

COUNTY COUNCIL OF BEAUFORT COUNTY
ADMINISTRATION BUILDING
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STEWART H. RODMAN
CHAIRMAN

D. PAUL SOMMERVILLE
VICE CHAIRMAN

COUNCIL MEMBERS

MICHAEL E. COVERT
GERALD DAWSON
BRIAN E. FLEWELLING
YORK GLOVER, SR.
CHRIS HERVOCHON
ALICE G. HOWARD
MARK LAWSON
LAWRENCE P. MCELYNN
JOSEPH F. PASSIMENT, JR.

ASHLEY M. JACOBS
COUNTY ADMINISTRATOR

SARAH W. BROCK
CLERK TO COUNCIL

AGENDA
COUNTY COUNCIL OF BEAUFORT COUNTY
REGULAR SESSION

Monday, September 23, 2019

6:00 p.m.

Conference Room, Buckwalter Recreation Center,
Buckwalter Regional Park, 905 Buckwalter Pkwy, Bluffton

1. **CALL TO ORDER REGULAR SESSION** – Chairman Stu Rodman 6:00 p.m.
2. **PLEDGE OF ALLEGIANCE AND INVOCATION** – Councilman Michael Covert

[Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act]
3. **APPROVAL OF AGENDA**
4. **APPROVAL OF MINUTES** (backup)
 - A. July 22, 2019 (Caucus)
 - B. July 22, 2019 (Regular Session)
 - C. August 26, 2019 (Caucus)
 - D. August 26, 2019 (Regular Session)
5. **PROCLAMATIONS**
 - A. Recovery Month in Beaufort County
6. **CITIZEN COMMENTS** *[See Clerk to Council for sign-in prior to meeting. Speakers shall limit comments to three minutes and comments must pertain to items on the Agenda.]*
7. **ADMINISTRATOR'S REPORT**
8. **CHAIRMAN'S MINUTE**
9. **CONSENT AGENDA**

A. Items Originating from the Public Facilities Committee – Councilman Flewelling

1. **Third and Final Reading of an Ordinance authorizing the execution and delivery of a utility easement encumbering property owned by Beaufort County known as the Wright Family Park** (backup)
 1. Consideration of Third and Final Reading on September 23, 2019



2. Public Hearing on September 9, 2019
3. Second Reading approved on September 9, 2019 / Vote 10:0
4. First Reading approved on August 26, 2019 / Vote 10:0
5. Public Facilities Committee recommended approval on August 12, 2019 / Vote 11:0

2. Third and Final Reading of an Ordinance to appropriate \$21,677 from the local hospitality tax for waterfront structure inspections of portions of the Spanish Moss Trail and Wimbee Creek Fishing Pier (backup)

1. Consideration of Third and Final Reading on September 23, 2019
2. Public Hearing on September 9, 2019
3. Second Reading approved on September 9, 2019 / Vote 10:0
4. First Reading approved on August 26, 2019 / Vote 10:0
1. Public Facilities Committee recommended approval on August 12, 2019 / Vote 11:0

3. Third and Final Reading of an Ordinance to appropriate \$27,000 each year for five (5) years from the 3% Local Accommodation Tax funds for the inspections of Broad River Fishing Pier subject to appropriation (backup)

1. Consideration of Third and Final Reading on September 23, 2019
2. Public Hearing on September 9, 2019
3. Second Reading approved on September 9, 2019 / Vote 10:0
4. First Reading approved on August 26, 2019 / Vote 10:0
5. Public Facilities Committee recommended approval on August 12, 2019 / Vote 11:0

4. Second Reading of an Ordinance to terminate the lease agreement on the “Lucky” Property (backup)

1. Consideration of Second Reading on September 23, 2019
2. Public Hearing – Monday, October 14, 2019, 6:00p.m., Council Chambers, Administration Building Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort
3. First Reading approved on September 9, 2019 / Vote 10:0
4. Public Facilities Committee recommended approval on June 3, 2019 / Vote 8:0

5. First Reading of an Ordinance authorizing the sale of property known as Bob Jones Field or Bob Jones Park (backup)

1. Consideration of First Reading on September 23, 2019
2. Public Hearing – Monday, October 14, 2019, 6:00p.m., Council Chambers, Administration Building, Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort
3. Public Facilities Committee recommended approval on August 12, 2019

C. Items Originating from the Community Services Committee – Councilman Covert

1. A Resolution to appropriate \$398,000 from the Community Services grants program funds as provided in the fiscal year 2020 budget as recommended by the Beaufort County Human Services Department (backup)

1. Consideration of approval on September 23, 2019
2. Community Services Committee recommended approval on September 16, 2019 / Vote 6:0

2. A Resolution approving the Memorandum of Understanding and Agreement between Beaufort County and the SC Association of Counties relating to the Setoff Debt Collection

Act and Authorizing the Beaufort County Alcohol and Drug Abuse Department to Use the Procedures Allowing for Collection of Delinquent Fees [\(backup\)](#)

1. Consideration of approval on September 23, 2019
2. Community Services Committee recommended approval on September 16, 2019 / Vote 6:0

D. Items Originating from the Natural Resources Committee – Councilwoman Howard

1. **Third Reading of an Ordinance regarding a Northern Beaufort County map amendment (change the zoning of the property from C3-NMU to C5-RCMU)** [\(backup\)](#)
 1. Consideration of Third and Final reading on September 23, 2019
 2. Public hearing on June 10, 2019
 3. Second reading approved on June 10, 2019 / Vote 9:1
 4. First reading approved on May 28, 2019 / Vote 9:0
 5. Natural Resources Committee recommended approval on May 20, 2019 / Vote 7:1
2. **First Reading of an Ordinance to adopt an amended and restated development agreement for River Oaks at Okatie Village** [\(backup\)](#)
 1. Consideration of First Reading on September 23, 2019
 2. Public Hearing – Monday, October 14, 2019, 6:00p.m., Council Chambers, Administration Building, Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort
 3. Natural Resources Committee recommended approval on August 19, 2019 / Vote 6:5
3. **First Reading of an Ordinance authorizing the County Administrator to execute the Brewer Memorial park 2019 joint ownership agreement and operating policy with the Beaufort County Open Land Trust** [\(backup\)](#)
 1. Consideration of First Reading on September 23, 2019
 2. Public Hearing – Monday, October 14, 2019, 6:00p.m., Council Chambers, Administration Building, Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort
 3. Natural Resources Committee recommended approval on September 16, 2019 / Vote 5:0
4. **First Reading of an Ordinance authorizing the execution of a declaration of restrictive covenants on property located at 75 Confederate Avenue, also known as Bailey Memorial Park** [\(backup\)](#)
 1. Consideration of First Reading on September 23, 2019
 2. Public Hearing – Monday, October 14, 2019, 6:00p.m., Council Chambers, Administration Building, Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort
 3. Natural Resources Committee recommended approval on August 19, 2019 / Vote 11:0
5. **First Reading of a new Rural and Critical Lands Ordinance** [\(backup\)](#)
 1. Consideration of First Reading on September 23, 2019
 2. Public Hearing – Monday, October 14, 2019, 6:00p.m., Council Chambers, Administration Building, Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort
 3. Natural Resources Committee recommended approval on September 16, 2019 / Vote 5:0
6. **First Reading of an Ordinance amending the existing Rural and Critical Lands Board Ordinance (Division 5, Section 2, 281-290)** [\(backup\)](#)

1. Consideration of First Reading on September 23, 2019
2. Public Hearing – Monday, October 14, 2019, 6:00p.m., Council Chambers, Administration Building, Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort
3. Natural Resources Committee recommended approval on September 16, 2019 / Vote 5:0
7. **Approval to award BrightView the project management, landscape installation & maintenance services for the Highway 278 medians between Tanger 1 and Westbury Park Way** (backup)
 1. Consideration of approval on September 23, 2019
 2. Natural Resources Committee recommended approval on September 16, 2019 / Vote 5:0

