FEET, A CHORD LENGTH OF 123.15 FEET, AND A CHORD BEARING N 39°51'29" E TO A POINT; THENCE N 57°47'19" E A DISTANCE OF 238.85 FEET TO A POINT; THENCE WITH THE ARC OF A CURVE TURNING TO THE RIGHT, HAVING AN ARC LENGTH OF 113.65 FEET, A RADIUS OF 200.00 FEET, A CHORD LENGTH OF 112.13 FEET, AND A CHORD BEARING N 74°04'04" E TO A POINT; THENCE S 89°39'10" E A DISTANCE OF 34.90 FEET TO A POINT; THENCE S 17°54'58" E A DISTANCE OF 629.20 FEET TO A POINT; THENCE WITH THE ARC OF A CURVE TURNING TO THE LEFT, HAVING AN ARC LENGTH OF 539.58 FEET, A RADIUS OF 910.00 FEET, A CHORD LENGTH OF 531.71 FEET, AND A CHORD BEARING S 09°44'59" W TO A POINT; THENCE S 06°54'55" E A DISTANCE OF 143.88 FEET TO A POINT; THENCE WITH THE ARC OF A CURVE TURNING TO THE LEFT, HAVING AN ARC LENGTH OF 267.95 FEET, A RADIUS OF 350.00 FEET, A CHORD LENGTH OF 261.45 FEET, AND A CHORD BEARING S 60°53'48" W TO A POINT; THENCE S 38°57'52" W A DISTANCE OF 486.27 FEET TO A POINT; THENCE WITH THE ARC OF A CURVE TURNING TO THE LEFT, HAVING AN ARC LENGTH OF 203.08 FEET, A RADIUS OF 250.00 FEET, A CHORD LENGTH OF 197.54 FEET, AND A CHORD BEARING S 15°41'37" W TO A POINT; THENCE S 07°34'39" E A DISTANCE OF 47.17 FEET TO A POINT; THENCE S 82°25'43" W A DISTANCE OF 456.26 FEET TO A POINT; THENCE S 07°34'39" E A DISTANCE OF 150.00 FEET TO A POINT; THENCE S 82°25'21" W A DISTANCE OF 107.45 FEET TO A POINT; THENCE WITH THE ARC OF A CURVE TURNING TO THE LEFT, HAVING AN ARC LENGTH OF 555.48 FEET, A RADIUS OF 560.30 FEET, A CHORD LENGTH OF 533.01 FEET, AND A CHORD BEARING S 54°01'16" W TO A POINT; THENCE N 61°02'58" W A DISTANCE OF 52.40 FEET TO A POINT; THENCE N 67°55'47" W A DISTANCE OF 446.91 FEET TO A POINT; THENCE N 80°32'43" W A DISTANCE OF 32.04 FEET TO A POINT; THENCE N 40°36'40" E A DISTANCE OF 701.42 FEET TO A POINT; THENCE S 81°25'52" E A DISTANCE OF 119.43 FEET TO A POINT; THENCE N 40°41'51" E A DISTANCE OF 280.00 FEET TO A POINT; THENCE N 47°54'16" W A DISTANCE OF 44.94 FEET TO A POINT;

THENCE N 49°18'09" W A DISTANCE OF 405.07 FEET TO A POINT; THENCE N 40°41'51" E A DISTANCE OF 963.41 FEET TO A POINT; THENCE N 13°22'01" W A DISTANCE OF 7.65 FEET TO SAID POINT OF BEGINNING, SAID TRACT OR PARCEL OF LAND CONTAINING 53.433 ACRES.

EXHIBIT "B"



CURVE TABLE					
CURVE	RADIUS	LENGTH	CH BEARING	CH LENGTH	DELTA
C1	1857.00'	455.75'	N 83°09'23" E	454.61'	14°03'05"
C2	1857.00'	18.81'	N 75°40'34" E	18.79'	0°34'50"
C3	910.00'	539.59'	S 09°44'53" W	531.71'	33°58'24"
C4	350.00'	247.85'	S 40°55'48" W	242.65'	40°34'10"
C5	250.00'	203.08'	S 35°46'57" W	197.54'	46°32'37"
C6	560.00'	515.48'	S 84°01'04" W	497.53'	52°44'47"
C7	200.00'	49.45'	N 78°04'04" E	49.31'	14°10'00"
C8	200.00'	125.18'	N 39°58'29" E	123.15'	35°51'40"
C9	200.00'	190.96'	N 49°16'49" E	183.79'	54°42'20"
C10	140.00'	133.87'	N 49°16'49" E	128.85'	54°47.20"
C11	250.00'	162.75'	S 35°51'29" W	160.00'	35°51'40"
C12	250.00'	187.75'	S 74°06'09" W	183.37'	51°37'51"
C13	1857.00'	1456.28'	S 78°40'03" E	1419.00'	44°56'06"

LINE TABLE		
LINE	BEARING	LENGTH
L1	S 06°54'33" E	167.88'
L2	S 07°34'33" E	67.17'
L3	S 07°34'33" E	150.00'
L4	S 82°25'27" W	107.45'
L5	N 60°02'38" W	92.40'
L6	N 80°32'47" W	92.04'
L7	S 80°25'27" E	89.45'
L8	N 60°46'56" E	280.00'
L9	N 67°34'16" W	48.98'
L10	S 67°37'27" W	71.98'
L11	S 54°05'20" E	259.93'
L12	S 28°28'53" E	105.70'

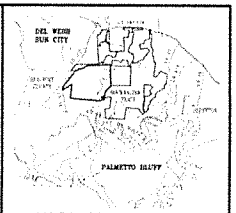
LINE TABLE		
LINE	BEARING	LENGTH
L13	S 89°59'05" E	34.90'
L14	N 67°47'19" E	238.93'
L15	N 21°55'59" E	165.53'
L16	N 74°47'16" E	230.85'
L17	N 74°57'59" E	260.85'
L18	N 21°55'59" E	165.53'
L19	N 67°47'19" E	230.85'
L20	S 89°59'05" E	15.10'
L21	S 17°54'54" E	103.16'
L22	S 17°54'54" E	83.16'
L23	N 15°52'01" W	7.58'
L24	N 15°52'01" W	80.00'

LEGEND

- MEANDER POINT (NO MONUMENT)
- CONCRETE MONUMENT (FOUND)
- CONCRETE MONUMENT (SET)
- IRON PIPE (FOUND)
- IRON PIPE (SET)
- IRON REBAR (FOUND)
- IRON REBAR (SET)
- EXISTING DIRT ROADS (APPROX.)
- UC CMF = UNION CAMP CORP. CONCRETE MONUMENT FOUND
- = ISOLATED NON-JURISDICTIONAL WETLAND
- = 404 JURISDICTIONAL WETLAND
- = WETLAND BUFFER

NOTES

1. TAX MAP NO. (PARENT TRACT): R610 039 000 0001 0000
2. ACCORDING TO FIRM MAP NO. 45013C, PANELS 0050D, 0055D, 0060D AND 0080D, REVISED 8-28-08, THE PROPERTY SHOWN ON THIS PLAT IS LOCATED OUTSIDE A FLOOD HAZARD AREA IN ZONE C
3. COORDINATES AND DIRECTIONS SHOWN ON THIS SURVEY ARE BASED ON SOUTH CAROLINA STATE PLANE COORDINATE SYSTEM (NAD83). DISTANCES SHOWN ARE GROUND DISTANCES, NOT GRID DISTANCES
4. THIS SURVEY IS VALID ONLY IF THE PRINT OF SAME HAS THE ORIGINAL SIGNATURE AND EMBOSSED SEAL OF THE LAND SURVEYOR
5. A TITLE SEARCH WAS NOT PERFORMED BY THOMAS & HUTTON ENGINEERING CO. AT THE TIME OF THIS SURVEY
6. THE PROPERTY PLATTED HEREON IS SUBJECT TO ALL EASEMENTS AND RESTRICTIONS OF RECORD
7. PLAT REFERENCE: PB 91-145, PAGE 149
8. FOR WETLAND BUFFERS AND SETBACKS REFER TO BUCKWALTER PUD AND ANNEXATION DOCUMENTS
9. WETLANDS IMPACTED AS PER BUCKWALTER SOUTHWEST TRACT WETLAND PERMIT ARE NOT SHOWN ON THIS SURVEY
10. ALL EXISTING UTILITIES, EXCAVATED AREAS OR OTHER SITE IMPROVEMENTS THAT MAY EXIST ON THIS PROPERTY HAVE NOT BEEN LOCATED OR SHOWN FOR THE PURPOSE OF THIS SURVEY



VICINITY MAP not to scale

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RECORDING INFO

ACREAGE SCHEDULE

UPLANDS	53.962 AC.
WETLANDS	4.208 AC.
TOTALS	58.170 AC.

SOUTH CAROLINA — THOMAS B. HUTTON ENGINEERING CO. No. C00285 — CERTIFICATE OF AUTHORIZATION

SOUTH CAROLINA — REGISTERED PROFESSIONAL LAND SURVEYOR — ROBERT K. MORGAN JR. — No. 26957

I HEREBY STATE THAT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE STANDARDS OF PRACTICE MANUAL FOR SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN.

ROBERT K. MORGAN JR.
SOUTH CAROLINA PROFESSIONAL LAND SURVEYOR
LICENSE NO. 26957

SUBDIVISION PLAT

SANDHILL TRACT 1A-1A

A PORTION OF THE BUCKWALTER TRACT

TOWN OF BLUFFTON, BEAUFORT COUNTY, SOUTH CAROLINA

prepared for

INLAND CAPITAL MANAGEMENT, LLC

No.	Revision	By	Date

THOMAS & HUTTON
Engineering | Surveying | Planning | GIS | Consulting
50 Park of Commerce Way
Savannah, GA 31405 • 912.234.5300
www.thomasandhutton.com

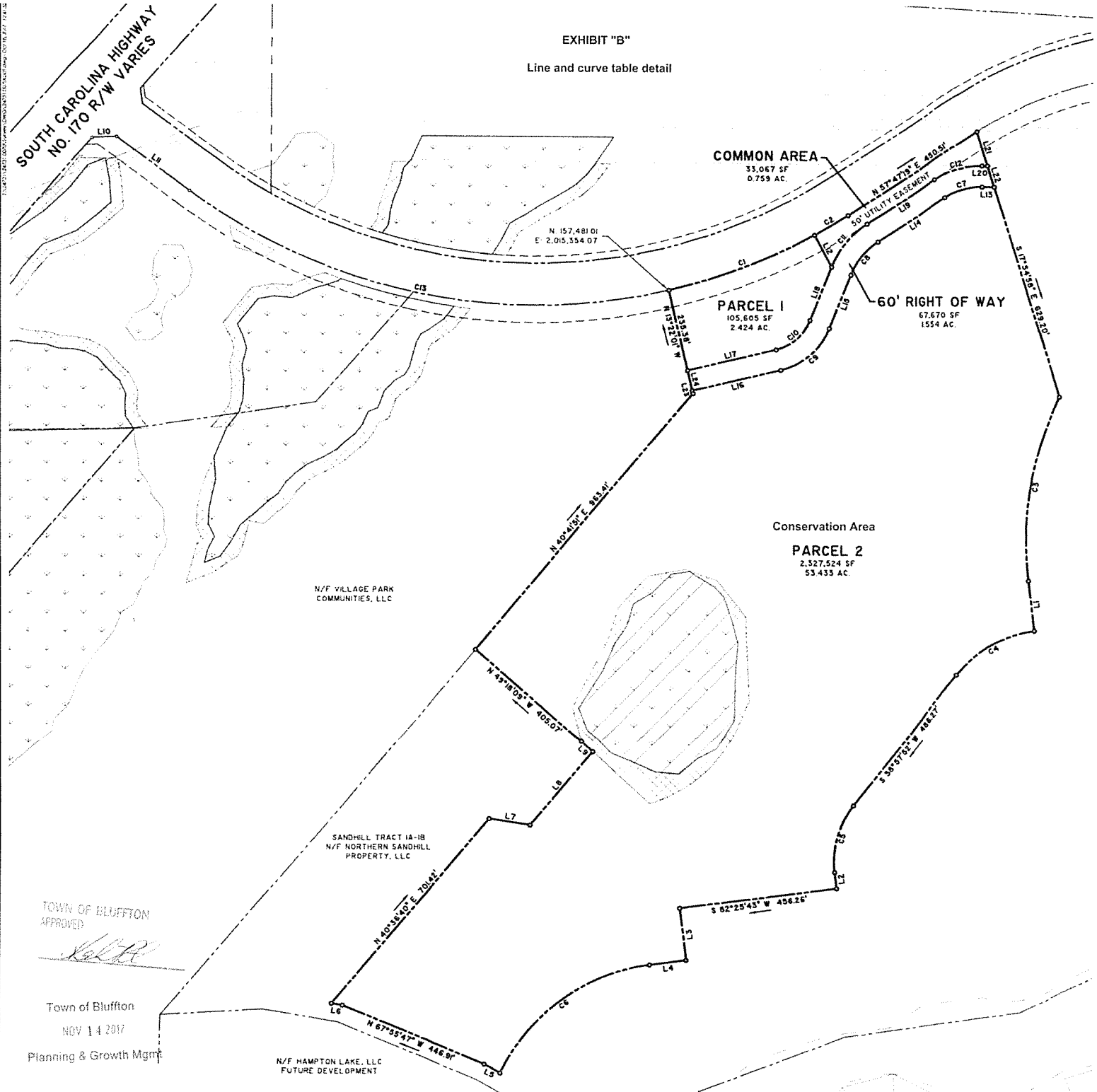
200 0 200 400
1 INCH = 200 FEET

plot	drawn	reviewed	field	crew
10-19-17	LPO	REM	OCT. 2017	BB

job 24731.0070 SHEET 1 OF 1

EXHIBIT "B"

Line and curve table detail



CURVE TABLE					
CURVE	RADIUS	LENGTH	CH BEARING	CH LENGTH	DELTA
C1	1697.00'	449.75'	N 69°09'22" E	448.43'	15°11'05"
C2	1697.00'	111.81'	N 59°40'34" E	111.79'	3°46'30"
C3	910.00'	539.58'	S 09°44'59" W	531.71'	33°58'24"
C4	350.00'	267.95'	S 60°53'48" W	261.45'	43°51'51"
C5	250.00'	203.08'	S 15°41'37" W	197.54'	46°32'31"
C6	560.30'	555.48'	S 54°01'16" W	533.01'	56°48'11"
C7	200.00'	113.65'	N 74°04'04" E	112.13'	32°33'31"
C8	200.00'	125.18'	N 39°51'29" E	123.15'	35°51'40"
C9	200.00'	190.96'	N 49°16'49" E	183.79'	54°42'20"
C10	140.00'	133.67'	N 49°16'49" E	128.65'	54°42'20"
C11	260.00'	162.73'	S 39°51'29" W	160.09'	35°51'40"
C12	260.00'	147.75'	S 74°04'04" W	145.77'	32°33'31"
C13	1697.00'	1456.28'	S 78°40'03" E	1412.00'	49°10'06"

LINE TABLE		
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L3	S 07°34'39" E	150.00'
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L5	N 61°02'58" W	52.40'
L6	N 80°32'43" W	32.04'
L7	S 8°25'52" E	119.43'
L8	N 40°41'51" E	280.00'
L9	N 47°54'16" W	44.94'
L10	S 87°37'12" W	71.46'
L11	S 54°05'00" E	259.99'
L12	S 28°26'11" E	103.20'

LINE TABLE		
LINE	BEARING	LENGTH
L13	S 89°39'10" E	34.90'
L14	N 57°47'19" E	238.85'
L15	N 21°55'39" E	165.37'
L16	N 76°37'59" E	261.63'
L17	N 76°37'59" E	261.63'
L18	N 21°55'39" E	165.37'
L19	N 57°47'19" E	238.85'
L20	S 89°39'10" E	15.10'
L21	S 17°54'58" E	102.16'
L22	S 17°54'58" E	63.18'
L23	N 13°22'01" W	7.65'
L24	N 13°22'01" W	60.00'

EXHIBIT B

See attached Conservation Easement

BEAUFORT COUNTY SC - ROD
BK 3633 Pgs 2183-2215
FILE NUM 2017071204
12/29/2017 01:49:59 PM
RCPT# 875642
RECORDING FEES 39.00

After recording please return to:
North American Land Trust
P.O. Box 467
Chadds Ford, PA 19317

NOTICE OF CONVEYANCE AND TRANSFER PAYMENT REQUIRED – SEE ARTICLE 7

CONSERVATION EASEMENT AND DECLARATION OF RESTRICTIONS AND COVENANTS

THIS CONSERVATION EASEMENT AND DECLARATION OF RESTRICTIONS AND COVENANTS ("Conservation Easement"), which shall be effective as of December 29, 2017, is made by and between **SANDLAPPER HILL, LLC,** a South Carolina limited liability company ("Owner"), having an address of 405 Marsh Avenue, Suite 206, Reno, NV 89509, and **NORTH AMERICAN LAND TRUST** ("Holder"), a Pennsylvania non-profit corporation having an address of Post Office Box 467, Chadds Ford, PA 19317.

ARTICLE 1. BACKGROUND

1.1 Owner is the owner of certain land in Beaufort County, State of South Carolina approximately 58.17 acres in area (the "Property") being the land described in a deed from Northern Sandhill Property, LLC to Owner recorded on December 28, 2016 in book 3541, page 437 in the office of the Register of Deeds for Beaufort County.

1.2 Within the Property there is an area of 53.433 acres (hereinafter called the "Conservation Area") described by metes and bounds in Exhibit A attached hereto and depicted and identified as Parcel 2 on a Plat recorded in Plat Book 148, page 10 in the Office of the Register of Deeds and also as "Conservation Area" on the reduced-size plat attached hereto as Exhibit B. The Conservation Area is intended to include any gaps and gores lying between the described Conservation Area and adjoining tracts of land.

1.3 Holder is a non-profit corporation, having a tax-exempt status under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (hereinafter called the "Code"), which

has been established as a public charity for the purpose of preserving and conserving scenic landscapes, natural habitats and environmentally sensitive areas and for other charitable, scientific and educational purposes and which is a "qualified organization" under Section 170(h)(3) of the Code (hereinafter a "Qualified Organization").

1.4 Preservation of the Conservation Area by this Conservation Easement shall serve the following purposes pursuant to 26 U.S.C. § 170 (h)(4)(a) and 26 CFR §1.170A-14(d)(i), (the "Conservation Purposes"):

1.4.1 Preservation of the Conservation Area for outdoor recreation by, or the education of, the general public.

1.4.2 Preservation of the Conservation Area as open space which, if preserved, will advance a clearly delineated Federal, State or local governmental conservation policy and will yield a significant public benefit.

1.5 The Conservation Purposes and the natural, physical or other characteristics of the Conservation Area that support and justify the Conservation Purposes (which may be hereinafter called the "Conservation Values") have been documented and established in the reports, plans, photographs, and documents assembled by, and retained in the offices of, North American Land Trust (collectively called the "Baseline Documentation"), pursuant to 26 CFR §1.170A-14(g)(5). The Baseline Documentation describes the following Conservation Values of the Conservation Area, among others:

1.5.1 The Conservation Area provides resources and access for use by the general public in passive outdoor recreation (e.g., walking and nature observation) and has the potential for expansion of both passive and active recreation resources and improvements.

1.6 The following government conservation policies are supported by the grant of this Conservation Easement and the Conservation Values described above achieve a significant public benefit towards the fulfillment of these conservation policies:

1.6.1 The Town of Bluffton's Comprehensive Plan, Chapter 7 cites, preserving open space, and public access as criteria in the section for Town Property and Acquisitions. The conservation and subsequent gifting to the town provides the public a benefit of open space to recreate while also saving the town needed funds (Town of Bluffton 2017, p. 7-5).

1.6.2 The Town of Bluffton's Comprehensive Plan, Chapter 7 section 7 states, "Bluffton and Southern Beaufort County's active and passive parks and recreation facilities are an important component of the region's quality of life" and "they are also an important component of the region's economy." The plan goes to describe that "940 acres of park land are needed to accommodate southern Beaufort County's build out population of 134,842. The participating local governments (Bluffton, Hilton Head Island, and Beaufort County) currently own approximately 431 undeveloped acres of land that can be used for future parks. This figure leaves southern Beaufort County with a shortfall

of approximately 509 acres, estimated to cost $17,822,000. According to the plan, the future park land need is entirely within the Greater Bluffton Area (Town of Bluffton 2017, p. 7-7)." Conservation of this Conservation Area will help to achieve Bluffton's and Beaufort County's mission to accommodate their residents with much needed open space and recreation land, while eliminating the need for these entities to pay for the land acquisition.