10. **PUBLIC HEARINGS**

- A. **Public Hearing and Third Reading of an Ordinance authorizing the issuance and sale of General Obligation Bonds, series 2019c, in the amount not to exceed \$25,000,000; fixing the form and details of the bonds; authorizing the County Administrator or her lawfully-authorized designee to determine certain matters relating to the bonds; providing for the payment of the bonds and the disposition of the proceeds thereof; and other matters relating thereto** (backup)
 1. Consideration of Third and Final reading on September 23, 2019
 2. Public Hearing on September 23, 2019
 3. Second Reading approved on September 9, 2019 / Vote 10:0
 4. First Reading approved on August 26, 2019 / Vote 10:0
 5. Finance Committee recommended approval on August 19, 2019 / Vote 11:0

11. **TIME-SENSITIVE ITEMS POTENTIALLY COMING FORTH FROM THE SEPTEMBER 23, 2019 FINANCE COMMITTEE MEETING FOR COUNCIL CONSIDERATION**

- A. **Consideration of an Ordinance to appropriate \$2,506,069.00 from the South Beaufort County service area road impact fees for the US 278 safety improvements project across Jenkins Island with \$2,295,688.00 coming from the Hilton Head Island/Daufuskie Island road impact fees fund and \$210,381.00 coming from the Bluffton impact fees fund** (backup)
 1. Consideration of First Reading on September 23, 2019
 2. Public Hearing – Monday, October 14, 2019, 6:00p.m., Council Chambers, Administration Building, Beaufort County Government Robert Smalls Complex, 100 Ribaut Road, Beaufort
 3. Finance Committee to discuss on September 23, 2019

12. **COMMITTEE REPORTS**

Prior Meetings

1. Communications and Transparency Committee (September 16, 2019)
2. Community Services (September 16, 2019)
3. Natural Resources (September 16, 2019)
4. Finance (September 18, 2019)
5. Public Facilities (September 18, 2019)
6. Governmental (September 23, 2019)

Upcoming Meetings

1. Finance (October 7, 2019)
2. Public Facilities (October 7, 2019)
3. Executive (October 14, 2019)

13. LIASION REPORTS

14. CITIZEN COMMENTS *[See Clerk to Council for sign-in prior to meeting. Speakers shall limit comments to three minutes.]*

15. EXECUTIVE SESSION

- A. Discussion of negotiations and receipt of legal advice related to pending litigation “Hilton Head National / Scratch Golf”**

16. MATTERS ARISING OUT OF EXECUTIVE SESSION

17. ADJOURNMENT



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

APPROVAL OF MINUTES

Council Committee:

County Council

Meeting Date:

September 23, 2019

Committee Presenter (Name and Title):

Issues for Consideration:

Approval of minutes from:

July 22, 2019

August 26, 2019

Points to Consider:

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve

AGENDA
COUNTY COUNCIL OF BEAUFORT COUNTY
CAUCUS

Monday, July 22, 2019

5:00 p.m.

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

Attendance

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

Absent:

CALL TO ORDER

Chairman Rodman called the meeting to order at 5:10 p.m.

PLEDGE OF ALLEGIANCE

[Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act]

APPROVAL OF AGENDA

Chairman Rodman asked for a motion to approve the agenda.

Motion: It was moved by Councilman Flewelling, seconded by Councilman Glover that Council approve the agenda. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Dawson, Councilman Sommerville, Councilman Hervochon and Councilman Covert. The motion passed unanimously 11-0.

APPROVAL OF MINUTES

A. June 10, 2019

Chairman Rodman asked for a motion to approve the minutes of the June 10, 2019 meeting.

Motion: It was moved by Councilman Flewelling, seconded by Councilman Glover that Council approve the June 10, 2019 minutes. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Dawson, Councilman Sommerville, Councilman Hervochon and Councilman Covert. The motion passed unanimously 11-0.

CITIZEN COMMENTS

No citizens came forward.

EXECUTIVE SESSION

Chairman Rodman asked for a motion to go into Executive Session.

Motion: It was moved by Councilman Flewelling, seconded by Councilman Glover that Council go into Executive Session to discuss item 6.A.-Receipt of legal advice regarding status of retiree litigation, item 6.B.-Receipt of legal advice regarding Myrtle Park, item 6.C.-Receipt of Legal Advice regarding threatened litigation (Marshside Mama's), item 6.D.-Regarding conduct of council meetings, and item 6.E.-Discussion of a personnel matter pursuant to SC Code 30-4-70. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Dawson, Councilman Sommerville, Councilman Hervochon and Councilman Covert. The motion passed unanimously 11-0.

ADJOURNMENT

The meeting adjourned at 6:15 p.m.

MINUTES
COUNTY COUNCIL OF BEAUFORT COUNTY
REGULAR SESSION

July 22, 2019

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

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

Attendance

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

Absent:

CALL TO ORDER

Chairman Rodman called the meeting to order at 6:23 p.m.

PLEDGE OF ALLEGIANCE – Councilman York Glover

INVOCATION - Councilman York Glover

ADJOURN THE JUNE 24, 2019 COUNTY COUNCIL MEETING RETROACTIVELY AT APPROXIMATELY 8:30 P.M.

Chairman Rodman asked for a motion to adjourn the June 24, 2019 County Council meeting retroactively at approximately 8:30 p.m.

Motion: It was moved by Councilman Passiment, seconded by Councilman Glover that Council adjourn the June 24, 2019 County Council meeting retroactively at approximately 8:30 p.m. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Sommerville, Councilman Hervochon and Councilman Covert. The motion passed unanimously 10-0.

APPROVAL OF AGENDA

Chairman Rodman asked for a motion to approve the agenda.

Motion: It was moved by Councilman Passiment, seconded by Councilman McElynn that Council approve the agenda. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling,

Councilman Lawson, Councilman Dawson, Councilman Sommerville, Councilman Hervochon and Councilman Covert. The motion passed unanimously 11-0.

CITIZEN COMMENT

John Shardner—spoke in favor of the RFP for Marshside Mama’s.

Mr. Malloy—spoke against the DSN contract

Cathy Scott—spoke against Osprey Point/Malind Bluff

Chase Allen—spoke against the RFP process regarding Marshside Mama’s. Residents want a fair process.

PRESENTATION

Gullah / Geechee Nation Appreciation Week, July 27 - August 4, 2019
Honor and Observe the Life of Arthur “David” Cook, Jr.

RECOGNITIONS

Beaufort Jasper Comprehensive Health’s Migrant Program – National Recognition

CONSENT AGENDA

A. Items Originating from the Natural Resources Committee – Councilwoman Howard

1. Appointments and Reappointments to Boards and Commissions

1. Katherine Pringle to the Historic Preservation Board

B. Items Originating from the Governmental Committee – Councilman Sommerville

1. Appointments and Reappointments to Boards and Commissions

1. William McCullough and Philip Kiser to the Parks and Recreation Board
2. Richard Hamilton and Susan Zellman to the Lowcountry Regional Transport Authority
3. Ashley Feaster, Paul Sommerville, and Michael Alsco to the Southern Carolina Alliance

2. First Reading of an ordinance authorizing the execution of a lease for Agnes Major Community Center to the Boys and Girls Club of the Lowcountry

C. Items Originating from the Finance Committee – Councilman Passiment

1. Rescission of a vote of County Council at the June 17, 2019 meeting-approving item 6.C.1. regarding an increase in the Technical College of the Lowcountry loan amount by \$500,000 for the expansion of their Culinary Training Kitchen

2. First Reading of an ordinance amending the County's 2019 General Bond ordinance (Ordinance No. 2019/21) to add \$500,000 to the bond amount for TCL training kitchen property

Motion: It was moved by Councilman Rodman, seconded by Councilwoman Howard that Council approve the consent agenda minus items B.2.-First Reading of an ordinance authorizing the execution of a lease for Agnes Major Community Center to the Boys and Girls Club of the Lowcountry and C.2.-First Reading of an ordinance amending the County's 2019 General Bond ordinance (Ordinance No. 2019/21) to add \$500,000 to the bond amount for TCL training kitchen property. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Sommerville, Councilman Hervochon, Councilman Dawson and Councilman Covert. The motion passed unanimously.

DISCUSSION

B.2 First Reading of an ordinance authorizing the execution of a lease for Agnes Major Community Center to the Boys and Girls Club of the Lowcountry

Councilman Dawson explained the lease renewal.

Chairman Rodman asked for a motion.