1.6.3 The Southern Beaufort County Regional Plan states "Southern Beaufort County's rapid rate of growth is projected to cost the region over $66 million dollars in the next 15 to 20 years to maintain an acceptable level of service for park land and facilities. Existing dedicated revenue sources projected for this time period only account for approximately $21 million dollars leaving a $45 million dollar funding gap (Beaufort County 2017, p. 63)." Conservation of this Conservation Area will help to achieve the County's mission to accommodate their residents with much needed open space and recreation land, while helping to address the problem of the funding gap.

1.6.4 The Southern Beaufort County Regional Plan states "the availability of additional land to accommodate future park needs is of immediate concern. Although all three Participating Local Governments have been proactive in acquiring land for parks through fee simple purchases or from dedications negotiated from private developments, an additional 525 acres is needed primarily in the Bluffton area. As the region continues to grow, the availability of land for future parks becomes scarcer and more expensive to acquire giving immediacy to this issue (Beaufort County 2017, p. 63)." The conservation of the Conservation Area for public recreation use will help to address the problem of land scarcity for public recreations and open space, which Bluffton and the County recognize as an obstacle in providing their residents with adequate public open space and parkland.

1.6.5 The Beaufort County Comprehensive Plan states "In northern Beaufort County and in the greater Bluffton Area, 180 additional acres of park land needs to be acquired to serve future demand for park land (Beaufort County 2010, p. 11-21)." The conservation of the Conservation Area for public recreation use will help to address the problem of land acquisition for public park lands while saving valuable funds for the municipalities involved.

1.6.6 The Beaufort County Comprehensive Plan states "Beaufort County should develop additional regional, community, and neighborhood parks to meet current and future recreation needs and to serve different geographic areas (Beaufort County 2010, p. 11-26)." The conservation of the Conservation Area for public recreation use will help to achieve this goal while preserving valuable funds for the County.

1.7 Owner and Holder desire to perpetually accomplish, fulfill and protect the Conservation Purposes and conserve the Conservation Values.

1.8 Owner intends to grant the easement and impose the restrictive covenants on the Conservation Area as stated in this Conservation Easement to accomplish the Conservation Purposes.

1.9 Owner and Holder intend that this document be a "conservation easement" as defined in the Conservation Easement Act of 1991, as amended (the "State Conservation Easement Law"), Sections 27-8-10 et seq. of the South Carolina Code of Laws.

NOW, THEREFORE, for no consideration and as an absolute charitable gift and further in consideration of the above premises, the mutual covenants, terms, conditions, restrictions, and promises contained in this Conservation Easement, and intending to be legally bound hereby, Owner hereby voluntarily, unconditionally and absolutely grants and conveys unto Holder, its successors and assigns, a perpetual conservation easement and the easements, covenants, prohibitions, and restrictions in this Conservation Easement, in perpetuity, to accomplish the Conservation Purposes. Holder hereby accepts the grant of such easement and the right to enforce such covenants, prohibitions and restrictions and agrees to hold such easements and rights exclusively for the Conservation Purposes and to enforce the terms of the covenants, prohibitions and restrictions in this Conservation Easement.

ARTICLE 2. GRANT OF EASEMENT OF ACCESS

Owner hereby voluntarily, unconditionally and absolutely grants and conveys unto Holder, its successors and assigns, a perpetual conservation easement and easement in gross over the Conservation Area for the purpose of preserving and protecting the Conservation Purposes and enforcing the restrictive covenants set forth below. In addition, Owner hereby grants and conveys unto Holder, its successors and assigns, pursuant to 26 CFR §1.170A-14(g)(5)(ii), the easement and right of Holder and its agents to enter upon and inspect the Conservation Area for compliance with this Conservation Easement at any time and from time to time. This right of inspection includes, but is not limited to, the right to conduct aerial inspection from or by licensed or unlicensed aircraft and the right to make a photographic or videographic record of the condition of the Conservation Area. Holder shall make a reasonable effort to give Owner notice of any such entry or inspection at least seven (7) days in advance, except in instances when Holder reasonably suspects or knows of a violation of this Conservation Easement, in which event no notice shall be required.

ARTICLE 3. OWNER'S DECLARATION OF COVENANTS AND RESTRICTIONS

Owner, for Owner and Owner's successors and assigns, covenants and declares that the Conservation Area shall be, and hereby is, bound by and made subject to the following covenants and restrictions in perpetuity, SUBJECT TO AND EXCEPTING however the Reserved Rights (hereinafter defined) which are reserved to Owner and Owner's successors and assigns in Article 4 of this Conservation Easement:

3.1 Purpose. It is the exclusive purpose of this Conservation Easement to perpetually protect and to confine the use of the Conservation Area to such activities as are consistent with the Conservation Purposes.

3.2 Use Restrictions. The Conservation Area shall not be used for a residence or for any commercial, institutional, industrial or agricultural purpose or purposes. Among the uses prohibited by the preceding sentence are, without limiting the meaning or interpretation of the preceding sentence, any of the following: (1) construction or occupancy of any dwellings; (2) manufacture or assembly of any products, goods, equipment, chemicals, materials or substances of any kind or nature whatsoever; (3) sale of any products, goods equipment, chemicals, materials, substances or services of any kind or nature whatsoever; (4) storage of any products, goods, equipment, chemicals, materials or substances of any kind or nature, except if stored for use upon the Conservation Area in connection with activities not prohibited by this Conservation Easement; and (5) offices for persons involved in the sale, manufacture or assembly of goods or services or for the performance of services.

3.3 Structures Prohibited. No Structure (hereinafter defined) of any kind shall be built, erected, installed, placed, affixed or assembled within or upon the Conservation Area or upon any trees or other natural features upon the Conservation Area. "Structure" shall mean any assembly of material forming a construction for occupancy or use for any purpose and erected upon or attached to the ground including, for example but not to limit the foregoing definition, the following: building; platform; shed; bin; shelter; dam; dike; tower; tank; antenna; bulkhead; paved, stone or concrete street, driveway or vehicle parking area; riding arena; and riding ring with a surface that is impervious to percolation of storm water.

3.4 Use By General Public. The Conservation Area is and shall continue to be and remain open for substantial and regular use by the general public for outdoor recreation or outdoor education activity. Such use shall include uses characterized by outdoor activities that require either no Structures or land disturbance or only Structures or land disturbance having a *de minimis* impact on land and ecological conditions, such as walking trails and nature observation; and may also include, but only within areas specified in Article 4 and may include, in accordance with Article 4, uses characterized by outdoor activities that require Structures and land disturbance such as sports courts or fields and shelters for social gatherings. Owner may impose reasonable rules and regulations that protect the natural resources and public safety and minimize trespass on neighboring private lands. Such use shall be available, in general, daily between sunrise and sunset, subject to reasonable limitations and requirements for the maintenance and management of the Conservation Area. For determination of the reasonableness of such limitations and requirements reference shall be made to those which are in effect at state, county or municipal parks with similar facilities either in the same county or, if none, within a relevant region and also to management practices recommended by reputable professional associations for public park management.

3.5 Removal of Ground or Surface Water from Conservation Area. No ground or surface water from the Conservation Area shall be removed, collected, impounded, stored, transported, diverted or otherwise used for any purpose or use outside the Conservation Area unless approved by Holder in its sole discretion without obligation to do so nor for any purpose or use within the Conservation Area that is prohibited by this Conservation Easement.

3.6 Roads, Driveways, Etc. There shall not be constructed, cut, created, paved with impervious material or placed on the Conservation Area any road, driveway, cartway, path or other means or right of passage across or upon the Conservation Area and Owner shall not exercise its right, if any, to construct or relocate any road, utility, driveway or easement under the terms of any existing easement agreement except to the extent done in conformity with this Conservation Easement. No road, driveway, cartway, path or other means or right of passage located on the Conservation Area shall be used for access to any use (whether or not upon the Conservation Area) which is prohibited by this Conservation Easement.

3.7 Live Trees. No cutting, removal or destruction of live trees shall be permitted upon or within the Conservation Area.

3.8 Signs and Similar Structures. No signs, billboards or outdoor advertising structures shall be placed, erected or maintained within the Conservation Area.

3.9 Land Disturbance; Mineral Extraction. There shall be no filling, excavating, dredging, surface mining, drilling or any removal of topsoil, sand, gravel, rock, peat, gas, oil, coal, other minerals or other materials, upon or from the Conservation Area.

3.10 Dumping and Pollution. There shall be no dumping of ashes, trash, garbage, or any other unsightly or offensive materials at any place on, under or within the Conservation Area. There shall be no discharge of chemicals, waste water or other pollutants onto the Conservation Area or into any permanent or intermittent water course within the Conservation Area.

3.11 Change of Topography. There shall be no change in the topography of the Conservation Area by any means or method.

3.12 Water Courses. There shall be no dredging, channelizing or other manipulation of natural water course or of any other water course existing within the Conservation Area as of the date of this Conservation Easement except that manmade drainage swales, ditches or storm water management facilities may be dredged or otherwise altered for maintenance purposes or to maintain its function for its intended purpose on the date of this Conservation Easement.

3.13 Wetland and Riparian Protection Area.

3.13.1 "Wetland and Riparian Protection Area" shall mean that part of the Conservation Area that lies within, or within 50 feet of: (a) any body of water or permanent or intermittent watercourse (including but not limited to any lake or pond, but excluding manmade storm water swales or ditches not fed by a spring, pond or other natural source) as defined by its banks or the mean water elevation as Holder deems relevant and appropriate in the circumstances; and (b) any wetland under the regulatory jurisdiction of the federal or state government.

3.13.2 There shall be no clearing, cutting or removal of live or dead trees, other clearing or removal of vegetation, clearing or removal of leaf litter or other natural detritus, or digging, earth movement or other alteration of the earth surface or topography within the Wetland and Riparian Protection Area, except that areas within the Wetland and Riparian Protection Area that are predominantly in grasses on the date of this Conservation Easement may be mowed.

3.13.3 Owner shall be responsible for ascertaining the boundaries of the Wetland and Riparian Protection Area, at Owner's expense, in consultation with Holder, before undertaking any action that is or may be prohibited in the Wetland and Riparian Protection Area. If the banks of a water course are not clearly defined then Holder shall, in its reasonable discretion, establish a line of the mean water elevation to substitute for that purpose upon request by Owner, relying on available topographic, hydrologic information, and other maps and relevant information. Owner shall bear the expense of any survey or field work necessary to establish the line.

3.13.4 Any approvals by Holder of Reserved Rights to be conducted within the Wetland and Riparian Protection Area, if permitted under this Conservation Easement subject to approval by Holder, shall be granted by Holder only if Holder concludes that the Reserved Rights shall have no material adverse effect on the habitat within the Wetland and Riparian Protection Area and thus on the Conservation Values and Conservation Purposes pertaining to the Wetland and Riparian Protection Area.

3.14 Soil Erosion and Sedimentation Control. All activity on the Conservation Area shall be conducted so as to avoid the occurrence of soil erosion and sedimentation of streams or other water courses. Without limitation of the foregoing, Owner and Holder shall, in identifying practices that will prevent soil erosion and sedimentation, refer to the soil conservation practices as then established or recommended by the Natural Resources Conservation Service of the United States Department of Agriculture or any successor governmental office or organization performing the same function within the United States government, as approved by Holder.

3.15 Non-Native Plant Species. There shall be no introduction of plant species within the Conservation Area except those that are native to the area in which the Conservation Area is located or that are recognized as non-invasive horticultural specimens or fruit orchard trees.

3.16 Transfers of Development Rights or Development Density Credits. The Conservation Area may not be used as open space for purposes of obtaining or qualifying for governmental approval of any subdivision or development on lands outside the boundaries of the Conservation Area nor, without limitation of the foregoing, may the Conservation Area be used in the calculation of the amount or density of housing units or other construction for development or other impervious ground coverage on lands outside the boundaries of the Conservation Area or for sale by Owner.

3.17 No Subdivision. There shall be no subdivision or other division of the Conservation Area into one or more lots, tracts or parcels of land under separate ownership.

3.18 Notice of Exercise of Reserved Rights. As required by 26 C.F.R. § 1.170A-14(g)(5)(ii), Owner shall notify Holder in writing before exercising any Reserved Right that may impair the conservation interests associated with the Conservation Area.

3.19 Preservation of Conservation Area. The parties recognize that this Conservation Easement cannot address every circumstance that may arise in the future, and the parties agree that the purpose of this Conservation Easement is to preserve the Conservation Values of the Conservation Area and to fulfill the Conservation Purposes in accordance with 26 U.S.C. § 170(h). Without limiting the preceding covenants and restrictions, and in fulfillment of the requirements of 26 CFR §§1.170A-14(g)(1) and 1.170A-14(e)(2), any right, use or activity which is not reserved in Article 4 of this Conservation Easement, is inconsistent with the Conservation Purposes or materially threatens the Conservation Purposes is prohibited.

3.20 Effect on Declaration of Protective Covenants. Owner represents to Holder that Owner is the owner of all of the real estate and the beneficiary of all of rights governed by or created under the Declaration of Covenants, Conditions and Restrictions for Buckwalter Property Owners Association, Inc. which was recorded in the Office of the Beaufort County Superior Court **[or Register of Deeds]** on April 12, 2002 in Book 1567, page 2325 (as amended, the "Declaration"). This Conservation Easement supersedes any restrictions, rights, easements, benefits and liens in or to the Conservation Area that are expressly stated in or implied by, or that may arise under, the Declaration and all such rights, easements, benefits and liens are limited by and subject and subordinate to this Conservation Easement. The Holder, as holder of this Conservation Easement, does not assume any liability or obligation under the Declaration.

3.21 Restrictions Cumulative. The prohibitions and restrictions in this Conservation Easement shall be considered cumulative. No prohibition or restriction contained herein shall be interpreted as a limitation on the meaning, effect, interpretation or enforceability of another prohibitive or restrictive provision.

ARTICLE 4. RESERVED RIGHTS

Owner reserves for Owner and Owner's successors and assigns who may now or hereafter be an owner of all or part of the Conservation Area the rights set forth in this Article 4 (the "Reserved Rights"). Owner and Holder intend that these Reserved Rights and the activities and uses which are described below as the Reserved Rights are exceptions to the prohibitions and restrictions set forth in Article 3 and, hence, may be conducted as described below without having an adverse effect on the Conservation Purposes; except, however, that none of the Reserved Rights shall supersede the protections of the Wetland And Riparian Protection Area set forth in Article 3 except with the approval of Holder which may be given or withheld in its discretion. A Reserved Right to "construct" a Structure or other improvement shall include the right to maintain, repair, replace, use, and occupy such Structure or improvement for the purpose and within the limitations stated in this Article.

4.1 Active Recreation. Owner may construct Structures and grade, fill or otherwise alter the ground surface as specified in this Section for the use and purpose of engaging in or supporting outdoor recreation or outdoor education by the general public in the Conservation Area (the "Recreational Improvements"); provided that all Recreational Improvements shall be constructed and located only according to locations, dimensions and appearance set forth in a Park Master Plan (the "Park Master Plan") that has been prepared by or for Owner and that has been approved by Holder. The Park Master Plan shall be prepared by persons experienced in landscape design, park design or other similar expertise, shall contain such plans, specifications and other information as Holder may require, shall be for the purpose of demonstrating compliance with this Conservation Easement, and may be amended or supplemented if approved by Holder. Holder's review and approval of the Park Master Plan shall not extend to compliance of the Recreational Improvements with applicable law or standards of safety. Among the Recreational Improvements allowed by the foregoing, in accordance with plans and specification in a Park Master Plan, are:

4.1.1 roofed shelters for outdoor picnicking and similar outdoor recreation uses provided they are open, without walls, on at least three sides (insect screens are permitted on the roofed shelters and will not be considered a wall for purposes of these restrictions);

4.1.2 Structures customarily accessory to outdoor recreation or outdoor education activities such as amphitheater, concession stand, fences, and rest rooms;

4.1.3 picnic tables and benches, charcoal cooking grills, fire pits or rings, and similar Structures commonly associated with outdoor picnicking and similar outdoor recreation (in its discretion Holder may choose not to count the area of such Structures or objects towards the maximum allowed ground coverage area based on their immaterial impact on storm water recharge, the fulfillment of the Conservation Purposes, and the convenience of monitoring);

4.1.4 buildings for storage of equipment and materials, also commonly referred to as a shed or garage, used in the maintenance of the Conservation Area or in the public recreation or education uses within the Conservation Area or public rest rooms to serve the public engaged in outdoor recreation or education use of the Conservation Area;

4.1.5 parking areas with stone, concrete or other impervious surface for use by the public in connection with outdoor recreation or outdoor education use of the Conservation Area;

4.1.6 courts and fields for sports play, bleachers, goals and goal posts, lighting, and similar Structures associated with outdoor sports;

4.1.7 Structures to allow for and support gardening and other horticultural activity on the Conservation Area as part of the public recreation and outdoor education activities; and

4.1.8 stormwater management swales and other facilities appropriate to the Structures and land disturbance otherwise permitted in this Section.

4.2 Driveway. Owner may construct and pave with pervious or impervious material (such as bituminous asphalt, concrete or crushed stone) a driveway for access to buildings and Structures permitted in this Conservation Easement in a location approved by Holder. The width of the driveway and any area of land disturbance, grading or tree removal for such driveway shall be no greater than the minimum necessary to meet any legal requirements or, to the extent no legal requirements apply or are lawfully waived, the minimum practicable consistent with sound engineering techniques and methods.

4.3 Alternative Energy Structures. Owner may construct, or attach to existing Structures, Structures and related facilities to generate energy for consumption within the Conservation Area, in accordance with the Park Master Plan, for activities that are not prohibited by this Conservation Easement provided that: (a) the energy is generated from a renewable, natural source such as solar or wind energy, or as a natural by-product of an activity on the Conservation Area that is not prohibited by this Conservation Easement, (b) the facilities and other Structures used to generate such energy are sized with a capacity limited to producing energy substantially all of which will be consumed in the Conservation Area for activities not prohibited by this Conservation Easement, (c) substantially all of the energy that is produced is consumed on the Conservation Area and not sold or otherwise transferred for use off of the Conservation Area but, while conforming at all times to this limitation, energy not consumed on the Conservation Area may be sold, and (d) this Section shall not be construed to permit the consumption of any natural resources of the Conservation Area, such as wood or natural gas, that is not otherwise permitted under this Conservation Easement.

4.4 Unpaved Vehicle Trails. Owner may also construct unpaved vehicle trails for limited vehicular access to the areas of the Conservation Area otherwise inaccessible by vehicle for use in maintenance, emergency access, and other permitted uses of the Conservation Area if the following requirements and conditions are satisfied: (a) the surface of such trails shall have a pervious surface (such as dirt or crushed stone that is not so fine as to create the equivalent of a paved condition); (b) such trails shall be located, to the extent possible, in the path of roads or trails existing on the date of this Conservation Easement; (c) the width of the area cleared for such trails shall not exceed that which is necessary for a single lane of vehicular traffic; (d) and such trails shall be otherwise constructed in a manner to avoid unnecessary tree removal and land disturbance; (e) if such trails require any grading or change in topography, then such grading shall blend into the natural topography of the Conservation Area , shall control erosion, and shall be of a design and location approved, in advance, by the Holder in its discretion within the Park Master Plan; and (f) Holder approves the proposed service vehicle trail based on the foregoing requirements.

4.5 Trails and Raised Walkways. Owner may construct trails and raised walkways for outdoor nature education or outdoor recreation purposes according to dimensions and locations specified in a Park Master Plan approved in advance by Holder; however trails

for use in bicycling or uses of similar impact shall be allowed only, and governed, by the Park Master Plan

4.6 Permitted Work within a Wetland And Riparian Protection Area. Owner may, with the approval of Holder, dredge or otherwise manipulate previously-altered natural or manmade water courses within the Wetland and Riparian Protection Area or perform work, including the removal of vegetation or disturbance of land, within the Wetland and Riparian Protection Area if necessary to (a) maintain wetlands existing on the Conservation Area, (b) restore wetlands previously existing on the Conservation Area, (c) restore natural stream channel morphology and natural wetland hydrology, or (d) to facilitate access to the Wetland and Riparian Protection Area for outdoor recreation or education purpose as approved by Holder in its discretion and without obligation to do so. Owner may cut and remove shrubs, grasses and trees in the Wetland and Riparian Protection Area in conformance with a plan prepared by an appropriately qualified natural resource professional, at Owner's expense, and approved by Holder (the "Vegetation Management Plan") . The purpose of the Vegetation Management Plan shall be to perpetually promote the conservation of the Wetland and Riparian Protection Area. The Vegetation Management Plan must address issues and provide information as Holder requests.