Motion: It was moved by Councilman Flewelling, seconded by Councilman Sommerville that Council approve item B.2.-First Reading of an ordinance authorizing the execution of a lease for Agnes Major Community Center to the Boys and Girls Club of the Lowcountry. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Sommerville, Councilman Hervochon, Councilman Dawson and Councilman Covert. The motion passed unanimously.

C.2. First Reading of an ordinance amending the County's 2019 General Bond ordinance (Ordinance No. 2019/21) to add \$500,000 to the bond amount for TCL training kitchen property

Chairman Rodman asked for a motion to discuss.

Discussion: Councilman Passiment explained some changes to the project in conversations with TCL. The state stepped in and despite it not being state funds, the project now must be considered a LEEDS building and the cost is \$1 million. With the County's \$500,000, they are still short \$500,000.

Councilman Flewelling thought TCL was going to find other sources.

Motion: It was moved by Councilman Flewelling, seconded by Councilman Passiment that Council approve item C.2.-First Reading of an ordinance amending the County's 2019 General

Bond ordinance (Ordinance No. 2019/21) to add \$500,000 to the bond amount for TCL training kitchen property. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Sommerville, Councilman Hervochon, Councilman Dawson and Councilman Covert. The motion passed unanimously.

NON-CONSENT

- A. Adoption of an inducement resolution providing for a Fee in Lieu of Tax Agreement between Beaufort County and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto**
- B. First Reading of an ordinance adopting an Intergovernmental Agreement with the City of Hardeeville for the collection of Public Facility Development Impact Fees**

DISCUSSION

Beaufort County Attorney Keavney stated that the agreement is solid with the City of Hardeeville. They are working with multiple departments to determine what County buildings have been annexed. By the third and final reading he said all details will be worked out.

Motion: It was moved by Councilman Flewelling, seconded by Councilman Passiment that Council approve item 9.B.-First Reading of an ordinance adopting an Intergovernmental Agreement with the City of Hardeeville for the collection of Public Facility Development Impact Fees. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Sommerville, Councilman Hervochon, Councilman Dawson and Councilman Covert. The motion passed unanimously.

PUBLIC HEARINGS

- A. Public Hearing and Second Reading of an ordinance authorizing the execution and delivery of a Fee Agreement by and between Beaufort County, South Carolina and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto**

Chairman Rodman asked for a motion to take item 9.A., Adoption of an inducement resolution providing for a Fee in Lieu of Tax Agreement between Beaufort County and Project Burnt Church and item 10.A., Public Hearing and Second Reading of an ordinance authorizing the execution and delivery of a Fee Agreement by and between Beaufort County, South Carolina and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto as they are similar.

Chairman Rodman opened the floor for a public hearing.

No one came forward.

Chairman Rodman closed the public hearing.

Discussion: Councilman Glover questioned the millage stated in the loan.

Columbia Attorney Theodore Devos explained it is a fixed mill rate for the life of the loan for predictability purposes.

Councilman Covert expressed concern that too much has been extended in FILOT previously.

Beaufort County Economic Director John O'Toole said the project is underway and on schedule.

Motion: It was moved by Councilman Passiment, seconded by Councilwoman Howard that Council approve item 9.A. Adoption of an inducement resolution providing for a Fee in Lieu of Tax Agreement between Beaufort County and Project Burnt Church. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Sommerville, and, Councilman Dawson. The NAYS: Councilman Hervochon and Councilman Covert. The motion passed 9-2.

Motion: It was moved by Councilman Passiment, seconded by Councilwoman Howard that Council approve item 10.A. Public Hearing and Second Reading of an ordinance authorizing the execution and delivery of a Fee Agreement by and between Beaufort County, South Carolina and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Sommerville, and, Councilman Dawson. The NAYS: Councilman Hervochon and Councilman Covert. The motion passed 9-2.

B. Public Hearing and Second Reading of an ordinance regarding text amendments to the Beaufort County Code of Ordinances for 19 Covenant Drive from S1 Industrial to T2 Rural

Chairman Rodman opened the floor for a public hearing.

No one came forward.

Chairman Rodman closed the public hearing.

Discussion: Due to conflict of interest, Councilman Flewelling recused himself from the discussion and vote.

Motion: It was moved by Councilman Passiment, seconded by Councilman Dawson that Council approve item 10.B. Public Hearing and Second Reading of an ordinance regarding text amendments to the Beaufort County Code of Ordinances for 19 Covenant Drive from S1 Industrial to T2 Rural. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Lawson, Councilman Sommerville Councilman Dawson, Councilman Hervochon and Councilman Covert. The motion passed unanimously 10-0.

C. Public Hearing and Third Reading of an ordinance amending the 2008 Osprey Point / Malind Bluff development agreement and PUD

Chairman Rodman opened the floor for a public hearing.

No one came forward.

Chairman Rodman closed the public hearing.

Discussion: Councilman Glover inquired about a traffic study.

Motion: It was moved by Councilman Covert, seconded by Councilman Hervochon that Council approve item 10.C. Public Hearing and Third Reading of an ordinance amending the 2008 Osprey Point / Malind Bluff development agreement and PUD. The vote: YEAS: Councilman Passiment, Councilwoman Howard, Councilman Rodman, Councilman Lawson, Councilman Sommerville Councilman Dawson, Councilman Hervochon and Councilman Covert. The NAYS: Councilman Glover and Councilman McElynn. The motion passed 9-2.

D. Public Hearing and Third Reading of an ordinance to authorize the Administrator to execute an amended a lease agreement for the Marshside Mama's building to include the adjacent General Store square footage and to also terminate the existing lease agreement for the General Store space

Chairman Rodman opened the floor for a public hearing.

Public Comment:

Charles Huggins—shared architectural renderings and spoke in support of the restaurant lease and including the store.

Chairman Rodman closed the public hearing.

Discussion: Councilman Lawson spoke about the various interested parties in the property. Councilman Glover spoke in support of the project.

Motion: It was moved by Councilman Lawson, seconded by Councilman Flewelling that Council approve item 10.D. Public Hearing and Third Reading of an ordinance to authorize the Administrator to execute an amended a lease agreement for the Marshside Mama's building to include the adjacent General Store square footage and to also terminate the existing lease agreement for the General Store space. The vote: YEAS: Councilman Passiment, Councilwoman Howard, Councilman Rodman, Councilman Lawson, Councilman Sommerville Councilman Dawson, Councilman Hervochon and Councilman Covert, Councilman Glover and Councilman McElynn. The motion passed unanimously 11-0.

Second Vote on Agenda Item 10.C.

10.C. Public Hearing and Third Reading of an ordinance amending the 2008 Osprey Point / Malind Bluff development agreement including the PUD

Beaufort County Attorney Tom Keaveny asked Chairman Rodman to revote on item 10.C.— Public Hearing and Third Reading of an ordinance amending the 2008 Osprey Point / Malind Bluff development agreement including the PUD to make sure the vote included the PUD. Chairman Rodman called for a vote.

Motion: It was moved by Councilman Passmiment, seconded by Councilwoman Howard that Council re-approve item 10.C. Public Hearing and Third Reading of an ordinance amending the 2008 Osprey Point / Malind Bluff development agreement including the PUD. The vote: YEAS: Councilman Passmiment, Councilwoman Howard, Councilman Rodman, Councilman Lawson, Councilman Sommerville Councilman Dawson, Councilman Hervochon and Councilman Covert. The NAYS: Councilman Glover and Councilman McElynn. The motion passed 9-2.

TIME-SENSITIVE ITEMS POTENTIALLY COMING FORTH FROM JULY 22, 2019 GOVERNMENTAL COMMITTEE MEETING FOR COUNCIL CONSIDERATION

A. Resolution to commission animal service officer to enforce Beaufort County animal ordinances for Beaufort County pursuant to the authority granted in section 4-9-145 of the code of laws of South Carolina, 1976 as amended

Motion: It was moved by Councilman Sommerville, seconded by Councilman Flewelling that Council approve item 11.A. Resolution to commission animal service officer to enforce Beaufort County animal ordinances for Beaufort County pursuant to the authority granted in section 4-9-145 of the code of laws of South Carolina, 1976 as amended. The vote: YEAS: Councilman Passmiment, Councilwoman Howard, Councilman Rodman, Councilman Lawson, Councilman Sommerville Councilman Dawson, Councilman Hervochon, Councilman Covert, Councilman Glover and Councilman McElynn. The motion passed unanimously 11-0.