4.7 Man-made Stormwater Features. Owner may dredge or otherwise alter man-made drainage swales, ditches or storm water management facilities for maintenance purposes or to maintain their function for their intended purpose as established on the date of this Conservation Easement.

4.8 Fences. Owner may construct fences; provided that except as provided in the Park Master Plan fences shall be designed so as not to impede the movement of wildlife.

4.9 Wildlife Stands, Nests and "Blinds". Owner may construct a reasonable number of wildlife observation stands and "blinds" and houses, nests or perches for birds or other wildlife; provided that in the construction of any such Structure Owner shall comply with all other covenants and restrictions of this Conservation Easement.

4.10 Utility Installations. Owner may install cables and pipelines normally used in connection with supplying water, electricity, communications, natural gas or similar utility services, removing sanitary sewage effluent, or controlling storm water runoff, and may install water wells and government-approved waste water disposal facilities (e.g., septic system), if the following requirements and conditions are satisfied:

4.10.1 such facilities may only be constructed and used to serve the uses, Structures and improvements permitted under the terms of this Conservation Easement ;

4.10.2 all such construction and maintenance is conducted in a manner designed to produce no material adverse effect on the Conservation Purposes; and

4.10.3 Holder approves the proposed utility facility based on the foregoing requirements.

4.11 Tree Cutting and Forest Management. Owner shall have the right, for the benefit of Owner and Owner's representatives, agents, contractors, subcontractors, licensees, and lessees, to conduct the following activities within the Conservation Area if the requirements of this Section are met:

4.11.1 A live tree that has been damaged or disturbed by forces of nature or by disease or that is evidently at risk of falling may be cut and removed if such tree presents a threat of injury to persons or other property or blocks a trail, road or other means of access to any part of the Conservation Area.

4.11.2 Trees may be removed as provided in, or required for compliance with, the Park Master Plan and otherwise to the extent necessary for exercise of the Reserved Rights.

4.11.3 Early successional tree species may be selectively removed within areas existing in a meadow condition at the time this Conservation Easement is granted, for the purpose of preserving such areas as meadow.

4.11.4 Cutting and removal of trees for the purpose of promoting the maturing and ecological enhancement of forest conditions, but only if done according to a plan approved in advance by Holder in its discretion.

4.12 Signs. Owner may construct a reasonable number of signs of the following types:

4.12.1 regulatory or directional signs;

4.12.2 signs stating the common name of the Conservation Area, the names and addresses of the occupants or both;

4.12.3 signs advertising or directing participants to an activity permitted under the provisions of this Conservation Easement;

4.12.4 signs in the Active Recreation Zone as are customarily associated with the activities being conducted in the Active Recreation Zone;

4.12.5 signs identifying the interest of Owner or Holder in the Conservation Area; and

4.12.6 signs educating the public as to the ecology of the area.

4.13 Maintenance of Roads, Trails, Etc. Owner may maintain in passable condition the Structures, roads, trails or walkways existing within the Conservation Area at the date of this Conservation Easement or, if applicable, constructed pursuant to the Reserved Rights in this Article 4, by such activities as the following: the pruning of trees or other vegetation which threaten the safety of persons who may use or maintain the road, trail or walkway; installing or applying materials necessary to correct or impede erosion; grading earth to maintain a passable condition or to control or impede erosion; replacing existing culverts, water control structures and bridges; and dredging roadside swales and ditches.

The right of maintenance in this section includes the right to, and therefore allows the Owner to, re-pave roads or driveways that are paved with bituminous asphalt, concrete or similar impervious material on the date of granting this Conservation Easement but does not include the right to pave with impervious material a road or driveway that is not paved on the date of granting this Conservation Easement unless such paving is permitted under another provision of this Conservation Easement.

4.14 Notice and Approval Before Exercise of Certain Reserved Rights. None of the Reserved Rights for which the approval of Holder is expressly required in any Section of this Article 4 may be exercised or undertaken unless Owner has first satisfied the following conditions and requirements:

4.14.1 Owner shall notify Holder in writing before exercising any of such Reserved Rights.

4.14.2 Holder must be satisfied, as evidenced by its prior written approval of Owner's proposed exercise of a Reserved Right, that any use or activity done in the exercise of the Reserved Right will meet the requirements and conditions for such Reserved Right, will have no material adverse effect on the Conservation Purposes or on the Conservation Values or other significant environmental features of the Conservation Area, will not alter or permit the alteration, disturbance or destruction of the use of the Conservation Area that is intended to be protected by this Conservation Easement.

4.14.3 Notwithstanding anything in this Conservation Easement to the contrary, if Owner undertakes to exercise a Reserved Right or other action, without prior approval of Holder, where such approval is expressly required under this Conservation Easement, then such exercise of the Reserved Right by Owner may be treated by Holder, in Holder's sole discretion, as an action that was prohibited by this Conservation Easement as fully as if the Reserved Right or other right was not contained in, or reserved to Owner under, this Conservation Easement. Should Holder elect, in its discretion, to decline to assert this prohibition and to waive a violation of the Conservation Easement arising solely from Owner's failure to seek and obtain Holder's approval before exercising a Reserved Right or other right where such approval is required, Holder shall not be thereby obligated to do so in any future circumstance or event and Holder's waiver shall not be construed to require any waiver in a subsequent instance.

4.14.4 Notwithstanding the foregoing, in the event the Conservation Area is affected or in imminent danger of being affected by casualty damage resulting from an Act of God, fire or other event beyond Owner's control then the prior approval requirements of this Section shall be waived as to any action that would otherwise require such approval but which must be undertaken by Owner immediately in order to prevent loss, damage or injury to persons or property or to prevent ecological damage to the Conservation Area or neighboring property (an "Emergency Restoration Action"); provided that

Owner makes a good faith effort to notify Holder prior to undertaking such Emergency Restoration Action and to keep Holder informed of its ongoing actions.

4.14.5 Holder's prior written approval of the exercise of Reserved Rights for which approval of Holder is required shall be obtained, conditionally obtained or declined according to the procedure provided in this Section. At least forty-five (45) days before Owner begins, or allows, any exercise of Reserved Rights on the Conservation Area Owner must notify Holder in writing of Owner's intentions to do so; provided, however that Holder may, upon written request, reduce the period of time for notice of the proposed exercise of Reserved Rights for simpler requests, in Holder's discretion. Such notice must include plans depicting, in such detail as Holder requests, the construction or other use or activity, and location thereof, which Owner intends to undertake. Owner may also be required to present to Holder for review any applications to, and approvals or permits issued by, any governmental entity that is required for the exercise of the Reserved Right for which Holder's approval is sought. Holder may request additional information or details not provided by Owner regarding Owner's proposed exercise of Reserved Rights as Holder reasonably believes necessary to determine compliance with this Article. Holder shall not be obligated to accept or respond to any request for approval of a Reserved Right if the Owner is then in violation of this Conservation Easement in any material respect. Holder shall have thirty (30) days from receipt of the notice or, if later, any additional information regarding the proposed use or activity requested by Holder, in which to make one of the following determinations:

(a) Approve Owner's proposed exercise of a Reserved Right in accordance with the materials submitted by Owner ("Approval"). Approval on such terms shall constitute a covenant by Owner to exercise the Reserved Right solely in accordance with the notice and other information submitted to Holder; which covenant shall be enforceable by Holder as fully as if stated in this Conservation Easement.

(b) Approve Owner's proposed exercise of a Reserved Right in accordance with the materials submitted by Owner but subject, however, to such qualifications and conditions as Holder may impose in its notice of approval. Such qualifications and conditions shall be limited to those which Holder deems necessary to: assure compliance by Owner with any of the express covenants or restrictions of this Conservation Easement, preserve and protect the Conservation Purposes or restrict Owner's exercise of the Reserved Rights to that which Owner has represented to Holder. Approval on such terms shall constitute a covenant by Owner to exercise the Reserved Right, if at all, only in accordance with the notice and other information submitted to Holder, as modified or supplemented by the qualifications and

conditions that Holder imposed; which covenant shall be enforceable by Holder as fully as if stated in this Conservation Easement.

(c) Decline to grant approval of Owner's proposed exercise of a Reserved Right on the basis of the notice and other materials submitted. Should Holder decline to grant approval Holder shall state in writing its reasons.

4.14.6 Holder shall exercise reasonable judgment in applying the standards of review and approval for the exercise of Reserved Rights, consistent with and taking into consideration the fulfillment of the Conservation Purposes and the preservation of the Conservation Values.

4.14.7 Holder may grant, with or without conditions, approval for recurrent exercises of Reserved Rights, particularly but not necessarily limited to activities of a de minimis nature, if Holder concludes that doing so will have no material adverse effect on the Conservation Purposes or on the burden on, and effectiveness of, Holder's monitoring and enforcement in accordance with this Conservation Easement. Such approval must be in writing and shall, as with other approvals of the exercise of Reserved Rights, be limited to the description of the proposed exercise of Reserved Rights in Owner's proposal as modified or limited by the conditions in Holder's written approval.

4.14.8 In the event that Holder's approval is required and Holder fails to respond within the time period specified above and further fails to respond within ten days after a second written request by Owner to Holder, then the Holder shall be deemed to have denied Approval (as defined above).

4.14.9 Owner shall be responsible for obtaining all necessary government permits and approvals for any activity for which Holder's approval is required and Holder shall have the right, but not the obligation, to require that such permits and approvals be produced for inspection by Holder before Holder's approval is granted or as a condition to approval.

4.14.10 Owner shall be responsible, as a condition of the right to exercise the Reserved Rights for which the approval of Holder is expressly required, for payment of Holder's reasonable costs and expenses, including legal and consultant fees, associated with review of Owner's request for approval; provided, however, that Holder will notify Owner before incurring any costs or expenses which it believes Owner may be obligated to pay under this Section though Holder shall not be required to predict the exact amount of the cost or expense. Holder may condition consideration of a proposal for exercise of Reserved Rights upon the deposit of a sum of money with Holder to secure payment of Holder's reasonable costs of review. The time period for Holder's consideration of Owner's request shall not run until such deposit is made.

4.14.11 While the parties believe that each of the Reserved Rights as to which Holder's prior approval is required can be exercised in some manner without adverse effect on the Conservation Purposes of this Conservation Easement, no assurance is given that the above Reserved Rights may be exercised in specifically the manner as Owner might initially propose without having an adverse effect on the Conservation Purposes or other significant ecological values of the Conservation Area. The foregoing procedure is established for the purpose of making that determination and preventing any activity on or use of the Conservation Area that may have such an adverse effect.

4.14.12 In consideration for Holder accepting the perpetual responsibility and obligation to review the proposed exercise of Reserved Rights by Owner, Owner hereby waives, for Owner, and Owner's successors, legal representatives, and assigns, to the fullest extent allowed by law, any and all right to seek or recover damages from Holder in any litigation or other legal action arising from a dispute over Holder's exercise of its rights, obligations or interpretations under this Article 4 and agrees that the sole remedy or legal right to seek redress arising from any decision of Holder pursuant to this Article 4 shall be to seek a declaratory judgment or other legal declaration by a court of competent jurisdiction as to the rights of Owner hereunder.

ARTICLE 5. HOLDER'S COVENANTS

5.1 Best Efforts to Enforce. Holder shall use its best efforts to enforce both the rights granted to it and the restrictions imposed upon the Conservation Area under this Conservation Easement.

5.2 Inability to Enforce: Procedure. If at any time Holder is unable to enforce this Conservation Easement or if Holder or any successor or assignee of Holder's rights under this Conservation Easement ceases to exist or ceases to be a Qualified Organization and if, within a reasonable period of time after the occurrence of any of these events, Holder or any successor or assignee fails to assign all of its rights and responsibilities under this Conservation Easement to a Qualified Organization and "holder", then the rights and responsibilities under this Conservation Easement shall become vested in and fall upon another Qualified Organization in accordance with a proceeding before, and the order of, any court of competent jurisdiction.

5.3 Assignment by Holder. Notwithstanding the foregoing or anything else in this Conservation Easement to the contrary, Holder and its successors and assigns shall have the right to assign, either wholly or partially, its right, title and interest hereunder provided that (a) the assignee is a Qualified Organization; (b) the assignee shall hold the Conservation Easement exclusively for the Conservation Purposes; and (c) the assignee agrees that the Conservation Purposes continue to be carried out. Holder agrees to notify Owner of its intent to assign the Conservation Easement, including disclosing the identity of the intended assignee, at least 30 days prior to such assignment and to offer Owner, during such period after notice and until assignment, an opportunity to comment on, but not approve or disapprove, such assignment.

ARTICLE 6. REMEDIES AND ENFORCEMENT

6.1 Remedies Generally. Holder shall have the right to enforce by proceedings at law or in equity each and every one of the covenants and restrictions in this Conservation Easement. The foregoing shall not limit any of the rights or remedies available to Holder in any law or in this Conservation Easement. Holder's remedies described in this Conservation Easement shall be cumulative and concurrent and shall be in addition to all remedies now or hereafter available or existing at law or in equity.

6.2 Violation of Conservation Easement. If Holder determines that this Conservation Easement is being or has been violated or that a violation is threatened or imminent then the following provisions shall apply:

6.2.1 Holder must notify Owner of the violation. Holder's notice may, in Holder's discretion, include its recommendations of measures to be taken by Owner to cure the violation and restore features of the Conservation Area damaged or altered as a result of the violation.

6.2.2 Holder shall afford Owner a period to cure the violation as stated below before undertaking action in court to enforce the Conservation Easement, provided, however, that no cure period is required if circumstances require prompt action to prevent or mitigate irreparable harm or alteration to, or destruction of, any natural resource or other feature of the Conservation Area described in the Conservation Purposes and Conservation Values.

6.2.3 Owner's cure period, if a cure period is required under the preceding paragraph, shall expire thirty (30) days after the date of Holder's notice to Owner but shall be extended for the time reasonably necessary to cure the violation if, and only if, all of the following conditions are satisfied: (a) Owner ceases the activity constituting the violation promptly upon receipt of Holder's notice; (b) Owner and Holder agree in writing, within the initial thirty (30) day period after Holder's notice to Owner or such longer time as Holder may afford in its discretion, upon the measures Owners will take to cure the violation; (c) Owner commences to cure the violation within the initial thirty (30) day period or such longer time as Holder may afford in its discretion; and (d) Owner continues thereafter to use best efforts and due diligence to complete the cure measures that Holder and Owner have agreed upon in writing. In no event shall Holder be obligated, notwithstanding the foregoing, to allow a cure period of more than 90 days or to refrain from commencing a legal action in court during the cure period if Holder concludes it is necessary to do so in order to preserve its right to enforce the Conservation Easement. Nothing in this paragraph shall require or prohibit settlement of a litigation or threatened litigation arising from an actual or alleged violation.

6.3 Remedy of Specific Performance. Without limitation of any other rights of Holder in this Conservation Easement, Holder's right of enforcement of this Conservation Easement

shall include the right to seek specific performance by Owner of the restoration of the Conservation Area to its condition at the time of the donation of the Conservation Easement as required by 26 C.F.R. § 1.170A-14(g)(5)(ii) or to its condition prior to any activity that violates this Conservation Easement or as otherwise may be necessary to remedy any violation of any easement, covenant, prohibition or restriction in this Conservation Easement, as Holder may elect.

6.4 Remedy of Damages. If Owner violates this Conservation Easement in such a manner as to cause damage to, extract or remove any trees, mineral resources, pond, wetland, stream, or other natural resource protected by this Conservation Easement, including violation resulting from failure to obtain Holder's approval, Holder shall be entitled to payment of damages in the amount of the value of the protected natural resource; provided, however, that if the natural resource effected by the Owner's violation of this Conservation Easement can be restored to its condition prior to the violation and if Owner does restore the natural resource to its condition prior to the violation within a time period accepted by Holder in writing, then Holder shall accept such restoration in lieu of damages. Holder may seek payment and recovery of such damages by any means available at law. The value of the protected natural resource shall be the greater of (a) the market value of the resource or, (b) the cost of immediate restoration of the Conservation Area and all resources to its condition prior to the violation. If such restoration is not reasonably possible then double the market value of the resource shall be the amount of liquidated damages. If the resource does not have a readily determinable market value then the amount of damages shall be the amount which a court having jurisdiction may determine, taking into account the importance of the resource to the fulfillment of the Conservation Purposes. Nothing in this Section is intended to limit, waive or release Holder's right so seek specific performance or other equitable remedy.

6.5 Rights and Remedies in Relation to Third Parties. As the owner of a real property interest under this Conservation Easement, Holder shall have the right, without limitation of any rights herein as against Owner, to assert and enforce any of the rights and remedies in this Conservation Easement against any person or entity other than Owner that engages in any action upon the Conservation Area that constitutes a violation of any of the covenants or restrictions of this Conservation Easement, whether such person or entity enters upon the Conservation Area as a tenant, guest or invitee of Owner, by an act of trespass or by any claim of right and Owner shall cooperate with Holder by joining in any action or proceeding commenced by Holder for such purpose.

6.6 Remedy: Failure to Pay Certain Charges. If Owner fails to pay any assessments, fees, fines, levies, penalties, taxes, and other charges imposed by a government, governmental agency, or governmental authority that can become a lien on the Conservation Area or upon this Conservation Easement or the rights it represents or that it grants to Holder (collectively, "Governmental Charges"), Holder may, but shall have no obligation to, pay such Governmental Charges or any part thereof upon ten (10) days after sending written notice to Owner, according to any bill, statement, or estimate procured from the appropriate public office. Payment made by Holder shall become a lien on the Conservation Area in favor of Holder upon payment by Holder and shall bear interest

until Holder is paid by Owner at the rate of twelve percent (12%) per annum or at the highest rate of interest per annum as is allowed by applicable law, whichever is less.

6.7 Certain Events Not a Violation. Notwithstanding anything herein to the contrary, Holder shall not bring any action seeking to enforce this Conservation Easement against Owner, nor shall this Conservation Easement be considered to have been violated by Owner, as a result of any damage to the Conservation Area if such damage was solely the result of: (a) a natural event such as an earthquake or flood, wind, lightning or other storm event, including those events commonly referred to as "acts of God"; (b) damage by persons trespassing upon the Conservation Area; or (c) any emergency measures reasonably and prudently taken by Owner to abate or mitigate significant injury to the Conservation Area as a result of any such natural event or trespass.

6.8 Limitation on Certain Rights. This Conservation Easement may only be enforced by Owner and Holder and no third party beneficiary rights, rights of enforcement or other rights are created or intended to be created or granted by this Conservation Easement in or to any other person or entity, any person or entity that was once an "Owner" but is no longer an owner of the Conservation Area, the public generally or any governmental authority except to the limited extent necessary to undertake an action under Section 5.2 or as required by statute (and only to the extent such statute cannot be waived by agreement of Holder and Owner). Owner and Holder do not intend that this Conservation Easement be or create a trust. Without limitation of the foregoing, no person or entity that has been an Owner shall have any rights under this Conservation Easement after such Owner has conveyed that Owner's legal ownership interest in the Conservation Area and no person or entity that is an Owner as to a part of the Conservation Area shall have any rights under this Conservation Easement as to any part of the Conservation Area not owned by that Owner.

6.9 Reimbursement of Expenses of Enforcement. In the event that Holder acts, after violation of the Conservation Easement, to enforce this Conservation Easement or any obligation hereunder, all reasonable expenses incurred by Holder shall be charged to and paid by Owner, including reasonable attorneys' fees regardless of whether an action or proceeding is commenced and whether incurred before or after the expiration of any cure period provided in this Conservation Easement; except however that Owner shall not be responsible to Holder for costs of a frivolous action by Holder or an action brought in bad faith by Holder, as determined by a court of competent jurisdiction. All such reasonable expenses, together with costs of collection (including reasonable attorneys' fees), shall be recoverable by Holder and be subject to collection by all lawful means for the collection of a debt under the law of the state in which the Conservation Area is located.

6.10 No Merger of Title. Notwithstanding anything to the contrary in this Conservation Easement, should Holder become an Owner of any portion of the Conservation Area, this Conservation Easement shall not merge with any interest in the Conservation Area upon conveyance to Holder and title shall be transferred subject to the continued validity and enforceability of this Conservation Easement in accordance with the laws of the State in which the Conservation Area is located. In such event the rights of Holder under this Conservation Easement as to the portion of the Conservation Area owned by Holder shall

forthwith be transferred to a Qualified Organization in accordance with Section 5.3. or, if necessary, 5.2.

6.11 Reimbursement of Expenses of Litigation. Owner acknowledges that for the fulfillment of Owner's purposes and intentions for this Conservation Easement, Owner requires Holder to accept perpetual obligations for the interpretation and enforcement of this Conservation Easement and that, pursuant to 26 CFR § 1.170A-14(c), Holder must maintain its reserve capacity to enforce this Conservation Easement. It is therefore agreed that, should Owner or anyone acting by, through, under or on behalf of Owner, commence litigation against Holder to enforce any rights hereunder or to dispute any actions or inaction of Holder, to enforce any alleged duty or obligation of Holder hereunder or to seek damages or specific performance against Holder then unless Holder is finally determined by a court of competent jurisdiction, beyond right of appeal, to have acted contrary to the terms of this Conservation Easement and to have failed to exercise reasonable judgment taking into account the Conservation Purposes, the Conservation Values and the circumstances of which Holder had actual knowledge at the relevant time, then Owner shall reimburse Holder on demand for all reasonable costs and expenses, including attorney's fees, reasonably incurred by Holder in its defense in such litigation. Holder shall not be considered to have failed to exercise reasonable judgment as aforesaid solely based on the fact that Holder did not or does not prevail in legal proceedings or that Holder is determined to have adopted an interpretation of this Conservation Easement not accepted by the court.

6.12 No Waiver of Rights of Enforcement. The failure of Holder to exercise any of its rights under this Conservation Easement on any occasion shall not be deemed a waiver of said rights and Holder retains the right in perpetuity to require full compliance by Owner of the covenants and restrictions in this Conservation Easement.

ARTICLE 7. GENERAL PROVISIONS

7.1 Owner and Holder Further Defined. The term "Owner" used in this Conservation Easement shall mean and include the above-named Owner and any of Owner's successors or assigns, whether one or more, that are the legal owners of the Conservation Area or any part thereof as to such part of the Conservation Area. The term "Holder" used in this Conservation Easement shall mean and include the above-named Holder and its successors and assigns, it being understood and agreed that any assignee of the rights of Holder hereunder must be a Qualified Organization and shall carry out the obligations of Holder and the intent of this Conservation Easement.

7.2 Rules of Construction and Interpretation. The parties recognize the environmental, scenic, and natural values of the Conservation Area and have the common purpose of preserving these values. Any general rule of construction to the contrary notwithstanding, this Conservation Easement shall be liberally construed in favor of the grant to promote, protect and fulfill the Conservation Purposes and the policies and purposes of Holder. If any provision in this Conservation Easement is found to be ambiguous, an interpretation consistent with the Conservation Purposes that would render the provision valid should be favored over any interpretation that would render it invalid.

If any provision of this Conservation Easement is determined by final judgment of a court having competent jurisdiction to be invalid, such determination shall not have the effect of rendering the remaining provisions of this Conservation Easement invalid. The parties intend that this Conservation Easement, which is by nature and character primarily prohibitive (in that Owner has restricted and limited the rights inherent in ownership of the Conservation Area), shall be construed at all times and by all parties to promote, protect and fulfill the Conservation Purposes.

7.3 Indemnification. Owner covenants and agrees to indemnify, defend, reimburse, and hold harmless Holder, its directors, officers and employees (an "Indemnified Party") from, for and against any Loss (hereinafter defined) to the extent such Loss arose from an Indemnified Cause (hereinafter defined). A "Loss" shall mean any loss, cost, liability, penalty, fine, or damage of any kind or nature whatsoever which an Indemnified Party may reasonably be concluded to have suffered, paid or incurred. The term "cost" shall include, but shall not be limited to, reasonable attorneys' fees and witness and court fees. An "Indemnified Cause" shall mean any of the following: the violation or alleged violation of any law in, upon or involving the Conservation Area by Owner or anyone acting by, for, through or under the direction of Owner, including but not limited to any tenant, contractor, agent, licensee or invitee of Owner; any tax or assessment upon the Conservation Area or upon this Conservation Easement or the rights it represents or that it grants to Holder; any death or injury to any person occurring on or about the Conservation Area; any lien or attempts to enforce a lien asserted against the Conservation Area; the costs of performing any work on the Conservation Area; any loss or damage to any property on or about the Conservation Area; or any lawsuit or governmental administrative or law enforcement action which is commenced or threatened against an Indemnified Party or to which any Indemnified Party is made a party or called as a witness; but notwithstanding the foregoing, "Indemnified Cause" shall not, as to an Indemnified Party, include any cause which results from acts which are finally determined by a court to have been the result of bad faith, negligence or willful misconduct by that Indemnified Party. It is further agreed that no person shall have an indemnification obligation or liability under this Section as to any Indemnified Cause which arises entirely and solely from events which occurred after such person is no longer the legal owner of the Conservation Area or any part thereof and is no longer in possession of the Conservation Area or any part thereof (it being understood that one or more subsequent Owners shall have such indemnification, defense, reimbursement, and holding harmless obligation).

7.4 Responsibilities and Liabilities of Owner. Without limitation of anything herein to the contrary, Owner shall (a) retain all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operations, upkeep, and maintenance of the Conservation Area, including the general liability insurance coverage and obligation to comply with applicable law and (b) pay all Governmental Charges.

7.5 Vesting of Real Property Interest and Allocating Proceeds Following Judicial Extinguishment or Condemnation of Conservation Easement.

7.5.1 The donation and grant of the perpetual conservation easement contained in this Conservation Easement with respect to the Conservation Area (the "Restrictions") gives rise to a property right, immediately vested in the Holder, with a fair market value that is at least equal to the proportionate value that such perpetual conservation easement at the time of the gift, bears to the value of the Conservation Area as a whole at that time. That proportionate value shall remain constant.

7.5.2 It is the intention of the parties that no change in conditions surrounding the Conservation Area, including for example, but without limitation, changes in the use of properties adjoining or in the vicinity of the Conservation Area, will at any time or in any event result in the extinguishment of any of Restrictions.

7.5.3 If, however, notwithstanding the foregoing intention, to ensure compliance with 26 CFR 1.170A-14(g)(6), a subsequent unexpected change in conditions surrounding the Conservation Area makes impossible or impractical the continued use of the Conservation Area for conservation purposes as described herein, and as a result of such change, gives rise to the extinguishment of such Restrictions by judicial proceedings, the Holder, on a subsequent sale, exchange or involuntary conversion of all or part of the Conservation Area, shall be entitled to a portion of the proceeds of such sale, exchange or involuntary conversion at least equal to that proportionate value of the perpetual conservation easement granted hereunder bears to the value of the Conservation Area as a whole at that time, unless state law provides that the Owner is entitled to the full proceeds from such judicial conversion without regard to the terms of the of this Conservation Easement. Such portion of the proceeds allocable to Holder shall be used by Holder in a manner consistent with the Conservation Purposes set forth herein.

7.5.4 This Section shall also apply whenever all or part of the Conservation Area is taken by the exercise of eminent domain by judicial proceedings the same as any other extinguishment by judicial proceedings otherwise described in this Section. Owner and Holder shall join in appropriate actions at the time of such taking by eminent domain to recover the full value of the taking and all incidental or direct damages resulting from such taking.

7.5.5 This Section shall be construed to cause this Conservation Easement to conform to the requirements of 26 CFR §1.170A-14(g)(6), it being the specific intention of the parties that the conservation purposes protected in this Conservation Easement shall be treated as being protected in perpetuity in accordance with 26 CFR §1.170A-14(g)(6).

7.6 Amendment. Owner and Holder recognize that applicable law of the state in which the Conservation Area is located may permit amendment of conservation easements but that, notwithstanding any such right, Holder and Owner agree that there shall be no amendment to this Conservation Easement except that which Holder approves in its sole

and unlimited discretion and that Holder concludes: (a) will not impair, reduce or interfere with the fulfillment of the Conservation Purposes; (b) will not result in the destruction of any significant Conservation Values or other conservation interests of the Conservation Area; (c) does not cause this Conservation Easement to fail to qualify as a valid conservation easement or conservation agreement, as applicable, under the State Conservation Easement Law, as the same may be hereafter amended; (d) does not cause this Conservation Easement to fail to meet the requirements to be a qualified conservation contribution under Section 170(h) of the Internal Revenue Code and applicable regulations; (e) will not alter or permit the alteration, disturbance or destruction of the use of the Conservation Area as it is intended to be protected in perpetuity by this Conservation Easement; and (f) does not violate any other law or regulation to which Holder is subject. This Section supersedes any provision in this Conservation Easement that may be to the contrary.

7.7 Covenants, Etc. Run With The Land. This Conservation Easement and all of the covenants, indemnifications, releases, easements and restrictions in this Conservation Easement shall run with the land and be binding upon Owner and Owner's successors and assigns, unless otherwise expressly provided in this Conservation Easement.

7.8 Limitation on Owner Liability. An Owner shall be and remain liable, even after ownership has been transferred, for any breach or violation of this Conservation Easement if, but only if, such breach or violation occurred during such time as such Owner was the legal or equitable owner of, or is in possession of, the entire Conservation Area or that part of the Conservation Area on which the breach or violation occurred.

7.9 Effect on Mortgages and Other Liens. All mortgages, deeds of trust and other liens or encumbrances upon all or any part of the Conservation Area which either come into existence or are recorded in the place for the recording of such liens or encumbrances after the date of this Conservation Easement will be subject to and subordinate to this Conservation Easement.

7.10 Right of Conveyance Retained; Notice Required. Nothing in this Conservation Easement shall limit the right of Owner, Owner's successors or assigns to grant or convey the Conservation Area, provided that any such grant or conveyance shall be under and subject to this Conservation Easement. Owner shall notify Holder in writing of any sale, transfer, lease or other disposition of the Conservation Area or any part thereof, whether by operation of law or otherwise, not later than 30 days after such disposition and such notice shall include a copy of the deed, lease, or other declaration of transfer, the date of transfer, and the name or names and addresses for notices of the transferee.

7.11 Transfer Payment. In consideration of the perpetual obligations assumed by Holder in this Conservation Easement, the costs of which are unpredictable, including, but not necessarily limited to, the obligations to travel to and inspect the Conservation Area for compliance with this Conservation Easement, communicate with present and future owners and respond to questions and other matters, and maintain financial resources for the enforcement of compliance when necessary in fulfillment of Holder's obligation to be a Qualified Organization under 26 CFR §1.170A-14(c)(1), and in consideration of

Owner's desire to support Holder in its charitable mission with respect to the Conservation Area and other properties in which Holder may have accepted conservation easement restrictions, Owner agrees for itself, Owner's successors and assigns, that there shall be paid to Holder the Transfer Payment (hereinafter defined) at the time of each Qualifying Transfer (hereinafter defined) and in the manner stated in this Section.

7.11.1 The "Transfer Payment" shall be the amount equal to one percent (1.0%) of the Purchase Price (hereinafter defined) of the Conservation Area or part thereof, the improvements on the Conservation Area and all of the other land and improvements that are included in the Qualifying Transfer.

7.11.2 A "Qualifying Transfer" shall mean the conveyance of legal title to the Conservation Area or any part thereof, the improvements on the Conservation Area, and any other land and improvements which are conveyed by the same deed of conveyance with which the Conservation Area or part thereof is conveyed.

7.11.3 The "Purchase Price" shall be the sum of all of the following given in consideration for a Qualifying Transfer: (a) payment of money, (b) transfer of real or personal property or other tangible consideration, (c) purchase money indebtedness, and (d) the assumption of indebtedness. Owner shall be obligated to provide to Holder a true and correct copy of the agreement of sale pertaining to the Qualifying Transfer or other documents verifying the Purchase Price to the reasonable satisfaction of Holder.

7.11.4 In the event of a Qualifying Transfer in which all or part of the consideration to seller is in the form of real or personal property rather than the payment of money, purchase money indebtedness or assumption of indebtedness, the Purchase Price shall include an amount equal to the fair market value of such real or personal property given in consideration for the Qualifying Transfer as determined by a qualified appraiser approved by Holder in its reasonable judgment. Appraisals used in the determination of the Purchase Price shall be based upon the guidelines and ethical standards of the Appraisal Institute, as then in effect, for the type of property involved. However, Owner and Holder may, if they so elect in their discretion, without obligation to do so, accept an alternate method of establishing the value of property including by contemporaneous agreement.

7.11.5 Purchase Price shall not impute fair market value to that portion of a Qualifying Transfer that is a gift, devise, bequest or other transfer not involving consideration by the payment of money, transfer of real or personal property, purchase money indebtedness or assumption of indebtedness.

7.11.6 The Transfer Payment shall not be applicable to a Qualifying Transfer into a corporation, limited liability company or general or limited partnership where the Owner that is the transferor receives all of the shares of the transferee entity as consideration and receives no other consideration.

7.11.7 The obligation for payment of the Transfer Payment shall be binding upon the Owner that is the transferor in the Qualifying Transfer and the purchaser or grantee that is the transferee in the Qualifying Transfer, all of whom shall be jointly and severally liable for the payment of the Transfer Payment, and also shall be binding upon their respective successors and assigns, and shall run with the land until paid.

7.11.8 The Transfer Payment shall be paid to Holder at or before the time of transfer of legal title as aforesaid. The amount of any Transfer Payment not paid in the amount and at the time required herein shall, (a) accrue interest payable to Holder in the amount of twelve percent (12%) per annum and (b) constitute, together with the accrued interest, to the extent permitted by applicable law, a lien on the Conservation Area in favor of the Holder until paid in full, provided that such lien shall not be superior to any mortgage, deed of trust or other lien that was executed, recorded and otherwise validly established against the Conservation Area prior to the date of the Qualifying Transfer.

7.11.9 Owner shall be liable for reasonable attorneys' fees and other costs of collection reasonably incurred by Holder in the enforcement of this Section.

7.11.10 If and to the extent the law of the state in which the Conservation Area is located so requires in order to preserve the validity of this Section, it is agreed that the Transfer Payment shall not apply to any Qualifying Transfer that occurs after the lifetime plus twenty-one (21) years of any biological child of Stephen Thor Johnson, President of the North American Land Trust.

7.11.11 Without limitation of any other provision of this Conservation Easement, neither the validity of this Section nor compliance with or enforcement of this Section shall have any bearing whatever on the validity or enforceability of any other provision of this Conservation Easement.

7.12 Managerial Control Retained by Owner. Nothing in this Conservation Easement shall be construed as giving rise to any right or ability of Holder to exercise physical or managerial control over day-to-day operations of the Conservation Area, or any of Owner's activities on the Conservation Area, or otherwise to become an operator with respect to the Conservation Area within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

7.13 Compliance With Law. Notwithstanding provisions hereof to the contrary, if any, Owner shall be solely responsible for complying with all federal, state and local laws and regulations in connection with the conduct of any use of the Conservation Area or the erection of any Structure permitted hereunder, and Owner shall be solely responsible for obtaining any required permits, approvals from the relevant governmental authorities in connection therewith.

7.14 Notices. All notices required of Owner under the terms of this Conservation Easement, and all requests for the approval by Holder, shall be in writing shall be deemed to have

been given when either served personally or when sent by certified mail, with return receipt requested and postage prepaid, addressed to Holder at the address stated on the first page of this Conservation Easement or such other address provided by notice from Holder or Owner to the other for the purpose. Notices by Holder to an Owner need only be given to the Owner of the portion of the Conservation Area that is the subject of the notice.

7.15 Headings. The underlined headings preceding the Sections in this Conservation Easement are intended for convenience of reference only and shall not be applied in the construction or interpretation of the substance of this Conservation Easement nor shall any such headings be construed to add to, detract from or otherwise alter the substance, meaning, force or effect of any of the Sections in this Conservation Easement.

7.16 Availability or Amount of Tax Benefits. Holder makes no warranty, representation or other assurance regarding the availability, amount or effect of any deduction, credit or other benefit to Owner or any other person or entity under United States or any state, local or other tax law to be derived from the donation of this Conservation Easement or other transaction associated with the donation of this Conservation Easement. This donation is not conditioned upon the availability or amount of any such deduction, credit or other benefit. Holder makes no warranty, representation or other assurance regarding the value of this Conservation Easement or of the Conservation Area. As to all of the foregoing, Owner is relying upon Owner's own legal counsel, accountant, financial advisor, appraiser or other consultant and not upon Holder or any legal counsel, accountant, financial advisor, appraiser or other consultant of Holder. In the event of any audit or other inquiry of a governmental authority into the effect of this donation upon the taxation or financial affairs involving Owner or Owner's successors or assigns or other similar matter then Holder shall be reimbursed and indemnified for any cost or expense of any kind or nature whatsoever incurred by Holder in responding or replying thereto.

7.17 No Goods or Services. Holder provided no goods or services in consideration, in whole or in part, for the grant of this Conservation Easement.

7.18 Warranties and Representations of Owner. By signing this Conservation Easement, Owner acknowledges, warrants and represents to Holder that:

7.18.1 Owner has received and fully reviewed the Baseline Documentation in its present form in its entirety.

7.18.2 The Baseline Documentation includes, among other things:

- Photographs of current site conditions on the Conservation Area.

- Supportive Mapping of the Conservation Area including, but not limited to, location maps, aerial photographs and topography.

7.18.3 The Baseline Documentation is an accurate representation of the condition of the Conservation Area at the time of granting this Conservation Easement.

7.18.4 Owner has had the opportunity to be represented by counsel of Owner's selection, and fully understands that Owner is hereby permanently relinquishing property rights which would otherwise permit Owner to have a fuller use and enjoyment of the Conservation Area.

7.18.5 The undersigned individual or individuals signing as or on behalf of Owner has all legal authority to enter into this Conservation Easement and perform all of the obligations of Owner hereunder, as the binding act of Owner.

7.18.6 Owner is seized of the Conservation Area in fee simple title. Owner has the right to grant and convey this Conservation Easement. The Conservation Area is free and clear of any Deed of Trust, Mortgage and any other liens and monetary encumbrances except: (a) liens for taxes not yet due and payable and (b) Deed of Trust or Mortgage liens that are subordinate to this Conservation Easement by virtue of the executed form of Joinder and Consent of Lienholder attached hereto and incorporated herein.

7.18.7 There are no recorded or unrecorded leases or other agreement for the production of minerals or removal of timber from the Conservation Area which would, if any of the activities permitted under such lease or other agreement was undertaken by Owner, violate the covenants or restrictions in this Conservation Easement or otherwise defeat the Conservation Purposes.

7.19 State Conservation Easement Law. This Conservation Easement shall be a "conservation easement" under, and shall be governed by, the State Conservation Easement Law and Holder shall have all of the rights and powers of a "Holder" under the State Conservation Easement Law.

7.20 Governing Law. This Conservation Easement shall be governed by and construed under the law of the State of South Carolina .

TO HAVE AND TO HOLD the easements and rights in this Conservation Easement unto Holder, its successors and assigns, for its own use and benefit forever.

IN WITNESS WHEREOF, and intending to be legally bound hereby, Owner and Holder have executed this Conservation Easement:

SANDLAPPER HILL, LLC

Witness: _____ By: _____
Jack E. Fisher, President

Witness: _____

State of Georgia

County of Cobb

The foregoing instrument was acknowledged before me this 22 day of December, 2017, by Jack E. Fisher, President of SANDLAPPER HILL, LLC, a South Carolina limited liability company, on behalf of the company.

_____
Notary Public

VI BUI
NOTARY PUBLIC
COBB COUNTY, GEORGIA
MY COMMISSION EXPIRES JUNE 05, 2021

NORTH AMERICAN LAND TRUST
a non-profit corporation

Witness: _____

Witness: _____

By: _____ --Seal--
Stephen Thor Johnson, President

COMMONWEALTH OF PENNSYLVANIA :
:
COUNTY OF CHESTER :

On this, the 22nd day of December, 2017, before me, a Notary Public in and for the State of Pennsylvania, the undersigned officer, personally appeared Stephen Thor Johnson, who acknowledged himself to be the President of North American Land Trust, a Pennsylvania Non-Profit Corporation, and that he as such officer, being authorized to do so, executed the foregoing conservation easement for the purposes therein contained by signing the name of the corporation by himself as President.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

(Seal)

_____
Notary Public
My commission expires: Aug. 22, 2018

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Karen M. Mazza, Notary Public
Pennsbury Twp., Chester County
My Commission Expires Aug. 22, 2018
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

EXHIBIT C

See attached letter of intent

INLAND CAPITAL

February 4, 2019

Beaufort County Community Development
Attn: Stephanie M. Nagid, Passive Parks Manager
100 Ribaut Rd
Beaufort, SC 29902

Re: Conveyance of 53.433 ac Property adjacent to Hampton Lake off Bluffton Parkway for Park (the "Property")

Dear Ms. Nagid,

On December 29, 2017, Sandlapper Hill, LLC ("Sandlapper") placed a qualified conservation easement on the Property in favor of the North American Land Trust ("NALT") ensuring that it would be used in perpetuity for the education and recreation of the general public as a park and for the preservation of open space pursuant to governmental policies promoting the same (the "CE"). Now that the CE has been placed and initial trails, parking and related sitework for the first phase of the park are in place, Sandlapper would like to move forward with gifting the Property to Beaufort County for use as a Park.