B. Resolution to amend Beaufort County Personnel Handbook, Appendix A.9 – County Emergency Disaster Policy & Procedures

Motion: It was moved by Councilman Sommerville, seconded by Councilman Flewelling that Council approve item 11.B. Resolution to amend Beaufort County Personnel Handbook, Appendix A.9 - County Emergency Disaster Policy & Procedures The vote: YEAS: Councilman Passmiment, Councilwoman Howard, Councilman Rodman, Councilman Lawson, Councilman Sommerville Councilman Dawson, Councilman Hervochon, Councilman Covert, Councilman Glover and Councilman McElynn. The motion passed unanimously 11-0.

C. Appointments and Reappointments to Boards and Commissions

1. Stu Rodman, Ashley Feaster, and Michael Alsko to the Southern Carolina Alliance Board

Item C.1. was voted on in Consent Agenda.

MATTERS ARISING OUT OF EXECUTIVE SESSION

No matters arising out of executive session

DISCUSSION AND ACTION ITEMS

A. Administrator's Report

Beaufort County Administrator Ashley Jacobs discussed the SCAC conference on Hilton Head Island, application for state infrastructure bank is due regarding Highway 278, she presented Council objectives update from the retreat, new compensation and classification study, County facilities master plan, solid waste and recycling options are being considered, stormwater design standards are being discussed, Highway 278 redesign project needs discussion, the Affordable Housing Trust is moving forward, smart growth consultants are discussing issues, heritage tourism. The Administrator would like to start presenting 2 new reports: a monthly financial report and quarterly reports from the Airports Director. In August the Administrator will make a budget process presentation to establish a process for Council's clarification and understanding.

B. Committee Reports

Finance Committee, Chairman Joseph Passiment

Next meeting will be August 5. Items to be discussed include certain projects moving forward

Public Facilities Committee, Chairman Brian Flewelling

Recycling and solid waste program will be on agenda

Executive Committee, Chairman Stu Rodman

No report given

Community Services Committee, Chairman McElynn

Creation of the auxiliary library in Bluffton/Hardeeville area. Discussion will include impact fees and transferred to the Finance Committee.

Natural Resources Committee, Councilwoman Alice Howard

The rural and critical lands ordinance will be on the agenda, affordable housing and Friends of Gardens Corner

Governmental Committee, Chairman Paul Sommerville

No report given

Chairman Rodman asked for a motion to extend the meeting past 8 p.m.

Motion: It was moved by Councilman McElynn, seconded by Councilman Passiment that Council extend County Council Meeting past 8 p.m. The vote: YEAS: Councilman Passiment, Councilwoman Howard, Councilman Rodman, Councilman Lawson, Councilman Hervochon, Councilman Covert, and Councilman McElynn. The NAYS: Councilman Glover, Councilman Sommerville, Councilman Flewelling, and Councilman Dawson. The motion passed 7-4.

CITIZEN COMMENTS

Reverend Young—spoke about a tax bill he felt was sent in error

Shannon Loper—spoke as a parent in support of Beaufort EMS. Her son was injured and her experience was very positive. She asked that Council review the policy that forbids people ride in the ambulance due to liability insurance.

Joe/Highway 21 Drive In—spoke about a zoning change that he said he was unaware of and impacts his business.

ADJOURNMENT

The meeting adjourned at 9:15 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____

Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council
Ratified:

**MINUTES
COUNTY COUNCIL OF BEAUFORT COUNTY
CAUCUS**

Monday, August 26, 2019

5:00 p.m.

Large Meeting Room, Hilton Head Island Branch Library
11 Beach City Road, Hilton Head Island

Attendance

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

Absent: Paul Sommerville

CALL TO ORDER

Chairman Rodman called the meeting to order at 5:09 p.m.

PLEDGE OF ALLEGIANCE

[Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act]

APPROVAL OF AGENDA

Chairman Rodman asked for a motion to approve the agenda.

Motion: It was moved by Councilman Flewelling, seconded by Councilman Passiment that Council approve the agenda. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Dawson, Councilman Hervochon and Councilman Covert. The motion passed unanimously 10-0.

CITIZEN COMMENTS

No citizens came forward.

EXECUTIVE SESSION

Chairman Rodman asked for a motion to go into Executive Session.

Motion: It was moved by Councilman Passiment, seconded by Councilwoman Howard, that Council go into Executive Session to discuss item 5.A.- Discussion regarding security of County property and equipment, item 5.B.-Discussion regarding a contractual matter between the Sheriff and Town of Hilton Head Island, item 5.C.- Receipt of legal advice regarding White Hall Park,

item 5.D.-Receipt of Legal Advice regarding Burlington Estates, and item 5.E.-Receipt of legal advice regarding status of retiree litigation. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Dawson, Councilman Hervochon and Councilman Covert. The motion passed unanimously 10-0.

ADJOURNMENT

The meeting adjourned at 6:05 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council
Ratified:

**MINUTES
COUNTY COUNCIL OF BEAUFORT COUNTY
REGULAR SESSION**

August 26, 2019

Large Meeting Room, Hilton Head Island Branch Library
11 Beach City Road, Hilton Head Island

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

Attendance

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

Absent: Vice Chairman Paul Sommerville

CALL TO ORDER

Chairman Rodman called the meeting to order at 6:10 p.m.

PLEDGE OF ALLEGIANCE AND INVOCATION – Councilwoman Howard

APPROVAL OF AGENDA

Chairman Rodman asked for a motion to approve the agenda. Before the vote, Chairman Rodman outlined the timeline of the Jenkins Island improvement project and why it would not be discussed at the meeting. Councilman Flewelling asked that item B.5-Adoption of a Resolution Authorizing the application of an Impact Fee Credit to Beaufort Memorial Hospital pursuant to an Intergovernmental Agreement regarding road design and construction of Buckwalter Commercial Park frontage road be removed and Chairman Rodman requested item C.2-Third Reading of an ordinance regarding a Northern Beaufort County map amendment (change the zoning of the property from C3-NMU to C5-RCMU) both be removed from the agenda.

Motion: It was moved by Councilman Lawson, seconded by Councilman Flewelling that Council approve the agenda as amended. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Hervochon, Councilman Dawson and Councilman Covert. The motion passed 10-0.

APPROVAL OF MINUTES

Chairman Rodman asked for a motion to approve the minutes from the June 10, 2019 and June 17, 2019 County Council meetings.

Motion: It was moved by Councilman Flewelling, seconded by Councilman Passiment that Council approve the June 10, 2019 and June 17, 2019 County Council meeting minutes. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Hervochon, Councilman Dawson and Councilman Covert. The motion passed 10-0.

RECOGNITIONS

- A. Dixie Youth Baseball State Tournament Champs
- B. Dixie Softball Angels

CITIZEN COMMENTS

Herbert Glaze-spoke about a delayed agenda item (never identified specific topic)

ADMINISTRATOR'S REPORT

County Administrator Ashley Jacobs discussed three items: joint funding agreement for LIDAR data—Light Detection and Ranging—for shoreline mapping and storm surge modeling—one of 29 counties. Beaufort County shares the cost with our portion being \$45,000. Data collection will begin in December with the final information available in 2021; second item was Lowcountry Stormwater Model Ordinance and Design Manual Contract: the contract will be extended until the end of December with no additional cost; the third item was an MOU cooperative agreement between Beaufort County and the City of Hardeeville which creates a process for the city to notify the County when they get petitions to annex property. The Administrator had several announcements: the State of the Region meeting with former Charleston Mayor Joe Riley will be at the Hilton Head Marriott on October 21, Councilwoman Howard's Meet and Greet will be held August 28 at Beaufort Middle School and Councilman Covert's Meet and Greet will be held at Buckwalter Recreation on September 10. The Administrator and new School District Superintendent will be the guest speakers.

CHAIRMAN'S MINUTES

Chairman Rodman announced that a new committee has been set up entitled the Committee of the Vice Chairs. The Vice Chairs of the five standing committees will be members. The first agenda item relates to communications. Councilman Covert will chair. The second will be a review of rules and procedures and Councilman Sommerville will chair.

CONSENT AGENDA

A. Items Originating from the Finance Committee – Councilman Passiment

- 1. Third and Final Reading of an ordinance authorizing the execution and delivery of a Fee Agreement by and between Beaufort County, South Carolina and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto**
- 2. First Reading of an Ordinance authorizing the issuance and sale of General Obligation Bonds, series 2019c, in the amount not to exceed \$25,000,000; fixing the form and details of the bonds; authorizing the county administrator or her lawfully-authorized designee to determine certain matters relating to the bonds; providing for the payment of the bonds and the disposition of the proceeds thereof; and other matters relating thereto**
- 3. Adoption of a Resolution to adopt policies and procedures for awarding local 3% accommodations and hospitality tax funds**
- 4. Adoption of a Resolution Authorizing County Administrator to execute an MOA with the State Elections Commission for new voter machines**
- 5. Approval to award Paul S. Akins Construction Company, Inc., the contract to renovate and build additions to Fire Station #32 for \$1,222,110.00**
- 6. Approval to purchase a Public Health Insecticide applied by Mosquito Control Aircraft for \$208,500.27**

B. Items Originating from the Public Facilities Committee – Councilman Flewelling

- 1. Appointments and Reappointments to Boards and Commissions**
 - a. Eileen Hutton, Joan Iaco and Randy Boehme to the Keep Beaufort County Beautiful Board**
- 2. First Reading of an ordinance authorizing the execution and delivery of a utility easement encumbering property owned by Beaufort County known as the Wright Family Park**
- 3. First Reading of an ordinance to appropriate \$21,677 from the local hospitality tax for waterfront structure inspections of portions of the Spanish Moss Trail and Wimbee Creek Fishing Pier**
- 4. First Reading of an ordinance to appropriate \$27,000 each year for five (5) years from the 3% Local Accommodation Tax funds for the inspections of Broad River Fishing Pier subject to appropriation**

5. **Approval to award CARE Environmental Corp. the contract for household hazardous waste disposal services for the Beaufort County Solid Waste and Recycling Section in the amount of \$160,000**
6. **Approval to extend the janitorial cleaning contract with A & B Cleaning Services (July through September)**
7. **Approval to award Paul S. Akins Construction Company, Inc., the contract for the Beaufort County Government Complex, New Office Building in the amount of \$6,775,812.00**

C. Items Originating from the Natural Resources Committee – Councilwoman Howard

1. **Appointments and Reappointments to Boards and Commissions**
 - a. Ryan Stefonick to the Rural and Critical Lands Board
 - b. Dennis Nelson to the Southern Beaufort County Corridor Beautification Board
 - c. General Harold L. Mitchell to the Planning Commissions (Sub for District 1)
 - d. Kevin Mack reappointed to the Zoning Board of Appeals
2. **Third and Final Reading of an ordinance regarding text amendments to the Beaufort County Code of Ordinances for 19 Covenant Drive from S1 Industrial to T2 Rural**

D. Items Originating from the Executive Committee – Chairman Rodman

1. **First Reading of an Ordinance pertaining to the sale of Myrtle Business Park**
2. **Adoption of a Resolution approving the Airport Hangar Use Agreement**

Discussion: Councilman Flewelling stated that he had previously recused himself due to conflicts on item C.3-Third and Final Reading of an ordinance regarding text amendments to the Beaufort County Code of Ordinances for 19 Covenant Drive from S1 Industrial to T2 Rural, however, that was no longer the case so he was able to vote on the issue.

Councilman Hervochon asked that item A.1-Third and Final Reading of an ordinance authorizing the execution and delivery of a Fee Agreement by and between Beaufort County, South Carolina and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto be held for a separate discussion.

Motion: It was moved by Councilman Flewelling, seconded by Councilman Passiment that Council approve the consent agenda minus items B.5-Adoption of a Resolution Authorizing the application of an Impact Fee Credit to Beaufort Memorial Hospital pursuant to an Intergovernmental Agreement regarding road design and construction of Buckwalter Commercial Park frontage road and item C.2-Third Reading of an ordinance regarding a Northern Beaufort County map amendment (change the zoning of the property from C3-NMU to C5-RCMU) both be removed from the agenda and with item A.1-Third and Final Reading of an ordinance

authorizing the execution and delivery of a Fee Agreement by and between Beaufort County, South Carolina and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto held for separate discussion. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Hervochon, Councilman Dawson and Councilman Covert. The motion passed unanimously.

MATTERS FOR SEPARATE DISCUSSION

A.1-Third and Final Reading of an ordinance authorizing the execution and delivery of a Fee Agreement by and between Beaufort County, South Carolina and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto

Chairman Rodman opened the discussion.

Councilman Hervochon asked questions about the timing coming out of Finance Committee as it's not mentioned in the committee minutes. He asked for more time to review the issue and asked it be held until the first meeting in September.

Charlie Stone with the Beaufort County Economic Development Corporation stated there was no adverse impact if it's held for further review. BCED is recommending a FILOT agreement for tax rate purposes.

Chairman Rodman asked for a motion to refer it back to Finance and then for final approval.

Motion: It was moved by Councilman Hervochon, seconded by Councilman Lawson that item A.1-Third and Final Reading of an ordinance authorizing the execution and delivery of a Fee Agreement by and between Beaufort County, South Carolina and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto be referred back to Finance for further discussion and review, and then on to Council for final approval. The vote: YEAS: Councilman Passiment, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Hervochon, Councilman Dawson and Councilman Covert. The NAYS: Councilman Glover, Councilwoman Howard, Councilman Rodman. The motion passed 7-3.

PUBLIC HEARINGS AND SECOND READINGS

A. Public Hearing and Second Reading of an ordinance authorizing the execution of a lease for Agnes Major Community Center to the Boys and Girls Club of the Lowcountry

Chairman Rodman opened the floor for a public hearing.

No one came forward.

Chairman Rodman closed the public hearing.

Motion: It was moved by Councilman Dawson, seconded by Councilman Flewelling that Council approve item 10.A. an ordinance authorizing the execution of a lease for Agnes Major Community Center to the Boys and Girls Club of the Lowcountry. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Hervochon, Councilman Dawson and Councilman Covert. The motion passed unanimously.

B. Public Hearing and Second Reading of an ordinance amending the County's 2019 General Bond ordinance (Ordinance No. 2019/21) to add \$500,000 to the bond amount for TCL training kitchen

Chairman Rodman opened the floor for a public hearing.

No one came forward.

Chairman Rodman closed the public hearing.

Motion: It was moved by Councilman Passiment, seconded by Councilman Covert that Council approve item 10.B. an ordinance amending the County's 2019 General Bond ordinance (Ordinance No. 2019/21) to add \$500,000 to the bond amount for TCL training kitchen. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Hervochon, Councilman Dawson and Councilman Covert. The motion passed unanimously.

C. Public Hearing and Second Reading of an ordinance adopting an Intergovernmental Agreement with the City of Hardeeville for the collection of Public Facility Development Impact Fees

Chairman Rodman opened the floor for a public hearing.

No one came forward.

Chairman Rodman closed the public hearing.

Motion: It was moved by Councilman Passiment, seconded by Councilman Flewelling that Council approve item 10.C. an ordinance adopting an Intergovernmental Agreement with the City of Hardeeville for the collection of Public Facility Development Impact Fees. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Hervochon, Councilman Dawson and Councilman Covert. The motion passed unanimously.

MATTERS ARISING OUT OF EXECUTIVE SESSION

No matters to discuss.

COMMITTEE REPORTS

Finance Committee, Chairman Passiment

The agreement for the Housing Trust Fund needs to be referred back to Finance as it's an expenditure. The Administrator needs to confirm funds are available.

Community Services Committee, Chairman McElynn

The committee received the developer's report on August 19 for the Pritchardville Library annex with multiple options. Another annex is being considered in the Burton area but the committee is awaiting study options for that location.