For ease of reference I've attached as Exhibit A the filed conservation easement documents, as Exhibit B a copy of the Survey showing the Property (which is shown and described as Parcel 2 on the Survey), as Exhibit C the draft site plan for the initial phase of the park, and as Exhibit D our conceptual plan for what a full-fledged Park could look like after build-out consistent with the CE documents.

Please let us know if you need any additional information from us at this time to hopefully move this project along for the benefit of the people of Beaufort County.

Sandlapper Hill, LLC

Jack Fisher

By: Jack Fisher, President

750 Hammond Dr, Bldg 17, Ste 100, Atlanta, GA 30328 • 404-250-4576
jfisher@inlandcapitalfunds.com

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Friends of Fort Fremont MOU

Council Committee:

Public Facilities

Meeting Date:

March 4, 2019

Committee Presenter (Name and Title):

Stefanie M. Nagid, Passive Parks Manager

Issues for Consideration:

A memorandum of understanding between the County and the Friends of Fort Fremont for the collaboration of interpretive tours and maintenance at the Fort Fremont Preserve.

Points to Consider:

Although the Friends of Fort Fremont have been conducting interpretive tours of the Fort using the St. Helena Branch library as a base, there has been no formal agreement executed to date. The County is under contract to construct an interpretive center, which will house the Friends displays and materials and serve as their base of operations upon completion.

Funding & Liability Factors:

There is no funding being considered. The Friends are currently operating without a liability agreement with the County.

Council Options:

1) Approve the MOU as written, 2) Approve the MOU with recommended edits, 3) Do not approve the MOU

Recommendation:

Approve the MOU as written for County Council consideration on the March 25, 2019 agenda.

RESOLUTION 2019 /__

A RESOLUTION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE FRIENDS OF FORT FREMONT

WHEREAS Beaufort County has been a frontrunner among local governments in land preservation since 1999 with the creation of the Rural and Critical Land Preservation Program; and

WHEREAS Beaufort County purchased the parcels comprising the Fort Fremont Preserve in 2004 and 2010 for a total of $5,930,000 through the County's Rural and Critical Lands Preservation Program; and

WHEREAS the Friends of Fort Fremont is a South Carolina Nonprofit Corporation in good standing formed on September 21, 2009; and

WHEREAS The Friends of Fort Fremont mission is to preserve and promote the Fort Fremont Preserve as an educational, historical, natural, and cultural resource of the Spanish-American War era; and

WHEREAS Beaufort County is in the process of constructing a building expected to be used by the Friends of Fort Fremont as an educational and interpretive facility; and

WHEREAS Beaufort County and the Friends of Fort Fremont recognize the value of the successful interpretation of cultural and historic resources at Fort Fremont Preserve and the cooperative relationship between the County and Friends.

NOW THEREFORE, BE IT RESOLVED, THAT THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA authorizes the Interim County Administrator to execute the necessary documents to enter into the attached Memorandum of Understanding with the Friends of Fort Fremont, hereto and incorporated herein as fully as if repeated verbatim.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

_____
Connie Schroyer, Clerk to Council

STATE OF SOUTH CAROLINA)
) MEMORANDUM OF UNDERSTANDING
COUNTY OF BEAUFORT)

Agreement No. 2019/___

This Memorandum of Understanding (hereinafter "Agreement") is entered into on this ____ day of _____, 2019 by and between Beaufort County, a political subdivision of the State of South Carolina (hereinafter the "County"), and the Friends of Fort Fremont Historical Park, Inc., a nonprofit corporation organized under the laws of the State of South Carolina (hereinafter the "Friends").

WHEREAS, a purpose of the Rural and Critical Land Preservation program is to preserve, interpret, and manage its passive parks properties for the benefit, education, and enjoyment of the citizens and visitors of Beaufort County; and

WHEREAS, in 2004 and 2010 the County purchased what is known today as Fort Fremont Preserve (hereinafter the "Preserve") through the Rural and Critical Lands Preservation Program; and

WHEREAS, the County desires to enhance the historical and cultural value of the Preserve by interpreting the place in American History that the Fort held in the late 19th and early 20th Century; and,

WHEREAS, the Friends is a South Carolina Nonprofit Corporation in good standing formed on September 21, 2009; the Friends is a public charity qualified under Internal Revenue Code § 501(c)(3) by an IRS determination letter dated January 21, 2011; all individuals from Friends providing services hereunder, and all of its officers, directors, and members, are not compensated and are volunteers as defined in the Volunteer Protection Act, 42 USC §§ 14501 – 14505; and

WHEREAS, the Friends mission is to preserve and promote the Preserve as an educational, historical, natural, and cultural resource of the Spanish American War era; and

WHEREAS, the Friends, by extending its services to the County, is willing to assist in interpreting the Preserve to citizens and visitors as may be necessary from time to time; and,

WHEREAS, County is in the process of constructing a building expected to be used by the Friends subject to a separate "Facility Use Agreement" and "Operating Plan"; and

WHEREAS, the Friends shall function as volunteers to supplement and not supplant the rightful role of the County to determine the management and the operation of the Preserve; and,

WHEREAS, the County and the Friends recognize the value of the successful implementation of this agreement.

NOW, THEREFORE, under the authority of the Community Development Code in Division 5.10.10 Historic Preservation of Historic Properties, the parties agree to the following:

DEFINITIONS
As used throughout this Agreement, the following items shall have meaning set forth below:

"County" shall mean The Beaufort County Government and all departments that fall within the structure of the Beaufort County Council and the Beaufort County Administration.

"Friends" shall mean the Friends of Fort Fremont Historical Park, Inc. or any entity performing services under this Agreement, and shall include all personnel (officers, directors, members, or volunteers) thereof.

"Preserve" shall mean the Fort Fremont Preserve including the land, buildings, and structures that fall within the parcel boundaries.

TERM
The initial term of this Agreement shall cover a period of twelve (12) months commencing on the date entered, unless terminated sooner pursuant to the provisions of the Agreement. The term of this Agreement may be extended for four (4) additional one-year periods upon the written approval of both the County and the Friends.

AUTHORIZATION
The County hereby authorizes the Friends to access and utilize the Preserve, and to provide services to the citizens and visiting public at the Preserve, subject to the terms and conditions stated in the Facility Use Agreement and annual Operating Plan.

MUTUAL SUPPORT
The Friends may use any monies and gifts raised to further support the purposes of the Preserve. The County agrees to use gifts or monies derived from special events held at the Preserve sponsored by the Friends to support the shared mission of the parties.

COMPENSATION
This agreement does not obligate County funds. Any endeavor involving reimbursement or contribution of funds between the parties to this agreement will be handled in accordance with applicable laws, regulations and procedures. The Friends will provide non-compensated volunteers to the County.

HISTORIC PRESERVATION, SAFETY, MAINTENANCE, UPKEEP AND APPEARANCE

The Friends may use the Preserve to provide interpretive displays, services, assistance, and activities as provided for in the Facility Use Agreement and Operating Plan and as approved by the County.

The following guidelines shall apply:

a. The County shall be responsible for historic preservation and safety of the Preserve.
b. The County shall be responsible for all exterior and interior maintenance and repair, for all grounds maintenance, and for janitorial services.
c. The County shall provide and pay for all utility services necessary for the operation of the Preserve, as determined by the County.
d. The Friends shall comply with all the sanitary laws, ordinances, rules, and orders of appropriate governmental authorities affecting the cleanliness, occupancy, and preservation of the premises.
e. The Friends shall keep the premises reasonably safe and clean by locking the interpretive center upon exiting and disposing of garbage, rubbish, and other waste generated during the Friends use of the Preserve in a clean and safe manner.
f. The Friends will use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating air-conditioning, and other facilities and appliances in the premises. Air-conditioning and heating settings will be agreed upon by both parties.
g. The Friends will not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or knowingly permit any person to do so who is on the premises with the Friends permission or who is allowed access to the premises by the Friends.
h. The Friends shall notify the County of any structural/utility problems and/or vandalism.

FISCAL OPERATION

The Friends shall conduct its fiscal operations in accordance with accepted business practices in compliance with IRS mandates for non-profit organizations.

OPERATING PLAN

The Friends shall annually, by December 1, submit to the Passive Parks Manager an Operating Plan for the ensuing calendar year which shall be subject to the approval by the County. The Friends rights under this Agreement are conditioned upon the existence of an approved Operating Plan. The Operating Plan shall include proposed services, activities, events, and/or programs the Friends plan for the Preserve.

ANNUAL REPORT

The Friends shall annually, by March 1, submit to the Passive Parks Manager an Annual Report for the previous year's operation at the Preserve.

APPEALS OF PASSIVE PARKS MANAGER

Any decision of the Passive Parks Manager authorized under this Agreement that affects Friends, may be directly appealed to County Council. An authorized representative of Friends may submit a written request to the County Administrator to appeal a decision of the Passive Parks Manager. Upon receiving a written request for an appeal, the County Administrator shall place the item on the next scheduled County Council meeting that allows for meeting all notice requirements for meetings of public bodies under the South Carolina Freedom of Information Act.

ACCESS TO PREMISES

The County shall have the right of access to any portion of the premises at any time by any of its officers, employees, or agents to ensure compliance with the terms of this agreement, or for any other reason in carrying out its responsibilities for the operation of the Preserve.

The Friends shall have access to the premises to carry out its responsibilities as agreed upon in the Facility Use Agreement and Operating Plan.

ADVERTISEMENT

The Friends shall acknowledge the County in any advertising related to activities undertaken pursuant to this Agreement. Any advertising or display materials shall clearly identify the Preserve or facility as a County Passive Park. The County shall acknowledge the Friends in appropriate publications and announcements, in accordance with County policies and State and Federal law.

AMENDMENTS

This Agreement may not be altered, amended, or waived except by written instrument executed by both parties.

ASSIGNMENT

No transfer or assignment of this Agreement in whole or in part shall be made unless approved in writing by the County.

COMPLIANCE WITH LAWS

In the performance of this Agreement, the Friends shall comply with all applicable federal and state laws, including the IRS, as now in effect or hereafter enacted or amended. Nothing herein shall be interpreted as a waiver by either party of any provision of South Carolina or Federal law.

DISCLAIMER OF RELATIONSHIP

Nothing contained in this Agreement nor any act of the County and/or the Friends shall be deemed or construed by either of the parties, nor by any third person, to create any other legal relationship between the parties, including, but not limited to, that of employer/employee, third-party beneficiary, principal, agent, limited or general partnership, joint venture, landlord/tenant, or other relationship.

INTELLECTUAL PROPERTY

The Friends retain all intellectual property rights to any material they develop, subject to review and approval by the Passive Parks Manager, unless County funds are used in the development of said material.

TERMINATION

This Agreement may be terminated for convenience by either party with 90 days written notice. The Agreement may be terminated by either party with 30 days written notice for breach of terms. This Agreement will automatically terminate if the Friends lose its tax-exempt 501(c)(3) status. The Facility Use Agreement, as referenced herein, is automatically terminated if this Agreement is terminated.

INSURANCE

Friends shall maintain at all times no less than $1,000,000 in general liability insurance coverage (each occurrence) and no less than $2,000,000 general liability insurance in the aggregate. The County shall be named as an additional insured on the Friends insurance policy.

AUTHORITY

The parties herein represent and warrant each to the other that they have all the requisite power and authority to enter into this Agreement and perform their obligations under this Agreement.

WITNESSES:

_____

_____

BEAUFORT COUNTY

By: _____

Name: John Weaver

Title: Interim County Administrator

Date: _____

FRIENDS OF FORT FREMONT HISTORICAL PARK, INC.

_____

_____

By: _____

Name: _____

Title: President Board of Directors

Date: _____

Approved as to Form:

By: _____

Name: Thomas J. Keaveny, II

Title: County Attorney

Date: _____

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Restaurant Wares request from TCL

Council Committee:

Public Facilities

Meeting Date:

March 4, 2019

Committee Presenter (Name and Title):

Mary Lee Carnes and Richard Gough from the Technical College of Lowcountry

Issues for Consideration:

TCL has requested to retrieve restaurant equipment and supplies from the Buckingham Landing Restaurant property that the County bought last year. TCL is in the process of planning and permitting for construction of a Culinary Institute and Tourism Center.

Points to Consider:

Any.

Funding & Liability Factors:

Assumption of risk, waiver and indemnification, "as-is" condition should be condition of any retrieval of equipment.

Council Options:

Approve the request, deny the request, approve the request with conditions

Recommendation:

Approve the request with conditions that TCL representative execute an assumption of risk waiver and indemnification and accept materials in "as-is" condition.

RESOLUTION 2019 / ___

A RESOLUTION TO GIFT TO THE TECHNICAL COLLEGE OF THE LOWCOUNTRY CERTAIN KITCHEN WARES FROM BEAUFORT COUNTY'S BUCKINGHAM LANDING PROPERTY

WHEREAS, Beaufort County Council has committed in excess of $8,000,000.00 for the culinary art institute and tourism center; and

WHEREAS, Beaufort County purchased parcel R600 041 000 0008 0000 also known as 35 Fording Island Road Ext. and Buckingham Landing property; and

WHEREAS, prior to the County's purchase, the property and building thereon was used as a restaurant; and

WHEREAS, representatives from the Technical College of the Lowcountry (TCL) have visited the property and expressed a desire to utilize the small wares and equipment for the new culinary institute and tourism center; and

WHEREAS, county administration has reviewed the request and supports TCL's request to remove the items at no cost to the County for their use; and

WHEREAS, the Public Facilities Committee reviewed the request at the March 4, 2019 meeting and recommends approval of the TCL request.

NOW THEREFORE, BE IT RESOLVED, that the County Council of Beaufort County hereby approves the request of TCL as shown in the attached letter dated February 4, 2019.

Adopted this _____day of _____ 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By:_____
Stewart H. Rodman, Chairman

ATTEST:

_____
Connie Schroyer, Clerk to Council

DRAFT

TECHNICAL COLLEGE
OF THE LOWCOUNTRY

Office of the President

February 4, 2019

Beaufort County Council

Beaufort County Administration Building

100 Ribaut Road

Beaufort, S.C. 29902

Dear Beaufort County Council,

The Technical College of the Lowcountry desires to acquire at no cost the small wares and equipment listed on the attachment. These items are the remains of the Buckingham Landing restaurant, a restaurant that closed more than five years ago. Beaufort County recently purchased the land and facility. The College will remove the items from the facility at no cost to the County.

I appreciate Council's consideration. I am available to formally present this request to Beaufort County Council at your convenience.

Sincerely,

Richard J. Gough

President

JUSTIFICATION FOR EQUIPMENT AT BUCKINGHAM LANDING RESTAURANT

Based on the following summary of TCL plans to develop a robust culinary training program for the region, TCL hereby requests donation of the equipment listed below to be used in training beginning in the fall of 2019..

Technical College of the Lowcountry (TCL) will soon break ground in Bluffton, South Carolina for a new 26,000 square foot facility that will house The Culinary Institute of the South and Interpretive Center. The construction of this facility will enable the college to offer new associate degrees and certificates in culinary arts, baking and pastry arts, and hospitality/tourism management. The new facility is designed to educate 300 students. The teaching restaurant will be open to the public, and meeting space will be available to rent. During the building process TCL plans to begin offering its new programs at a nearby facility, yet to be determined. These pathways will provide a skilled workforce pipeline for industry partners and provide community residents the opportunity for wage progression and advancement opportunities to managerial positions.

Description (alphabetical order)	Qty
Bain Maries	all
Bread Warmers	all
Bussing Tubs	all
Ceramic Plates, Cups, Saucers, Creamers, etc.	all
Cutting Boards	all
Dining Room Tables and Chairs	all
Dish Washer Racks	all
Doubestack Convection Oven	all
Folding Tables	all
Food Warmers	all
Fryers	all
Glass Salad Plates	all
Glassware	all
Hand Sinks	all
Hostess Stand	all
Hotel Pans (all sizes)	all
Ingredient Bins	all
Lexan Containers (all sizes)	all
Magnetic Knife Bars	all
Marble Slabs	all
Measuring Scales	all
Metro Shelving Units	all
Microwave Ovens	all
POS Systems with Printers	all
Pots and Pans	all
Robot Coupe (with all attachments)	all

Round Tallboys with Bar Stools	all
Sheet Pans	all
Silverware	all
Silverware Holders	all
Speedracks/carts	all
SS Metal Bar for hanging pots/pans	all
SS Spoons, ladles, whips, china caps, bowls	all
SS Tea Pots	all
Stand Mixers (with all attachments)	all
Sugar Caddies	all
Tabletop Mixer	all
Trash Cans	all
Tray Jacks	all
Trays	all
Urns (coffee, tea)	all
Waffle Irons	all
Water Pitchers	all
Weight Scales	all
Wire Oven Racks	all
All other smallwares not listed above	all

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Airport room use policy

Council Committee:

Public Facilities

Meeting Date:

March 25, 2019

Committee Presenter (Name and Title):

Jon Rembold, Airports Director

Issues for Consideration:

Small fee for use of Airport meeting room

Points to Consider:

As an enterprise fund, need to find sources of revenue in order to maintain and improve the meeting facilities. Community groups have been using airport facility free of charge with no policy or use agreements in place.

Liability is a concern

Funding & Liability Factors:

Liability needs to be assumed by the user. The policy and application process will help to ensure that the user assumes the risk and holds County harmless for any potential claim.

Council Options:

Approve; deny; approve with modifications

Recommendation:

Approve

RESOLUTION 2019 / __

A RESOLUTION TO ADOPT THE AIRPORT FACILITY RENTAL POLICY

WHEREAS, Beaufort County Airport, located on Lady's Island has meetings rooms, and;

WHEREAS, numerous organizations have utilized the meetings rooms and they are a benefit to the community, and;

WHEREAS, Beaufort County desires to put in place a policy that sets forth the process for reserving rooms, states the policies for users, and addresses potential liability issues, and;

WHEREAS, Beaufort County recognizes that the Airport is an Enterprise Fund needing to generate revenue and desires to find ways to generate revenue for the use of its facilities, and;

WHEREAS, the Public Facilities Committee considered the attached Airport Facility Rental Policy at the March 4, 2019 meeting and unanimously recommends that County Council adopt the policies presented; and

WHEREAS, it is in the best interest of the citizens and residents of Beaufort County to make the meeting rooms available and to have appropriate policies and procedures in place for their use.

NOW THEREFORE, BE IT RESOLVED, THAT THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA adopts the Airport Facility Rental Policy that is attached hereto and incorporated herein as fully as if repeated verbatim.

Adopted this ____ day of March, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

APPROVED AS TO FORM:

_____
Thomas J. Keaveny, II, County Attorney

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

DRAFT

Beaufort County Airports Department

Beaufort County Airport Rental Policy

Applicability

This facility rental policy applies to the **Beaufort County Airport Conference Room or Facility** owned by Beaufort County as listed herein, and will be updated as new facilities become available. All rental requests for meetings, conferences, gatherings, or events on **Beaufort County Airport** properties are subject to this policy and its associated Exhibits. Any questions can be directed to the **Beaufort County Airports Director at 843-255-2952**

Eligible Applicants

Nonprofit, non-political organizations and associations, or government entities and departments, may apply to use Beaufort County Airport Conference Room or Facility. Verification of nonprofit status will be required at the time of application submittal. Depending on the event details and facility requested, the application and/or rental fees **may** be waived by the County's Airports Director. If the rental fee is waived, in the event of damage, the Applicant will be responsible for costs associated with replacement, repair, and/or cleaning of the facility.

Individuals and for-profit, non-political organizations and associations may also apply to use Beaufort County Passive Park facilities and will be subject to the application and rental fees as described herein.

Applicants wishing to use the Airport Conference Room or Facility on a reoccurring basis may request to do so at a maximum of once a month per calendar year (January 1 – December 31), subject to availability, and will be required to provide a meeting schedule with their application.

Application Process

The Airport Conference Room or Facility rental process begins with the submittal of a completed Facility Rental Application (Exhibit A) to the Beaufort County Airports Director or his designee. Receipt of an application should in no way be construed as final approval or confirmation of the request. The Beaufort County Airports Director or his designee. will contact the Applicant upon receiving the application and thereafter will serve as the primary point of contact. Applicants are responsible to contact all affected County departments and/or public agencies with regard to related permits or licenses that may be required for the requested event. Please carefully review this policy and the application for contacts needed based on the type of requested event.