Upcoming Meetings

1. Finance Committee (September 3, 2019)
2. Public Facilities Committee (September 3, 2019)
3. Executive Committee (September 9, 2019)

CITIZEN COMMENTS

Charles Percy—chose to let Cindy Polsen take his minutes

Cindy Polsen-spoke about Highway 278 Safety Project

Mike Garrigan—spoke about Highway 278 Safety Project

Nicole Soergel—spoke against the Okatie RV Resort

Augie Martinez—spoke against the Okatie RV Resort

Pat Parkinson—spoke against the Okatie RV Resort

Thomas Mike—spoke against the Okatie RV Resort

Cal Beer—spoke against the Okatie RV Resort

Dr. Skeet Burris—spoke in favor of the Okatie RV Resort

ADJOURNMENT

The meeting adjourned at 7:40 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

Ratified:



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN UTILITY EASEMENT ENCUMBERING THE WRIGHT FAMILY PARK

Council Committee:

PUBLIC FACILITIES

Meeting Date:

AUGUST 12, 2019

Committee Presenter (Name and Title):

Thomas J. Keaveny, County Attorney

Issues for Consideration:

N/A

Points to Consider:

Beaufort County and Town of Bluffton jointly own the Wright Family Park. This property contains a historic building which the Town of Bluffton plans to restore, the remainder of the property is to be used as a passive park. This easement is needed to run underground conduit to provide lights in the park.

Funding & Liability Factors:

None

Council Options:

Approve, modify, or reject

Recommendation:

Approve

ORDINANCE 2019 / __

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A UTILITY EASEMENT ENCUMBERING PROPERTY OWNED BY BEAUFORT COUNTY, SOUTH CAROLINA, IDENTIFIED AS TMS NO. R610 039 00A 0111 0000 AND ALSO KNOWN AS THE WRIGHT FAMILY PARK.

WHEREAS, Beaufort County jointly owns with the Town of Bluffton, Parcel Number R610 039 00A 0111 0000 with a street address of 111 Calhoun Street, Bluffton, SC 29910 and also known as the Wright Family Park (the “Property”); and

WHEREAS, Beaufort County and the Town of Bluffton desire to further development the Property for the purposes of a passive park and restoration of the historic structures on the Property; and

WHEREAS, in order to develop the Property as described above, it is necessary for Dominion Energy South Carolina, Inc., a South Carolina Corporation (“Dominion”) to locate overhead and/or underground electric systems to serve the Property; and

WHEREAS, Dominion has requested that Beaufort County and the Town of Bluffton grant a utility easement for the nonexclusive right to enter the Property for the purposes of constructing, maintaining, and operating overhead and/or underground electric lines across portions of the Property; and

WHEREAS, County staff has worked diligently with Dominion to locate an appropriate easement path across the Property that ensures a minimal impact to the Property itself; and

WHEREAS, Beaufort County Council has determined that it is in the best interests to authorize the execution and delivery of the requested Easement attached hereto and incorporated by reference and show on the attached “Exhibit A”; and

WHEREAS, S.C. Code Ann. §4-9-130 requires that the transfer of any interest in real property owned by the County must be authorized by the adoption of an Ordinance by Beaufort County Council.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL AS FOLLOWS:

- (1) The County Administrator is hereby authorized to execute the Easement referenced herein and which is shown on “Exhibit A”; and
- (2) The County Administrator is hereby authorized to take all necessary actions as may be necessary to complete the conveyance of the Easement and ensure the construction and installation of the new power line to occur as agreed upon by the County and Dominion.

Adopted this ____ day of ____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

Easement # 899172

INDENTURE, made this _____ day of _____, 2019 by and between **The Town of Bluffton, a South Carolina Municipal Corporation and Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina**, hereinafter called "Grantor" (whether singular or plural), and **DOMINION ENERGY SOUTH CAROLINA, INC.**, a South Carolina corporation, having its principal office in Cayce, South Carolina, hereinafter called "Grantee".

WITNESSETH:

That, in consideration of the sum of One Dollar (\$1.00) received from Grantee, Grantor, being the owner of land situate in the County of **Beaufort**, State of South Carolina, hereby grants and conveys to Grantee, its successors and assigns, the right to construct, extend, replace, relocate, perpetually maintain and operate an underground electric line or lines consisting of any or all of the following: poles, conductors, lightning protective wires, municipal, public or private communication lines, cables, conduits, pad mounted transformers and other accessory apparatus and equipment deemed by Grantee to be necessary or desirable, upon, over, across, through and under land described as follows: a portion of a lot of land containing **1.27 acres**, more or less, and being the same lands conveyed to Grantor by deed of **Augustine T.S. Wright, Jr.**, dated or recorded **5/9/2017**, and filed in the Register of Deeds office for **Beaufort** County in **Deed Book 3573 at Page 1701**.

This property is identified as **111 Calhoun Street**, being situate at the southeast corner of the intersection of **Water St. and Calhoun St.** The easement will be as the facilities are actually installed and are more fully shown on **Dominion Energy South Carolina, Inc.**, drawing **#83410** and any revisions made thereof, being attached hereto, as "**Exhibit A**" and made a part hereof as reference only. A signed **Dominion Energy South Carolina, Inc.**, drawing, by the Grantor, its successors or assigns will be authorization for the location and installation of future facilities.

TMS: R610 039 00A 0111 0000

Together with the right from time to time to install on said line such additional lines, apparatus and equipment as Grantee may deem necessary or desirable and the right to remove said line or any part thereof.

Together also with the right (but not the obligation) from time to time to trim, cut or remove trees, underbrush and other obstructions that are within, over, under or through a strip of land ("Easement Space") extending Five (5) feet on each side of any underground wires and within, over, under or through a section of land extending Twelve (12) feet from the door side(s) of any pad mounted transformers, elbow cabinets, switchgears or other devices as they are installed; provided, however, any damage to the property of Grantor (other than that caused by trimming, cutting or removing) caused by Grantee in maintaining or repairing said lines, shall be borne by Grantee; provided further, however, that Grantors agree for themselves, their successors and assigns, not to build or allow any structure to be placed on the premises in such a manner that any part thereof will exist within the applicable above specified Easement Space, and in case such structure is built, then Grantor, or such successors and assigns as may be in possession and control of the premises at the time, will promptly remove the same upon demand of Grantee herein. Grantor further agrees to maintain minimum ground coverage of thirty six (36) inches and maximum ground coverage of fifty four (54) inches over all underground primary electric lines. Together also with the right of entry upon said lands of Grantor for all of the purposes aforesaid.

The words "Grantor" and "Grantee" shall include their heirs, executors, administrators, successors and assigns, as the case may be.

IN WITNESS WHEREOF, Grantor has caused this indenture to be duly executed the day and year first above written.
WITNESS:

SIGNATURE PAGE FOLLOWING

Easement # 899172

The Town of Bluffton, a South Carolina municipal corporation

1st Witness

By: _____ (SEAL)
Marc Orlando

2nd Witness

Title: Town Manager

ACKNOWLEDGMENT

STATE OF SOUTH CAROLINA)
)
COUNTY OF **Beaufort**)

The foregoing instrument was acknowledged before me, the undersigned Notary, and I do hereby certify that the within named **Marc Orlando**, as **Manager of The Town of Bluffton, a South Carolina Municipal Corporation**, personally appeared before me this day and that the above named acknowledged the due execution of the foregoing instrument.

Sworn to before me this _____ day of _____, 2019

Signature of Notary Public State of SC

My commission expires: _____

Print Notary Public Name

RIGHT OF WAY GRANT TO DOMINION ENERGY SOUTH CAROLINA, INC.

Line: **Wright Family Park- Lighting**

County: **Beaufort**

R/W File Number: **23261**

Grantor(s): **The Town of Bluffton, a South Carolina Municipal Corporation and Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina**

Return to: DESC, C/O Right of Way Dept., 81 May River Road, Bluffton, SC 29910

Easement # 899172

Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina

1st Witness

By: _____ (SEAL)

Print Name: _____

2nd Witness

Title: _____

ACKNOWLEDGMENT

STATE OF SOUTH CAROLINA)
)
COUNTY OF **Beaufort**)

The foregoing instrument was acknowledged before me, the undersigned Notary, and I do hereby certify that the within named _____, as _____ of **Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina**, personally appeared before me this day and that the above named acknowledged the due execution of the foregoing instrument.

Sworn to before me this _____ day of _____, 2019

Signature of Notary Public State of SC

My commission expires: _____

Print Notary Public Name

RIGHT OF WAY GRANT TO DOMINION ENERGY SOUTH CAROLINA, INC.

Line: **Wright Family Park- Lighting**

County: **Beaufort**

R/W File Number: **23261**

Grantor(s): **The Town of Bluffton, a South Carolina Municipal Corporation and Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina**

Return to: DESC, C/O Right of Way Dept., 81 May River Road, Bluffton, SC 29910

Easement # 899172

Dominion Energy South Carolina, Inc., a South Carolina corporation

1st Witness

By: _____ (SEAL)

Print Name: _____

2nd Witness

Title: _____

ACKNOWLEDGMENT

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me, the undersigned Notary, and I do hereby certify that the within named _____, as _____ of **Dominion Energy South Carolina, Inc., a South Carolina corporation**, personally appeared before me this day and that the above named acknowledged the due execution of the foregoing instrument.

Sworn to before me this _____ day of _____, 2019

Signature of Notary Public State of SC

My commission expires: _____

Print Notary Public Name

RIGHT OF WAY GRANT TO DOMINION ENERGY SOUTH CAROLINA, INC.

Line: **Wright Family Park- Lighting**

County: **Beaufort**

R/W File Number: **23261**

Grantor(s): **The Town of Bluffton, a South Carolina Municipal Corporation and Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina**

Return to: DESC, C/O Right of Way Dept., 81 May River Road, Bluffton, SC 29910

EXHIBIT "A"

NO.	DATE	BY	REVISION	NO.	DATE	BY	REVISION
ELECTRONIC DRAWING--DO NOT REVISE MANUALLY				SHEET 1 OF 1			
				00/00/19			

PRELIMINARY

DATE

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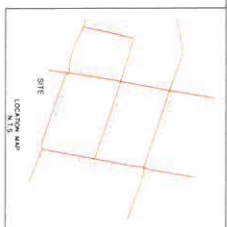
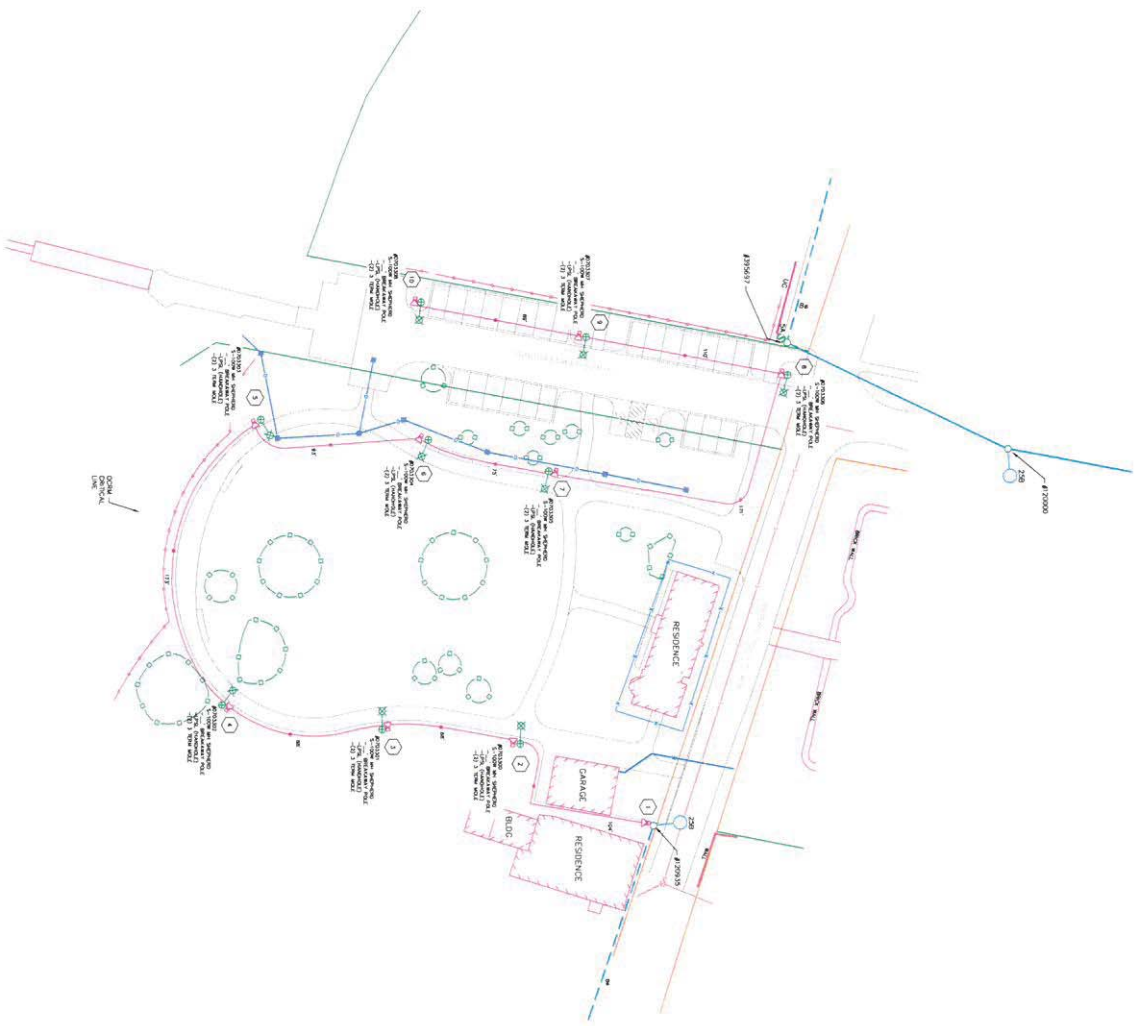
FOR

PROJECT

NO.

DATE

BY

[illegible]

PLAN "SAFETY" INTO EVERY JOB

NO	DATE	BY	REVISION	FOR	SHEET 1 OF 1 SHEETS	06/09/2017

ELECTRONIC DRAWING-DO NOT REVISE MANUALLY



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Ordinance Waterfront Structures

Council Committee:

Public Facilities Committee

Meeting Date:

August 5, 2019

Committee Presenter (Name and Title):

Robert McFee, PE, Division Director Construction, Engineering and Facilities

Issues for Consideration:

County Council is authorized to utilize Local Hospitality Tax Funds for certain limited purposes including tourism related cultural, recreational and historical programs and facilities. The appropriation of funds for the inspections of Waterfront Structures ensures the safety for tourism and recreational activities.

Points to Consider:

Structures to be inspected include 5 water crossings on Spanish Moss Trail and Wimbee Creek Fishing pier. The water crossings on SMT include timber and concrete bridges and RCP culverts all installed at different times and all in various stages of aging. These inspections will be a base line to determine if repairs are needed and then establish a periodic inspection plan. An inspection on Wimbee Creek fishing pier was completed in February 2018, with evaluation noting the structure in fair to poor condition. This is a follow-up inspection to evaluate current conditions and determine if repairs should be implemented.

Funding & Liability Factors:

To appropriate \$21,677 from the Local Hospitality Tax for Waterfront Structure Inspections of portions of the Spanish Moss Trail and Wimbee Creek Fishing Pier.