Applications will be approved on a first-come, first-serve basis and are required to be submitted **at least thirty (30) working days prior** to the date of the event. If applicable to the requested event, all required documents (i.e. certificate of insurance, secondary permits, etc.) **must** be submitted at the same time as the facility rental payment.

Payment and Cancellation

A **$20.00** non-refundable processing fee will be required for all submitted applications. The Beaufort County Airport Manager will provide an email notice to the Applicant of approval, or not, **fifteen (15) working days prior** to the date of the event.

The facility rental payment must be received **ten (10) working days prior** to the date of the event. Cash, check, or credit card in the form of Master Card, Visa is accepted. A fee of 2.5% will be applied to all credit card transactions.

Any and all cancellations and/or event changes must be in writing, signed by the same person who signed the application and paid the rental fee, and must be given to the Beaufort County Airports Director or his designee no less than **five (5) working days prior** to the event date. Refund of the rental fee, less a 25% service charge, will be made to the Applicant if notice is provided within the allocated time frame. Refunds are by check from the Beaufort County Finance Department and will be delivered by mail within 3 weeks. **No refunds will be issued up to five (5) working days before the event date.** The County reserves the right to deny any use or Facility Rental Application. Rental approval will be revoked by the Beaufort County Airports Director or his designee in the case of facilities abuse.

Facility Conditions

Beaufort County provides limited internet and visual equipment, as described in the facility descriptions. Applicants will need to provide their own electronic and/or audio-visual requirements if not otherwise provided as described.

Beaufort County does not provide amenities such as portable restrooms, hand washing stations, sound systems, tents, canopies, chairs, tables, or other equipment not previously disclosed in the facilities descriptions. Applicants are responsible for providing all amenities necessary for the requested event. All anchoring and signage must be accomplished with weights (i.e. sandbags, concrete/water filled barrels, etc.). Ground disturbance, fastening, or attaching to any tree, shrub, or Airport feature is strictly prohibited. No events are allowed in the Air Operations Area or AOA. The AOA is the paved area where aircraft taxi and are parked. No persons are allowed in the AOA without an Airport Staff escort. No vehicles may drive or park on the AOA side of the facility.

Food and beverages are allowed in the Beaufort County Airport Conference Room. Beaufort County does **not** provide any food and beverage service. If food and beverages will be catered or provided by the Applicant, all leftover food, beverages, serving implements, and trash must be removed from the premises and disposed of by the Applicant. Tablecloths must be used if Applicant plans on serving food on County provided furniture. Alcohol **may** be allowed on Beaufort County Airport premises by permit only and must follow the compliance requirements detailed in Exhibit B.

Beaufort County recommends one (1) portable toilet for every 250 people who attends the whole, or portion of, an Applicant's event. Ten percent (10%) of provided toilets should be ADA accessible. This figure is based upon the maximum number of attendees at your event during **peak** time. Portable sinks

will be required at portable toilet locations if the event has four (4) or more food vendors and/or at a sink to toilet ratio of 1:10. Beaufort County may determine the total number of required toilets and sinks on a case-by-case basis.

Applicants may be required to contract with the Beaufort County Sheriff's Office, or a private security firm, to provide security to insure public safety. Security deputies should be graduates of the South Carolina Law Enforcement Academy, have a working knowledge of Beaufort County Sheriff Department procedures, and be approved by the Chief Deputy. Contact the Beaufort County Sheriff's Office for special event information and charges at (843) 255-3200. Private security firms must be South Carolina Law Enforcement Division (SLED) certified.

Applicants are responsible for the set-up, clean up, and reset of the facility within their requested time frame. The end time designated on the application is when all event attendees must leave the premises, and all clean up and reset must be completed by the Applicant, as facilities may be rented back-to-back. Applicants must place all trash in designated receptacles; clean up all food, beverages, serving implements, and supplies; and reconfigure the facility to its original condition before leaving the premises. The cost of any employee time incurred because of an Applicant's failure to clean and/or reset the facility following the event will be borne by the Applicant.

The County's Airport facilities are smoke-free environments and the use of illegal substances is strictly prohibited at any Beaufort County facility.

Facility Descriptions and Rental Fees

- Beaufort County Airport Conference Room and Facility
    - Location: 39 Airport Circle, Beaufort, SC 29907
    - Type: Interior standard conference room and lobby area
    - Configuration: 30 chairs, one large conference table; Lobby is available for larger event spillover but business counter and access points must remain clear.
    - Max Capacity: 30 Conference Room. 50 Total
    - 4' X 6' dry erase board, pull-down screen, wireless internet
    - Hours of Availability:
        - Monday through Friday: 8:00am-6:00pm
            - Special events normally held in the early evening may apply for an extension to 8:00pm but special conditions apply. See Airport Manager for details.
        - Saturday: 8:00am-6:00pm
    - Fees: $30.00 (up to 4 hours)
      $60.00 (4-8 hours)

Insurance and Liability

Applicants requesting to serve alcohol, food, or entertainment are all required to provide Liability Insurance coverage. Where required, the Applicant, or, if applicable, the organization hosting the event, must maintain insurance in the amount of $1,000,000 General Liability (for food and entertainment requests) and $1,000,000 Liquor Liability (for alcohol requests) to cover the entire duration of the event. The Applicant must submit to the Airports Director or his designee a Certificate of Insurance verifying the required coverage and specifically identifying "Beaufort County" as an **Additional Insured**. Beaufort County does not sell insurance. This type of insurance policy can be acquired from most private insurance carriers. The insurance certificate must be submitted **at the same time** as the facility rental payment is provided.

In those instances where insurance is not required, the County accepts no responsibility for the personal safety of any person, either inside or outside an Airport facility. The County is not responsible for damage, loss, or theft of personal property.

Ethical Standards

The County presumes that all Applicants hosting events at County Airport facilities will uphold high ethical standards without regard to race, color, religion, sex, sexual orientation, age, national origin, and/or disability. Airport facilities will not be approved for rental by any group that advocates unconstitutional or illegal acts, or whose activities may be contrary to the best interests of the County. No use shall be allowed for an event that presents obvious danger to the safety of persons and property.

Hold Harmless/Indemnification Clause

Applicant/Organization hereby assumes all risks incident to or in connection with the permitted event and shall be solely responsible for damage or injury of whatever kind or nature, to person or property, directly or indirectly arising out of or in connection with the permitted event or the conduct of Applicant's/Organization's operation. Applicant/Organization hereby expressly agrees to defend, indemnify and to save the County harmless from any penalties for violation of law, ordinance, or regulation affecting its activity and from any and all clams, suits, losses, damages, or injuries directly or indirectly arising out of or in connection with the permitted event or conduct of its operation or resulting from the negligence or intentional acts or omissions of Applicant/Organization or its officers, agents, and employees.

Exhibit A

Facility Rental Application

Fully complete the entire application and submit 30 working days prior to the event date via mail or hand delivery, with the $20.00 processing fee, to the Beaufort County Airports Department at:

Beaufort County Airport
Facility Rental Application
c/o Beaufort County Airports Director
39 Airport Circle
Beaufort, SC 29907

Permit# _____ Approval Date _____

BEAUFORT COUNTY

FACILITY RENTAL APPLICATION

APPLICANT INFORMATION
Applicant/Contact Name:
Organization Name:
Street Address:
City/State/Zip:
Phone Number:
Email Address:

EVENT INFORMATION		
Event Name:		
Purpose of Event:		
Primary Event Activities:		
Event Date(s):		
Start Time:	End Time:	Total Time:
Set-Up Begins:	Clean-Up Ends:	
Estimated Attendance:		
Charge of Admittance:		
Private or Public Event:		
Facility Requested:		
Non-profit Organization Fee Waiver Requested: _____ Yes / _____ No *If "Yes", non-profit status documentation is required with application.*		
Will tents be used for this event? _____ Yes / _____ No If "Yes", how many and what size:		
Will any signs or banners be hung for this event? _____ Yes / _____ No If "Yes", how many and what size:		
Will there be any musical entertainment for this event? _____ Yes / _____ No If "Yes", describe type of music and band needs: *If approved, Applicant understands Law Enforcement may order musical entertainment to cease if determined it may incite a crowd to become unruly and risk injury.*		
Will amplified sound be used for this event? _____ Yes / _____ No *If "Yes", Applicant understands amplified sound can only be conducted during the hours of 8:00 a.m. to 10:00 p.m. If approved, this application is not a "noise permit". Law Enforcement may determine that noise during an approved event is offensive to others and may require Applicant to stop the noise.*		
Will portable toilets be used for this event? _____ Yes / _____ No If "Yes", how many and what company (name and telephone number):		

Will vendors be included for this event? _____ Yes / _____ No *A "vendor" is anyone who is serving, selling, sampling, or displaying food, beverages, merchandise, or services. If "Yes", contact the Beaufort County Business License Department at (843) 255-2270 for a Vendor Permit.*
If the event will have **food** vendors, select all that apply: ____ Served / ____ Sold / ____ Catered / ____ Prepared Outdoors *For any food preparation or service, Applicant must contact the Department of Health and Environmental Control at (843) 522-9097 for approval. Applicant is responsible for arranging health inspections and providing a plan for clean-up and grease removal. Fire Code requires a fire extinguisher at each cooking location.*
Will beverages be served at this event? _____ Yes / _____ No
Will alcoholic beverages be served? _____ Yes (*Exhibit B applies*) / _____ No
What type of alcohol will be served? _____ Beer / _____ Wine
Who will be serving the alcohol?
What are the times alcohol will be served?
What locations within the event site will alcohol be served?
Will any upright tanks (i.e. helium, propane, etc.) be used for this event? _____ Yes / _____ No *If "Yes", all tanks must be secured in a manner to prevent being knocked over and all tanks not being used will be capped/closed appropriately.*
Will any portable heaters be used for this event? _____ Yes / _____ No
Will any deep fryers be used for this event? _____ Yes / _____ No
If "Yes", an application must be submitted to the jurisdictional Fire Department for a County permit at least 30 days prior to the event.
Will generators or electrical service be used for this event? _____ Yes / _____ No *If "Yes", restrictions may apply and generators cannot be refueled within the event site during event operating hours.*
Will security be provided at this event? _____ Yes / _____ No <u>If "Yes", select all that apply:</u> ___ Alcohol Security / ___ Event Area Security / ___ Overnight Security

___ Stage Security / ___ Gate Security / ___ Money Handling Security ___ Other: _____ If “Yes”, list dates and times security will be on site:
On a separate sheet, provide a site plan map sketch of the entire event venue, including all event amenities requested (i.e. tents, signs, music stages, toilets/sinks, vendors, alcohol service, first aid station, garbage receptacles, barricades, generators, security, etc.).

I hereby stipulate that I have read and understand all the rules and regulations as set forth by the Facility Rental Application, its instructions, and associated Exhibits and the governing body of Beaufort County for the use of the requested facility and will abide by same and understand that if any required chaperones and/or law enforcement personnel are not present the function will be terminated. I also understand that proof of sufficient insurance may be required at the discretion of the County.

Applicant Signature **Date**

For Office Use Only
Staff Approval (Print Name):

Staff Approval (Signature):			
Processing Fee	Due: $20.00	Date Paid:	Payment Type:
Rental Fee	Due: $	Date Paid:	Payment Type:
Final Inspection			
Staff Initials:		Date:	
Damage/No Damage Notes:			

Exhibit B

Alcohol Policy Compliance Requirements

If approved, the Facility Rental Application will permit the Applicant/Organization to have and consume alcohol at the named facility provided the following rules, regulations, and conditions are understood and adhered to:

- Approval is only valid on the day requested and only for the hours that the facility is reserved. The County reserves the right to revoke or cancel permit approval for any violation of compliance requirements or abuse of privilege, without rental fee refund.
- The service of alcoholic beverages shall be in compliance with all applicable state and local laws and an approved Facility Rental Application **must** be on site with the event coordinator. The County reserves the right to remove, or have removed, from the facility any person deemed objectionable.
- The facility will be used in a safe manner, with all members of the named Organization complying with all the facility rules and regulations as established by Beaufort County and all applicable laws of the State of South Carolina, including the Alcoholic Beverage Control Act. It shall be the obligation of the Applicant/Organization, and all members of such, to be aware of said rules, regulations, and laws.
- The Alcoholic Beverage Control Act may require the Applicant/Organization to apply to the State of South Carolina for a temporary alcohol permit under certain conditions. It is the Applicant's/Organization's responsibility to determine if a temporary alcohol permit is required under state law. Information on how to receive a temporary alcohol permit can be received from the South Carolina Department of Revenue at (843) 852-3600 or on-line at www.sctax.org.
- Applicant/Organization assumes liability for all damages to County property caused by any member of the event, whether accidental, willful, or the result of carelessness or negligence.
- Applicant/Organization assumes all risk and responsibility for regulating the consumption of alcohol. The Applicant/Organization contact person is responsible for informing all vendors of alcoholic beverage application rules, regulations, and conditions. The County assumes no responsibility for incidents that arise as a result of the consumption of alcoholic beverages.
- Applicant/Organization shall be prepared to provide transportation through a designated driver or commercial taxi/transportation service in the event that there is reason to believe any person

has consumed alcoholic beverages in excess of the legal limits and intends to operate a motor vehicle.

- The event may be inspected at any time by County staff or any public authority, including law enforcement, to ensure compliance with all legal requirements. The County reserves the right to require security officers for groups consuming alcohol, the direct cost of which will be the responsibility of the Applicant/Organization.
- Alcohol shall be consumed only in the immediate area of the rented facility. Applicant/Organization **must** fence or restrict the event area to prevent participants from leaving the area with alcoholic beverages.
- The serving of alcoholic beverages shall not begin before the designated event start time. There shall be no open containers of alcohol on site before this designated time. All alcohol **must** be removed from the facility by the conclusion of the event.
- Applicant/Organization and all participating vendors **must** discontinue alcohol distribution at a minimum of **15 minutes prior** to the end of the event. All alcohol **must** be cleared from the facility at the end of the event. At no other time may alcohol be present, possessed, served and/or consumed in the public area.
- Serving hours **must** be posted at all serving locations.
- Signs at least 11" x 17" informing participants that alcoholic beverages are prohibited on County streets and sidewalks beyond the boundary of the event permit area **must** be posted.
- "No Alcoholic Beverages Beyond This Point" signs must be placed on the two access points to the airfield side of the facility
- Any consumption of alcohol by employees, workers, volunteers, etc. selling the alcohol is strictly prohibited. N/A
- There shall be no glass/plastic bottles or cans served during the event. The contents of any alcohol served or sold in bottles or cans **must** be poured into plastic or paper cups. Alcoholic beverages shall be served in readily identifiable cups distinct from those used for non-alcoholic beverages.
- No more than 2 alcoholic beverages can be sold to a customer at a time. If 2 alcoholic beverages are sold at one time, the vendor **must** ask if the second beverage is going to someone previously ID'd. N/A
- It is a violation to sell liquor, beer, or wine to an intoxicated person (State Code: 61-4-580(A)(2)). Applicant/Organization shall not serve or provide any alcoholic beverages to any person who appears to be intoxicated or to have consumed an excess amount of alcohol.
- It is a violation to permit or knowingly allow a person under 21 years of age to purchase or possess or consume liquor, beer, or wine (State Code: 61-4-580(A)(1)). Applicant/Organization shall ensure that no persons under 21 may have access to alcohol and shall require the presentation of valid identification and proof of ownership or retain an independent security agent to comply with this provision.
- Applicant/Organization **must** follow the following Wristband Distribution Guidelines:
    - Applicant/Organization will issue specific colored wristbands to the vendors within the event site and make the Airport Director or designee aware of the type and color of the wristband used each day for alcohol sales.
    - For multi-day events, a different color wristband will be used each day. Wristband colors must match identically to the wristband distribution log for each day of the event.

- Anyone 21 years of age or older wishing to consume alcohol at the event on the facility must be wearing the colored wristband assigned to the event on that day in order to be served alcohol.
- Patrons 21 years of age or older wishing to consume alcohol, must present a valid state ID card or a valid driver's license to receive a valid wristband. Event wristband sellers will be asked to ID the person; however, the final responsibility for abiding the state and local laws lies with the alcohol server.
- Identification checking/wristband distribution stations must be available throughout the event site.
- Event patrons who are not wearing a valid colored wristband assigned to the event on that day and who are in possession and/or consuming alcoholic beverages will be charged with a violation.

- The following signs **must** be posted as follows:

<u>At each alcoholic beverage service location:</u>

A) SC Must be 21 Sign

BEAUFORT COUNTY

SOUTH CAROLINA CODE OF LAW 61-4-50

It is unlawful to sell liquor, beer or wine to a person under the age of 21.

SOUTH CAROLINA CODE OF LAW 61-4-80

It is unlawful for any person to purchase liquor, beer or wine on a licensed premises and to give such liquor, beer or wine to a person to whom liquor, beer or wine cannot lawfully be sold.

B) Sales Times Sign N/A

BEAUFORT COUNTY

EVENT NAME

Alcohol Permit Hours

EVENT ENDS @ ???PM

C) ID Check Sign

D) Volunteers Sign

BEAUFORT COUNTY

WE RESERVE THE RIGHT TO

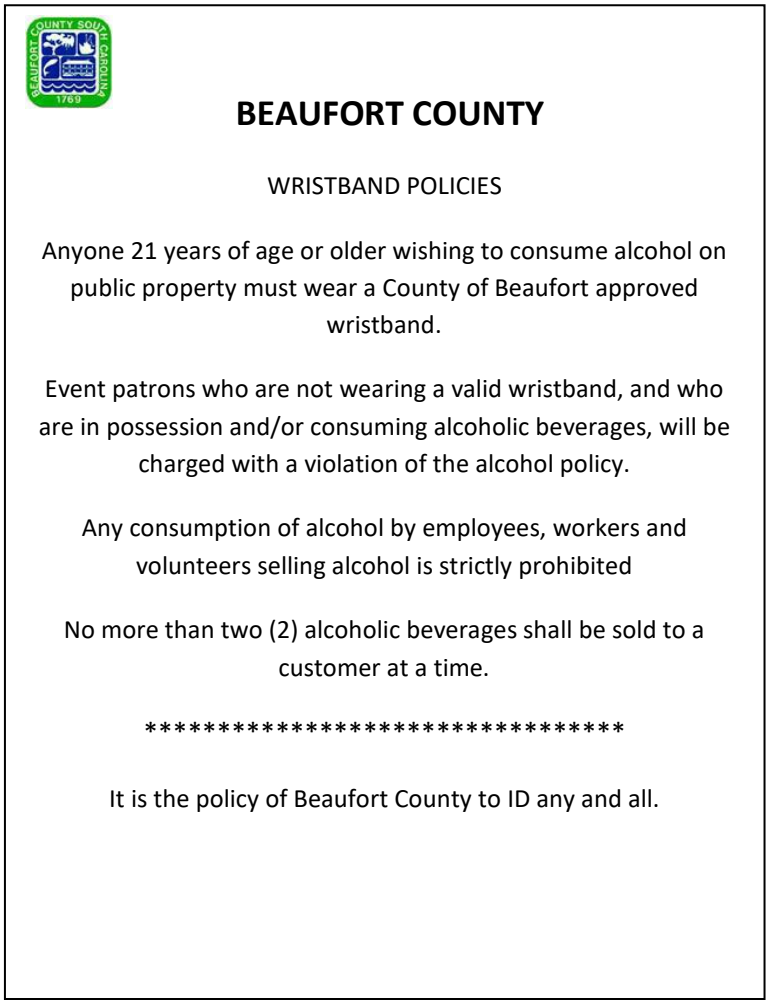
RE-CHECK YOUR ID

BEAUFORT COUNTY

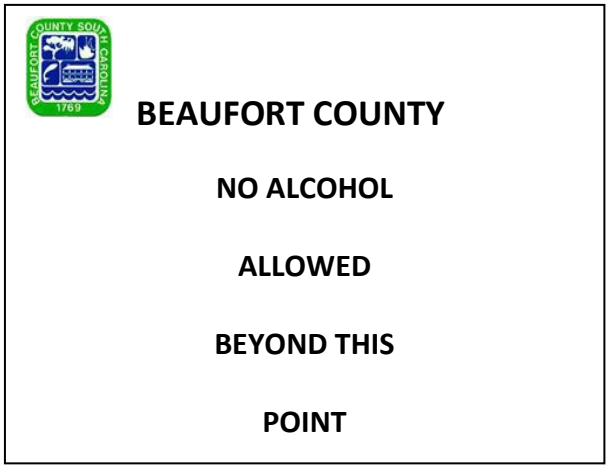
REMINDER:

VOLUNTEERS CANNOT DRINK ALCOHOLIC BEVERAGES BEFORE OR DURING THEIR SHIFT

E) Wristbands Sign



At each entrance/exit to the event:



F) No alcohol beyond Sign

G) Prohibited Sign (*inside buildings*)

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Whitehall Park Resolution

Council Committee:

Natural Resources (3/18/19) and County Council (2/25/2019)

Meeting Date:

March 25, 2019

Committee Presenter (Name and Title):

John Weaver, Interim Administrator JLW

Issues for Consideration:

This Resolution is a more formal reconfirmation of a prior vote of Council (10-1) to reject the proposal of Whitehall Point Holdings, LLC that mandated that Council accept the Easement Agreement and the Agreement for Development Services for Whitehall Park prepard by the Seller.

Points to Consider:

On August 27, 2018, Council agreed to purchase Whitehall Park. As important, Council required that any deal/contract associated with this purchase be returned to Council for its approval. That was never done. In fact, the documents attached to the Resolution were never presented to the Council or to the County Attorney, not only prior to the closing, but also not until this day, March 25, 2019. However, the material elements of both documents were explained to Council and to the public on February 25, 2019 by the Interim County Administrator. As noted above, following the presentation, the terms and conditions were rejected by Council as noted in the paragraph above.

Funding & Liability Factors:

N/A

Council Options:

The Seller has never initiated meaningful negotiations with Beaufort County on resolving the differences. Accordingly, the only option for Council at this point is to either accept the terms and conditions of the two contracts as contained therein or, alternatively, reject the Seller's "all or nothing" demand.

Recommendation:

A vote in favor of the Resolution will reconfirm the Council's earlier decision to reject the two contracts that were never presented to Council previously by the Seller.

RESOLUTION 2019 / ___

A RESOLUTION TO REJECT, DISAPPROVE AND DENY AN EASEMENT AGREEMENT AND AN AGREEMENT FOR DEVELOPMENT SERVICES FOR WHITEHALL PARK PRESENTED TO BEAUFORT COUNTY COUNCIL BY WHITEHALL POINT HOLDINGS, LLC. IN CONJUNCTION WITH BEAUFORT COUNTY'S PURCHASE OF A 9.68 ACRE PARCEL OF REAL ESTATE FROM WHITEHALL POINT HOLDINGS, LLC. ON OCTOBER 23, 2018

WHEREAS, during several months preceding the county's purchase date of October 23, 2018, Council was verbally, and in summary fashion, presented with certain terms and conditions proposed by the developer, Whitehall Point Holdings, LLC (WPH) regarding WPH's offer to sell to Beaufort County a 9.72 parcel of property located south of Highway 21 and along the eastern side of the Beaufort River, the parcel generally identified as Whitehall Park; and

WHEREAS, the terms and conditions referenced herein were memorialized by the developer in two, attorney drafted, written documents identified as **EASEMENT AGREEMENT** and **AGREEMENT FOR DEVELOPMENT SERVICES FOR WHITEHALL PARK**, copies of each document being attached hereto and incorporated herein as fully as if repeated verbatim; and

WHEREAS, because the terms and conditions of WPH's offer to sell were never presented initially to Council for its consideration, on August 27, 2018, Beaufort County Council passed unanimously the following motion:

> ***"It was moved by Mr. Glover, seconded by Mr. Flewelling, that Council adopt a Resolution authorizing the Interim County Administrator to sign any document necessary in the purchase 9.72 acres of Whitehall property to be used as a passive park, provided that Beaufort County, City of Beaufort and the seller are able to agree on terms which are agreeable by all parties. The agreement which the parties reach, must be brought back before Council for review to consider the action at the September 10, 2018 meeting of Council."***; and

WHEREAS, in compliance with Council's directive, on October 23, 2018, the Interim County Attorney took all appropriate steps to purchase Whitehall Park. However, the Interim County Administrator refused to sign in behalf of Beaufort County both the EASEMENT AGREEMENT and the AGREEMENT FOR DEVELOPMENT SERVICES FOR WITEHALL PARK, for several reasons, particularly, 1) Neither document had ever been presented to Council for its review and consideration either prior to or subsequent to Council's directive on August 27, 2018; 2) The two documents were presented to the Interim County Administrator (and licensed South Carolina attorney) simultaneously with the purchase of the property, thereby denying to the Interim Administrator his ethical responsibility to review and recommend to Council his opinion; and 3) the developer's demand that the Easement Agreement be signed and recorded immediately was contrary to South Carolina law inasmuch as a 3-reading ordinance and a Public Hearing were necessary before the Easement Agreement became valid, even had issues 1 and 2 noted within this paragraph been accomplished; and

WHEREAS, notwithstanding the requirement of Council and notwithstanding the reasoning of the Interim County Administrator in refusing to execute the documents as outlined herein, WPH insisted and continues to insist that Beaufort County execute both documents without modification; and

WHEREAS, following a public presentation on February 25, 2019, Council rejected by a 10-1 vote a motion, Nunc Pro Tunc, to accept the terms of WPH's proposals which, in effect, would have served as Council's full and complete agreement to the **Easement Agreement** and the **Agreement for Development Services for Whitehall Park**, neither document having ever been seen or reviewed by Council as of that date; and

WHEREAS, now having had the opportunity to review the specifics of the two documents, now having received from staff a thorough briefing as to the situation involving ownership and access into and onto the 9.68 acre parcel owned by Beaufort County known as Whitehall Park and, finally, Council now having had the full opportunity to debate the issue, a decision as to a formal response to WPH's demand has been reached.

NOW, THEREFORE, BE IT RESOLVED that the Easement Agreement and the Agreement for Development Services for Whitehall Park as proposed and written by Whitehall Point Holdings, LLC. are hereby rejected, disapproved and denied. Further, staff is authorized to move forward with the steps necessary for utilization of the passive park.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

_____
Connie L. Schroyer, Clerk to Council

PREPARED BY:
Derek C. Gilbert, Esq.
GILBERT LAW FIRM LLC
2 Professional Village Circle
Beaufort, South Carolina 29907
Tel: 843-524-4000
Fax: 843-524-4006
derek@dcgilbert.com
File No. 181546

**********AREA ABOVE THIS LINE RESERVED FOR RECORDING INFORMATION**********

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made effective this _____ day of _____, 2018, by and between WHITEHALL POINT HOLDINGS, LLC, a South Carolina limited liability company ("Whitehall"), and BEAUFORT COUNTY, a political subdivision of the State of South Carolina ("County").

W I T N E S S E T H:

WHEREAS, Whitehall is the owner of certain real property shown as Parcel B on that certain plat prepared by David E. Gasque, RLS, dated September 27, 2018, entitled "PARCELS "A" & "B" WHITEHALL PLANTATION PREPARED FOR WHITEHALL DEVELOPMENT GROUP, LADY'S ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA" (the "Plat") which was recorded _____, 2018, in Plat Book _____ at Page _____ in the ROD Office for Beaufort County, South Carolina("Parcel B"); and

WHEREAS, County is the owner of certain real property shown as Parcel A on the Plat ("Parcel A"); and

WHEREAS, the Plat shows a "PROPOSED ACCESS EASEMENT' running from Sea Island Parkway across Parcel B to the Northern boundary of Parcel A for the benefit of Parcel A, a "PROPOSED ACCESS EASEMENT" running from Meridian Road across Parcel B to the Eastern boundary of Parcel A for the benefit of Parcel A, and a "PROPOSED 50' ACCESS EASEMENT" along the Northern and Easter boundaries of Parcel A for the benefit of Parcel B (collectively, the "Access and Utility Easement Area"); and

WHEREAS, the Plat shows a "PROPOSED STORMWATER DRAINAGE POND" on Parcel A (the "Drainage Pond") which is to be used for stormwater drainage from both Parcel A and Parcel B; and

WHEREAS, the parties hereto wish to create cross -easements in favor of each

other for both access and utilities in the Access and Utility Easement Area and to create a stormwater drainage easement for the benefit of Parcel B in the Drainage Pond; and

WHEREAS, the parties hereto desire to set forth in this Agreement the terms and conditions governing said easement rights.

NOW THEREFORE, the premises considered and for and in consideration of the sum of TEN AND NO/ 100 DOLLARS ($10.00), the mutual covenants and conditions hereinafter contained, the receipt and sufficiency of which is hereby acknowledged, the parties hereto do hereby covenant and agree as follows:

1. Incorporation of Whereas Clauses. The above recitals are true and correct and are hereby incorporated by reference thereto as if restated fully herein.

2. Grant of Easement Rights. Subject to the terms and conditions of this Agreement as hereafter set forth, Whitehall does hereby grant, transfer, sell and convey to County, its successors and assigns, and does create and establish for the benefit of County, and its subtenants, licensees, customers, citizens, agents, employees, invitees, mortgagees, successors and assigns, a perpetual, appurtenant, non-exclusive easement of access, ingress, and egress upon, over and across the Access and Utility Easement Area on Parcel B, along with a perpetual, appurtenant, non-exclusive easement for utilities upon, over, under and across the Access and Utility Easement Area on Parcel B. The sole purposes of said easements is for pedestrian and vehicular ingress and egress and the installation and maintenance of utilities including, without limitation, electricity, gas, water, sewer, cable television, telephone and broadband internet, for the benefit of Parcel A. The benefits and burdens of the easement rights herein granted shall run with the ownership of Parcel A and Parcel B. TOGETHER with all and singular the rights, members, hereditaments and appurtenances belonging to and in anywise incident or appertaining to the above-described easement rights. TO HAVE AND TO HOLD all and singular the easement rights before mentioned unto County, its subtenants, licensees, customers, citizens, agents, employees, invitees, mortgagees, successors and assigns forever.

   Subject to the terms and conditions of this Agreement as hereafter set forth, County does hereby grant, transfer, sell and convey to Whitehall, its successors and assigns, and does create and establish for the benefit of Whitehall, and its guests, licensees and invitees, a perpetual, appurtenant, non-exclusive easement of access, ingress, and egress upon, over and across the Access and Utility Easement Area on Parcel A, along with a perpetual, appurtenant, non-exclusive easement for utilities upon, over, under and across the Access and Utility Easement Area on Parcel A, and a perpetual appurtenant, non-

exclusive easement for stormwater drainage from Parcel B into the Drainage Pond. The sole purposes of said easements is for pedestrian and vehicular ingress and egress, the installation and maintenance of utilities including, without limitation, electricity, gas, water, sewer, cable television, telephone and broadband internet, and stormwater drainage, all for the benefit of Parcel B. The benefits and burdens of the easement rights herein granted shall run with the ownership of Parcel A and Parcel B. TOGETHER with all and singular the rights, members, hereditaments and appurtenances belonging to and in anywise incident or appertaining to the above-described easement rights. TO HAVE AND TO HOLD all and singular the easement rights before mentioned unto County, its successors and assigns forever.

3. Reservation of Grantor's Rights. Each party hereto hereby reserves the right to utilize the Access and Utility Easement Area for any and all purposes that are not inconsistent with and do not interfere with the other party hereto'ss use and of the Access and Utility Easement Area.

4. No Obligation to Pay Rent, Occupancy Changes or Taxes. No party hereto shall be obligated to pay any rent, taxes, operating expenses or other occupancy or use charge for the rights created by this Agreement.

5. Restrictions, Limitations and Conditions of Grants of Easements. The easements granted herein shall be limited to vehicular and pedestrian access, ingress and egress, and the installation, maintenance and use of utilities that shall serve Parcel A and Parcel B, and for stormwater drainage. Neither party shall install a fence or other barrier which could prevent or obstruct the passage of pedestrian or vehicular travel for the purposes stated herein. Each party hereto shall be permitted to maintain the easement area, inclusive of any repairs that are needed to ensure safe passage across the easement area; however, any improvements to the easement area must be approved by the other party hereto in advance of any material changes or improvements made to the Access and Utility Easement Area and the Drainage Pond.

6. Common Ownership. In the event that Parcel A and Parcel B shall at any time be owned in common by one person or entity, then all easements and restrictions herein granted and imposed with respect to the property shall merge, terminate and be of no further force and effect, and said owner shall execute a termination of easement and record the same with the Register of Deeds of Beaufort County, South Carolina.

7. Successors and Assigns. This Agreement and the rights granted herein shall run with the title and land and be appurtenant to Parcel A and Parcel B, shall run with the title to and burden the Access and Utility Easement Area and Parcel A and Parcel B forever, and shall be binding upon, inure to the benefit

of and be enforceable by the parties hereto and their successors, successors-in title, and assigns.

8. Remedies. In the event either party fails to perform any of the covenants and agreements set forth in this Agreement on its part to be performed within the time or times specified herein, the offended party shall be entitled to enforce its rights hereunder by any remedy available at law or in equity (including, without limitation, specific contractual performance and injunctive relief).

9. Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina without regard to principles of conflicts of laws. Venue for any action under this Agreement shall be in Beaufort County, South Carolina.

10. Amendments. This Agreement may not be amended, modified, altered or terminated except by written agreement signed by Whitehall and County.

11. Binding Effect. This Agreement shall run with the land and shall be binding upon and inure to the benefit of Whitehall, its successors, and assigns, and County, its successors and assigns.

SIGNATURES BEGIN ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date above stated.

WHITEHALL POINT HOLDINGS, LLC,
a South Carolina limited liability company

_____
Witness #1
Name: _____

By: _____
Name: Samuel M. Levin
Title: Member

_____
Witness #2
Name: _____

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF BEAUFORT)

I, the undersigned notary, do hereby certify that Samuel M. Levin, Member of WHITEHALL POINT HOLDINGS, LLC, a South Carolina limited liability company, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal this _____ day of _____, 2018.

_____
Print Name: _____
Notary Public
State of South Carolina
Comm. Exp.: _____

SIGNATURES CONTINUED ON NEXT PAGE

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date above stated.

BEAUFORT COUNTY, a political subdivision of the State of South Carolina

_____
Witness #1
Name: _____

By: _____
Name: _____
Title: County Administrator

_____
Witness #2
Name: _____

STATE OF SOUTH CAROLINA)
) ACKNOWLEDGMENT
COUNTY OF BEAUFORT)

I, the undersigned notary, do hereby certify that _____, County Administrator of BEAUFORT COUNTY, a political subdivision of the State of South Carolina, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal this _____ day of _____, 2018.

_____
Print Name: _____
Notary Public
State of South Carolina
Comm. Exp.: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

AGREEMENT FOR DEVELOPMENT SERVICES FOR WHITEHALL PARK

THIS AGREEMENT FOR DEVELOPMENT SERVICES FOR WHITEHALL PARK ("Agreement") is made and entered into this _____ day of _____ 2018, by and between WHITEHALL POINT HOLDINGS, LLC, ("WPH") and BEAUFORT COUNTY, a subdivision of the State of South Carolina ("County").

WITNESSETH:

WHEREAS, the County has agreed to purchase certain property known as Whitehall Park located in The City of Beaufort, Beaufort County, South Carolina from WDG as described on Exhibit "A" pursuant to that certain Agreement of Sale between WPH and County dated on or about the date hereof ("Purchase Agreement"), and the parties have had discussions with regard to mutually beneficial obligations that shall extend beyond the conveyance of the property and it is their desire to document their understandings with respect to said property; and

WHEREAS, WPC intends to to make a charitable gift to the County of (a) the difference between the Purchase Price and the fair market value of the Property as more specifically addressed in the Purchase Agreement, and (b) the value of the costs and expenses incurred by WPC in providing the design and development services for the development of the Property into a public park pursuant to this Agreement.

NOW THEREFORE, in consideration of the premises and of the mutual promises and covenants herein contained the County and WPH agree as follows:

1. Schematic Park Design. WPH agrees to provide, at WPH's expense and at no expense to County, a schematic Whitehall Park design produced by Witmer, Jones, Keefer Ltd. Relevant County staff and City of Beaufort staff shall participate in the development of the schematic park design. This process shall include at least one public workshop hosted by the County.

   The schematic park design shall also include the parking areas referenced in Paragraph 4.

2. Civil Design and Permits. WPH agrees to provide, at WPH's expense and at no expense to County, civil design services, plans and permits from DEHEC and OCRM for Whitehall Park, submitted by Carolina Engineering. Civil engineering plans shall include the stormwater outfall area benefitting both parties on park property referenced in Paragraph 7 below, labelled "Proposed Pond" on that certain plat entitled "Parcels "A" and "B" Whitehall Plantation Prepared for Whitehall Development Group, Lady's Island, Beaufort County, South Carolina, Date: September 27, 2018" by Gasque & Associates, Inc." recorded in Plat Book 150, Page 38 in the Register of Deeds in Beaufort County, South Carolina on October 3, 2018.

3. Roads/Access. WPH agrees to construct, at no expense to County, the following roads and the parties shall provide the following access agreements:

   a. Entrance Road from U.S. Highway 21 on Parcel B; County Access Easement. WPH shall construct this entrance road and shall grant County a written access easement for this road from U.S. Highway 21 providing vehicular, biking and pedestrian ingress/egress into Whitehall Park. This entrance road is labelled on the aforementioned plat as "Proposed Access Easement" and shall be paved through the intersection of this road with the Entrance Road from Meridian Road.

      On the portion of this Entrance Road from U.S. Highway 21 past the Entrance Road from Meridian Road intersection on Parcel A, WPH shall construct a pathway for public use no more than 10 feet wide. The County shall grant WPH a written access easement for construction of this pathway and express access and use of this pathway granted to residents of the adjacent property.

   b. Entrance Road to Whitehall Park on Parcel A; WPH Access Easement. WPH shall construct this road, labelled as "Proposed Access Easement" on the aforementioned plat. County shall provide a written access easement to WPH for vehicular, biking and pedestrian ingress/egress from WPH's commercial real estate development, including WPH's successors and assigns, located on adjacent property.

   c. Entrance Road from Meridian Road on WPH Property; County Access Easement. WPH shall construct this road, labelled "Proposed Access Easement" and shall grant a written access easement to County for vehicular, biking and pedestrian ingress/egress to Whitehall Park.

   d. Asphalt Roadway. WPC shall remove all asphalt roadways presently existing on Parcel A.

4. Parking; County and WPH Parking Easement. WPH agrees to construct, at WPH's expense and at no cost to County, a pervious parking area of twenty-five spaces for use by the public on Whitehall Park property shown on the schematic park design referenced in Paragraph 1. The schematic park design will also designate areas suitable for future parking expansion.

   County shall provide to WPH an easement agreement to allow users of WPH's commercial real estate development located on adjacent property to park in marked parking spaces within Whitehall Park after Whitehall Park hours.

5. Laterals and Stub-outs. WPH agrees to construct, at WPH's expense and at no cost to County, water, electrical and sewer laterals and stub-outs if included in the civil design referenced in Paragraph 2.

6. SCDHEC-OCRM Dock Permit. With input on dock design from County staff, City staff and the Open Land Trust, WPH shall submit application to SCDHEC-OCRM for

a dock permit for Whitehall Park at WPH's expense and at no cost to County within a reasonable amount of time after conveyance of the Property. WPH is not obligated for any costs associated with constructing the dock after the permit submission.

7. Stormwater Outfall Area. WPH shall construct, at WPH's expense and at no cost to County, a mutually beneficial stormwater outfall area on the Whitehall Park property. This stormwater outfall area is labelled on the aforementioned plat as "Proposed Pond" and shall be included in the civil design referenced in Paragraph 2.

8. Impact Fees. County shall no charge impact fees to WPH for the construction of the Whitehall Park parking area referenced in Paragraph 4.

9. Signage. County shall provide, at County's sole cost and expense, way finding signage the for Whitehall Park.

10. Use of Parcel A; Building Types on Parcel B. WPH and County shall mutually agree upon the form and substance of a Declaration of Easements, Protective Covenants, Conditions and Restrictions ("Declaration") for the Whitehall Park. The Declaration shall include (i) restrictions on structural amenities located on Parcel A to ensure that scenic views and park ambiance are not disrupted; provided however, it is agreed that structural amenities on Parcel A may include public restrooms and water access, (ii) guidelines and controls specifying the building types shown on the proposed Whitehall Park Conceptual/Preliminary Plat Application approved by the Metropolitan Planning Commission on February 19, 2018 on the acreage included in Parcel B (Gasque plat) shall not be converted to other building types (for example, conversion of cottage homesites to apartment buildings or mixed use buildings), nor shall aggregate density on Parcel B be increased; (iii) limiting the use of Parcel A to passive park uses similar to the Henry C. Chambers Park; (v) a conservation easement to be granted to the County to permanently protect Parcel A from uses inconsistent with the conservation easement.

11. BJWSA Pump Station. WPH shall, at WPH's expense and at no cost to County, cause the relocation of the BJWSA Pump Station from Parcel A as shown on the aforementioned plat to Parcel B. WPH shall work cooperatively with the Beaufort Jasper Water and Sewer Authority ("BJWSA") to cause the BJWSA to convey the land presently owned by the BJWSA and show as located on Parcel A on the aforementioned plat to the County.

12. Term. The services to be performed under this Agreement must begin on October 22, 2018, and, subject to authorized adjustments as may be agreed to by the parties, substantial completion and execution and delivery of the easements and Declaration contemplated herein must be achieved not later than October 22, 2020. Unreasonable delay by County in conjunction with delivery of services could result in County's forfeiture of services.

No party shall be liable or responsible to the other party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is

caused by or results from acts beyond the affected party's reasonable control (a "Force Majeure Event"), including, without limitation: (a) acts of God; (b) flood, fire, earthquake, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest; (d) actions, embargoes, or blockades in effect on or after the date of this Agreement; (e) national or regional emergency; and (f) strikes, labor stoppages or slowdowns, or other industrial disturbances. The party suffering a Force Majeure Event shall give notice to the other party, stating the period of time the occurrence is expected to continue and shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized.

13. WPH Charitable Gift. WPH intents to make as a charitable gift to County the value of the expenses incurred by WPH in connection with WPH fulfilling its obligations under this Agreement. WPH acknowledges that County and/or its agents shall not take a position on either the value or the tax deductibility of any charitable donation value claimed by the WPH as a result of WPH performing its obligations under this Agreement. Should WPH choose to file for federal and/or state charitable donation benefits pursuant to WPH performing its duties and incurring expenses pursuant to this Agreement, WPH must provide documentation of such expenses to County and allow five (5) business days for County's review. County agrees to work in good faith with WPH to provide required documentation; however, County reserves the right to refuse to provide a gift acknowledgement letter or to execute WPH's IRS Form 8283 if County has significant concerns about the appraisal value or the tax deduction.

14. Miscellaneous.

    a. Further Assurances. Each of the parties hereto shall execute and deliver such additional documents, instruments, conveyances, and assurances and take such further actions as may be reasonably required to carry out the provisions hereof and give effect to the transactions contemplated hereby.

    b. Entire Agreement. This Agreement, together with the Purchase Agreement, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein and therein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements in the body of this Agreement and the Purchase Agreement, the statements in the body of this Agreement shall control.

    c. Amendment and Modification. This Agreement may only be amended, modified, or supplemented by an agreement in writing signed by each party hereto.

    d. Notices. Any notice, communication, request, approval or consent which may be given or is required to be given under the terms of this Agreement shall be in writing and shall be transmitted (1) via hand delivery or express overnight delivery service to the WPC or the County, (2) via facsimile with the original

to follow via hand delivery or overnight delivery service, or (3) via e-mail, provided that the sending party can show proof of delivery, as the case may be, at the addresses/numbers set forth below:

To County:
Beaufort County
Post Office Box 1228
Beaufort, SC 29901
Attn: Tom Keaveny, Beaufort County Staff Attorney
E-mail: tkeaveny@bcgov.net
843-255-2027

Copy to:
Thomas A. Bendle, Jr.
Howell, Gibson and Hughes P.A.
Post Office Box 40
Beaufort, SC 29901
843-522-2400
tbendle@hghpa.com

To WPC:
Whitehall Point Holdings, LLC
1124 Park West Boulevard, Suite 101
Mount Pleasant, SC 29466
Attn: George McLaughlin
E-mail: g@whitehalldg.com
803-960-8240

And

Whitehall Point Holdings, LLC
156 Spanish Point Drive
Beaufort, SC 29902
Attn: Sam Levin
E-mail: sam.levin234@gmail.com
843-345-0824

Copy to:
Smith Moore Leatherwood LLP
101 North Tryon Street, Suite 1300
Charlotte, NC 28246
Attn: Diana R. Palecek, Esq.
E-Mail: Diana.palecek@smithmoorelaw.com
704-384-2609

e. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective successors and assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

f. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of South Carolina without giving effect to any choice or conflict of law provision or rule (whether of the State of South Carolina or any other jurisdiction).

g. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

h. Relationship of the Parties. Nothing herein shall be construed to create a joint venture or partnership between the parties hereto or an employer/employee or agency relationship. Neither party hereto shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other party or to bind the other party to any contract, agreement, or undertaking with any third party.

IN WITNESS WHEREOF, the County herein has caused this Agreement to be duly executed this_____day of _____, 2018.

WITNESSES:

_____

_____

BEAUFORT COUNTY

_____

By: _____
Its: _____

IN WITNESS WHEREOF, Whitehall Point Holdings, LLC herein has caused this Agreement to be duly executed as of this _____ day of _____ , 2018.

WITNESSES:

_____

_____

WHITEHALL POINT HOLDINGS, LLC

_____

By: _____
Its: _____

Exhibit "A"
PROPERTY DESCRIPTION

~~ALL~~All that certain piece, parcel or lot of land, situate, lying and being ~~in the City of Beaufort~~on Lady's Island, Beaufort County, South Carolina~~;~~ and being shown and designated as "Parcel A ~~on that certain plat entitled "Parcels "A" and "B" Whitehall Plantation Prepared for Whitehall Development Group, Lady's Island.~~", containing 9.68 acres, more or less, on that certain plat prepared by David E. Gasque, RLS dated September 27, 2018, last revised October 18, 2018, and recorded in Plat Book 150 at Page 64, in the Register of Deeds Office for Beaufort County, South Carolina~~; Date: September 27, 2018" by Gasque & Associates, Inc." recorded in Plat Book 150, Page 38~~. For a more complete description of said property, reference may be had to an individual plat prepared by David E. Gasque, RLS, dated October 17, 2018, and recorded in Plat Book 150 at Page 64, in the Register of Deeds ~~in~~Office for Beaufort County, South Carolina ~~on October 3, 2018.~~.

BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Consideration and Approval of Administrator's Employment Contract

Council Committee:

None

Meeting Date:

March 25, 2019

Committee Presenter (Name and Title):

Issues for Consideration:

Whether or not it is appropriate to consider and approve the employment contract for the newly selected Administrator, Ashley Jacobs.

Points to Consider:

1. Base Salary: $190,000.00
2. Auto Allowance: $250.00 per month
3. Moving Expenses: Up to $5,000.00 with receipts.
4. Leave Time: 150 hours per year.
5. Severance Package (terminated without cause): $190,000.00
6. Term of Contract: April 15, 2019 - June 30, 2022

Funding & Liability Factors:

General Fund Expense

Council Options:

Approve or reject the contract or, alternatively, amend as deemed appropriate and open up further negotiations.

Recommendation:

STATE OF SOUTH CAROLINA	)	EMPLOYMENT CONTRACT
	)	
COUNTY OF BEAUFORT	)	COUNTY ADMINISTRATOR

THIS AGREEMENT, made and entered into this _____ day of _____, 2019, by and between the BEAUFORT COUNTY COUNCIL, the governing body of the COUNTY OF BEAUFORT, Beaufort, South Carolina (hereinafter referred to as the "Council" and the "County", respectively) and ASHLEY M. JACOBS (hereinafter referred to as "Employee") all of whom understand and agree as follows:

WITNESSETH:

WHEREAS, the County, acting by and through its governing body, the Council, desires to employ the services of Employee in the capacity as the Beaufort County Administrator pursuant to S. C. Code Ann. §4-9-*10 et seq.* (1976, as amended) and as more specifically provided by S.C. Code Ann. §4-9-620 (1976, as amended); and

WHEREAS, it is the desire of the Council to provide certain benefits, to establish certain conditions of employment, and to set working conditions of the Employee; and

WHEREAS, the Employee desires to accept employment as the County Administrator of Beaufort County under the terms and conditions of employment as referenced herein.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto agree as follows:

SECTION 1: TERM

A. The Employee serves at the pleasure of the Council, and nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Council to terminate the services of the Employee at any time, subject only to the provisions set forth in Section 12 of this Agreement.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of

the Employee to resign at any time from her position with the County, subject only to the provision set forth in Section 12 of this Agreement.

C. Employee agrees to remain in the exclusive employ of the County from the 15th day of April, 2019 (hereinafter "the first day of employment") under this Agreement until the 30th day of June, 2022, a date three (3) years, two (2) months and fifteen (15) days from the first day of employment under this Agreement, and to neither seek nor accept employment nor become employed by any other employer until the termination date provided under this Agreement, unless the termination date is effected as hereinafter provided.

D. For purposes of this Agreement, the term "anniversary date" shall mean June 30th following the first full year of employment and each June 30th thereafter.

E. Outside Employment: For purposes of this Agreement, "employed" shall not mean "off-duty" employment permitted by law, consisting of occasional teaching, writing, speaking, or consulting performed on personal time off, outside of normal County work hours or when otherwise authorized by this Agreement to have time off from the County. To the extent permitted by State law, the Employee may engage in "off-duty" employment; provided, however, that the "off-duty" employment must be outside of the scope of the Employee's official capacity as defined and interpreted by the South Carolina Ethics Reform Act of 1991, as amended, S.C. Code Ann. §8-13-100 *et seq.* (1976, as amended) and applied by the South Carolina State Ethics Commission.

Provided, further, that the Employee shall not spend more than (5) hours per week in off-duty employment without the express prior written approval of the Council Chairman.

If compensation is expected to be received by the Employee for off-duty employment, the Employee shall first obtain a written informal or formal opinion from the South Carolina State Ethics Commission expressing an affirmative opinion that the off-duty employment is, in fact, not within the Employee's official capacity and, therefore, the Employee is permitted to accept compensation therefore.

In no case may the Employee engage in activity which would present even an appearance of a conflict of interest with the business of the County or interfere with the Employee's execution of duties for the County. In the event significant travel is required for non-County related off-duty employment, the Council shall be notified in advance and approve same in writing.

To the extent permitted by state law, incidental use of public materials, personnel, or equipment which does not result in additional public expense may be utilized by the Administrator but only to the extent permitted by S.C. Code Ann. §8-13-700(A) (1976, as amended).

F. In the event written notice of intent not renew this Agreement is not given by either party to this Agreement to the other at least ninety (90) days prior to any annual anniversary date, this Agreement may be extended on the same terms and conditions as herein provided, all for a new term consisting of the term, then remaining at such annual anniversary date plus an additional period of one (l) year; such that the maximum effective term of this Agreement shall never exceed three (3) years and be not less than the respective term remaining when any notice of intent not to renew is given. This Agreement shall continue thereafter for a continuing, annually renewable term consisting of the respective term, then remaining at the annual anniversary date unless written notice of intent not to

renew is given by either party to this Agreement to the other at least ninety (90) days prior to any subsequent annual anniversary date.

SECTION 2: DUTIES

A. The Council hereby agrees to employ Employee as the County Administrator of Beaufort County to perform the functions and duties specified in S.C. Code Ann. § 4-9-630 (1976, as amended) and to perform such other legally permissible and proper duties and functions as the County Council shall from time to time assign whether by job description or otherwise.

It is recognized that the Employee must devote a great deal of her time outside normal office hours to the business of the County. However, the Employee agrees, to the extent possible, to observe the normal business and working hours of the County.

SECTION 3: COMPENSATION

A. The County agrees to pay Employee for services rendered pursuant hereto an annual base salary of One Hundred Ninety Thousand and No /100 ($190,000.00) Dollars, payable in installments at the same time as all other County employees are paid.

B. The Council further agrees that it may, but is not required to, adjust the Employee's base salary at the time of her annual evaluation.

C. Employee agrees that her salary may be reduced at any time by not more than the percentage by which County Council reduces the compensation of all County employees (other than elected or appointed officials) on an across-the-board basis.

SECTION 4. DUES AND SUBSCRIPTIONS

The Council agrees to allocate reasonable and sufficient funds for professional dues and subscriptions requested by the Employee which are necessary for her continuation and full participation in national, regional, state, and local associations necessary for her continued

professional participation, growth, and advancement and for the good of the County.

SECTION 5: BUSINESS TRIPS FOR BEAUFORT COUNTY

The County agrees to allocate reasonable and sufficient funds for the actual costs incurred for travel, lodging and the per diem subsistence allowance provided by the policies of the County for necessary official travel while on County business and the attendance at meetings, seminars, and conventions held by the South Carolina Association of Counties, the Beaufort County Regional Chamber of Commerce and other related organizations.

SECTION 6: PLANS

Employee shall be entitled to participate in all benefit plans as may be available from time to time to employees of the County in the same manner, including employee contributions, and to the same extent as other County employees to include, without limitation, state retirement plan and medical and other insurance plans, in addition to all other benefits more specifically described herein.

Employee shall be entitled to be covered by the same health and dental plans as all other County employees and Employee shall pay the same share of premiums for the health and dental plans, including family plans, elected by Employee as are paid by all other County employees and that coverage shall be in full force and effect thirty (30) days after the start of service provided under this Agreement.

Employee shall be covered by the County retirement system on the same basis as all other County employees and in accordance with the South Carolina Retirement System.

SECTION 7: LEAVE

Employee shall accrue One Hundred Fifty (150) hours of annual leave; said hours to be credited to her Personal Leave Account on July 1 of each year of employment. For the seventy-

five (75) days of employment prior to July 1, 2019, employee shall be credited with five (5) days of leave. The employee may carry forward earned, but unused, leave for the following year, however, any unused leave for the prior calendar year shall expire if not used by the last day of second calendar quarter of the carry forward year.

Employee shall be allowed to use vacation leave at her discretion, but she shall give the Chairman of County Council at least two (2) weeks, advance notice of a vacation of five (5) consecutive days or longer and four (4) weeks' notice of a vacation of ten (10) consecutive days or longer.

Unused leave, which has expired because it was not taken by the end of the first calendar quarter of a carry forward year, shall not be credited to the Employee as terminal leave payment upon exit from service with the County.

SECTION 8: AUTOMOBILE

The Employee shall adhere to the County's Automobile Use Policy at all times while engaged in official duty. The Employee shall be provided an automobile allowance of not more than Three Thousand ($3,000.00) Dollars per annum to be paid in equal monthly installments of Two Hundred Fifty ($250.00) Dollars.

SECTION 9. MOVING AND RELOCATION EXPENSES

The County agrees to reimburse the Employee a sum not to exceed Five Thousand ($5,000.00) Dollars for relocation expenses. A request for reimbursement shall include the submission of supporting receipts.

SECTION 10. EVALUATIONS

A. The Council shall review and evaluate the performance of the Employee periodically as it deems appropriate.

B. The Council shall review and evaluate for the purposes of compensation, the

performance of the Employee every twelve (12) months, the evaluation and Council's recommendation to be made shortly after each annual expiration of an anniversary date of this Agreement.

SECTION 11: CONFLICT OF INTEREST PROHIBITION

It is further understood and agreed that because of the duties of County Administrator within and on behalf of the County, Employee shall not during the term of this Agreement, individually, as a partner, joint venture, officer or shareholder, invest or participate in any business venture conducting business with Beaufort County, or receiving economic development incentives from Beaufort County, except for stock ownership in any company whose capital stock is publicly held and regularly traded, without the prior approval of the Council. The employee shall comply at all times during her employment with the County with the provisions of the South Carolina Ethics Reform Act of 1991, as amended and codified at S.C. Code Ann. §8-13-100 *et seq.* (1976, as amended).

SECTION 12. TERMINATION AND SEVERANCE PAY

Termination for Cause: No severance or other payment shall be owed or paid to the Employee in the event of "termination for cause". Grounds for termination for cause shall be the indictment of the Employee of any crime involving improper personal gain to herself or another person or individual, the commission of any crime involving moral turpitude (as defined in South Carolina state law), illness or disability, or the refusal or neglect of Employee to perform the duties of this office.

For the purposes of this section, the duties of her office include maintaining reasonable, consistent office hours, except during such times as the duties of her office require her absence or as noted and authorized elsewhere in this Agreement, compliance with the laws and Constitution of the State of South Carolina, performance of the duties set forth in Section 2 of this Agreement, and

compliance with the lawful directives of the Council passed in open, public meetings of Council which do not conflict with or invade the responsibilities and authority conferred on the Employee by the South Carolina Constitution or Code of Laws. In the event Employee is terminated for cause, she shall not be entitled to severance pay, but shall be entitled to compensation and benefits accrued but yet unpaid at the date of termination.

Illness and Disability: In the event the Employee shall suffer serious illness or injury during the contract period, she shall be afforded a minimum of ninety (90) calendar days as a recovery period before she may be deemed to be in violation of the terms of this contract and subject to the provisions relating to termination for cause. The Council may, upon public vote, extend this recovery period.

Termination Without Cause: If the Employee is terminated for any reason other than those set out above, she shall be deemed to have been terminated without cause and shall be entitled to a maximum of twelve (12) months' severance pay calculated at the then existing rate of compensation, said severance being owed and payable for not more than twelve (12) months and immediately ceasing upon the re-employment of the Employee in new employment. Severance pay shall not extend beyond twelve (12) months.

The County shall not be obligated to continue to pay an automobile allowance during the severance period.

The County will continue during the severance period to provide and contribute to the Employee's benefit plan(s) until the Employee's re-employment or the expiration of twelve (12) months whichever comes first, e.g., all life, health, dental and all other County provided benefits for the Employee shall continue in full force and coverage for a period of 12 months or until Employee becomes eligible to participate in such benefit plans with a subsequent employer whichever comes first but not more than twelve (12) months from the date of separation. Said

continuation of group health insurance coverage shall be in addition and prior to any protection afforded the Employee by the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"). Coverage under COBRA shall begin on the date all coverage extended under the severance provisions herein expire.

The acceptance by the Employee of the benefits under this Section will constitute a full and final settlement of any and all claims the Employee may have against the County and its Council for any claim arising from her employment beginning with the first day of her initial employment with the County.

Resignation: In the event the Employee voluntarily resigns her position with the County before expiration of the term of employment, then the Employee shall give the Council Chairman ninety (90) calendar days written notice in advance of such intent to resign and, if she should fail to give such notice, shall forfeit a proportionate amount of salary equal to the salary due for the period by which she fails to give such ninety (90) days written notice as a liquidated damage penalty for failure to give adequate notice to the County, and shall forfeit payment for all accrued but unused leave.

Contemporaneously with the delivery of all severance pay and entitlements herein above set out, the Employee agrees to execute and deliver to the County a release, releasing the County and its Council of all further claims that the Employee may have against the County and its Council.

SECTION 13. OTHER TERMS AND CONDITIONS OF EMPLOYMENT

A. The County Council shall fix any such terms and conditions of employment as it may determine from time to time, relating to the performance of Employee, providing such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or any state, federal or local law. All policy provisions of the County relating to leave, retirement and pension system contributions, holidays and other fringe benefits and working conditions as they

now exist or hereafter may be amended, shall also apply to the Employee as they would be to other employees of the County, in addition to said benefits enumerated specifically for the benefit of the Employee, except as herein provided. The employee will be covered by tort liability insurance with coverage at least as broad as that in the policy available through the Insurance Reserve Fund or other such insurance carrier as the County shall choose.

B. If Employee is called as a witness by the County to give testimony for the County in any proceeding while or after she ceases to be an employee, she shall be paid her reasonable expenses.

C. Employee is required to reside in Beaufort County.

SECTION 14: GENERAL PROVISIONS

This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.

A. If any provision or any portion thereof contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of the Agreement or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.

B. This Agreement is to be construed in accordance with the law of South Carolina and any dispute, claim or cause of action shall be tried in a court of competent jurisdiction in the State of South Carolina, County of Beaufort.

IN WITNESS WHEREOF, the County of Beaufort has caused this Agreement to be signed and executed in its behalf by its Chairman, and duly attested by its Clerk to Council, and Employee has signed and executed this Agreement, both in duplicate, the day and year first above written.

IN THE PRESENCE OF:

Ashley M. Jacobs

Stewart H. Rodman, Chairman

ATTEST:

Clerk to Council

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

Personally appeared before me BRIAN SANDERS who made oath that (s)he saw Ashley M. Jacobs sign the foregoing Employment Agreement and that (s)he together with JIM HOLLY & KATELYN HAYES witnessed the execution thereof.

Sworn to before me this 18th day of MARCH, 2019

Notary Public for South Carolina
My Commission Expires: 8/9/21

BRIAN SANDERS
NOTARY PUBLIC
My Commission Expires
08-09-2021
SOUTH CAROLINA

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

Personally appeared before me _____ who made oath that (s)he saw Stewart H. Rodman sign the foregoing Employment Agreement and that (s)he together with _____ witnessed the execution thereof.

_____

Sworn to before me this _____
day of _____, 2019

_____
Notary Public for South Carolina
My Commission Expires: _____