Council Options:

Approve or disapprove appropriation of funds

Recommendation:

Approve appropriation of funds

PLEASE MAKE SURE YOU ARE USING INTERNET EXPLORER AS YOUR BROWSER



OFFICE OF THE COUNTY ATTORNEY

Post Office Drawer 1228 ž Beaufort, SC 29901
102 Industrial Village Road, Building #1
843.255.2055 (O) ž 843.255.9414 (F)

LEGAL REVIEW REQUEST FORM

Form Number: 2019 - 0003

Originally submitted on: 2019-06-11T15:11:58

Select One:

☒ Ordinance / Resolution

☐ Lease (Real Property)

☐ MOA / MOU / IGA

☐ Easement / Right Of Way

☐ Other _____

Document Title: Ordinance Waterfront Structure Inspection

Requester's Department: Engineering

Requester's Name: Brittanee Fields

Ph: 843-255-2692

Em: brittanee.fields@bcgov.net

Date needed by: 7/1/2019

Description/Concern:

AN ORDINANCE TO APPROPRIATE \$21,677 FROM THE LOCAL HOSPITALITY TAX FOR WATERFRONT STRUCTURE INSPECTIONS OF SPANISH MOSS TRAIL AND WIMBEE CREEK FISHING PIER

If applicable, please provide the total value amount of the contract:

☐ Amount BELOW \$50,000.00

☐ Amount \$50,000 to \$99,999

☐ Amount \$100,000 and above

Has the item been approved by a Council Committee? ☐ Yes ☐ No ☒ N/A

Has the item been approved by full Council? ☐ Yes ☐ No ☒ N/A

Attachments: _____

 No file attached



Ordinance Waterfront Structure
Inspection.docx
16.76 KB



2019 Beaufort County Waterfront
Structures.pdf
232.13 KB

LEGAL DEPARTMENT USE ONLY

Attachments:



Ordinance Waterfront Structure
Inspection with csi edits
6.27.2019.docx
17.04 KB



No file attached



No file attached

☒ Approved

☐ On Hold

☐ Send Request to County Admin

☐ Disapproved

Comments:

Please use the uploaded edited version from legal. Should be presented to Public Facilities committee at next opportunity.

cinglese

Legal Department Staff

6/27/2019

8:44:45 AM

Date/Time

Click the SAVE and CLOSE buttons on the top ribbon to commit changes

ORDINANCE NO. 2019 / _____

AN ORDINANCE TO APPROPRIATE \$21,677 FROM THE LOCAL HOSPITALITY TAX FOR WATERFRONT STRUCTURE INSPECTIONS OF PORTIONS OF THE SPANISH MOSS TRAIL AND WIMBEE CREEK FISHING PIER

WHEREAS, County Council is authorized to utilize Local Hospitality Tax Funds for certain limited purposes including tourism related cultural, recreational and historical programs and facilities; and

WHEREAS, County Council is authorized to utilize Local Hospitality Tax Funds for highways, roads, streets, bridges and boat ramps providing access to tourist destinations; and

WHEREAS, County Council is authorized to utilize Local Hospitality Tax Funds for river access; and

WHEREAS, the proposal for conducting structural inspections along the Spanish Moss Trail and the Wimbee Creek Fishing Pier qualify for Hospitality Tax Fund expenditures; and

WHEREAS, Beaufort County Code Ordinance Sec. 66-534(b) states “authorization to utilize any funds from the ‘County of Beaufort, South Carolina, Hospitality Tax Account,’ shall be by ordinance duly adopted by the County Council;” and

WHEREAS, Beaufort County deems it appropriate and in the best interest of its citizens to provide funding for inspection services associated with the Spanish Moss Trail and Wimbee Creek Fishing Pier from Hospitality Tax Funds; and

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that an appropriation of \$21,677 be made from the Local Hospitality Tax Fund to pay for the Waterfront Structure Inspections of Spanish Moss Trail and Wimbee Creek Fishing Pier.

DONE this _____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stu Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

McSweeney Engineering
Waterfront Inspection Proposal

<u>Structure</u>	<u>Inspection Man Hours</u>	<u>Report Hours</u>	<u>Drawing Hours</u>	<u>Report QC</u>	<u>Cost Per Project</u>
Laurel Bay Bridge	6	4	4	1.5	\$2,055.00
Albergotti Bridge	12	4	4	1.5	\$2,925.00
Battery Creek Bridge	12	4	4	1.5	\$2,925.00
Battery Creek #2 Bridge	6	4	4	1.5	\$2,055.00
Culvery at Marshes of Battery Creek	3	4	4	1.5	\$1,620.00
Wimbee Creek Fishing Pier	36	4	4	1.5	\$6,405.00
Total Hours	75	24	24	9	
Average Rate	\$145.00	\$120.00	\$120.00	\$150.00	
Totals	\$10,875.00	\$2,880.00	\$2,880.00	\$1,350.00	
Total Inspection/Report	<u>\$17,985.00</u>				

Office Prep (Field Books/Planning)	\$750.00
Project Management	\$1,196.00
Total Office Fee	<u>\$1,946.00</u>
Directs Costs (equipment/Dive Pay)	<u>\$1,746.00</u>

Total Project Cost \$21,677.00



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Ordinance Broad River Fishing Pier Inspections

Council Committee:

Public Facilities

Meeting Date:

August 8, 2019

Committee Presenter (Name and Title):

Robert McFee, PE, Division Director Construction, Engineering and Facilities

Issues for Consideration:

County Council is authorized to utilize the 3% Local Accommodation Tax Funds for certain limited purposes to include tourism, cultural, recreational or historical facilities and highways, roads, streets, bridges and boat ramps. The appropriation of funds for Broad River Fishing Pier Inspections ensures the safety for tourism and recreational activities.

Points to Consider:

The structure is in good condition and deterioration of the concrete beams and pile foundations was addressed last year in the preservation program. It is recommended to continue to monitor the structure with comprehensive above and underwater inspections at yearly intervals to record and track condition of the pier.

Funding & Liability Factors:

To appropriate \$27,000 each year for up to five (5) years from the 3% Local Accommodation Tax Funds for the inspections of Broad River Fishing Pier.

Council Options:

Approve or disapprove appropriation of funds

Recommendation:

Approve appropriation of funds

ORDINANCE NO. 2019 / _____

AN ORDINANCE TO APPROPRIATE \$27,000 EACH YEAR FOR UP TO FIVE (5) YEARS FROM THE 3% LOCAL ACCOMMODATION TAX FUNDS FOR THE INSPECTIONS OF BROAD RIVER FISHING PIER

WHEREAS, County Council is authorized to utilize the 3% Local Accommodation Tax Funds for certain limited purposes including tourism, cultural, recreational or historical facilities and highways, roads, streets, bridges and boat ramps providing access to tourist destinations; and

WHEREAS, Beaufort County Code Ordinance Sec. 66-44(b) states “authorization to utilize any funds from the ‘County of Beaufort, South Carolina, Local Accommodations Tax Account,’ shall be by ordinance duly adopted by the County Council;” and

WHEREAS, Beaufort County deems it appropriate and in the best interest of its citizens to provide funding for inspection services associated with Broad River Fishing Pier; and

WHEREAS, ensuring the safety for tourism and recreational activities at Broad River Fishing Pier; and

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that an appropriation of \$27,000 each year for up to five (5) years be made from the 3% Local Accommodations Tax Fund to pay for the Inspection of Broad River Fishing Pier as needed.

DONE this _____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stu Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

PLEASE MAKE SURE YOU ARE USING INTERNET EXPLORER AS YOUR BROWSER



OFFICE OF THE COUNTY ATTORNEY

Post Office Drawer 1228 Ź Beaufort, SC 29901
102 Industrial Village Road, Building #1
843.255.2055 (O) Ź 843.255.9414 (F)

LEGAL REVIEW REQUEST FORM

Form Number: 2019 - 0004

Originally submitted on: 2019-06-11T15:11:58

Select One:

☒ Ordinance / Resolution

☐ Lease (Real Property)

☐ MOA / MOU / IGA

☐ Easement / Right Of Way

☐ Other _____

Document Title: Ordinance Broad River Fishing Pier Inspection

Requester's Department: Engineering

Requester's Name: Brittanee Fields

Ph: 843 255 2692

Em: brittanee.fields@bcgov.net

Date needed by: 7/1/2019

Description/Concern:

Ordinance to appropriate \$27,000 from the 3% Local Accommodation Tax Funds to the inspections of Broad River Fishing Pier

If applicable, please provide the total value amount of the contract:

☐ Amount BELOW \$50,000.00

☐ Amount \$50,000 to \$99,9999

☐ Amount \$100,000 and above

Has the item been approved by a Council Committee? ☐ Yes ☐ No ☒ N/A

Has the item been approved by full Council? ☐ Yes ☐ No ☒ N/A

Attachments: _____



Ordinance Broad River Fishing Pier
Inspection.docx
16.89 KB



_042619E RFP Broad River Fishing
Pier Inspection.pdf
339.88 KB



BID McSweeney Engineers.pdf
3.56 MB



BID 2nd doc McSweeney
Engineers.pdf
155.67 KB



Award Recommendation_Broad River
Pier Inspection - Signed by McFee.pdf
279.25 KB

No file attached

LEGAL DEPARTMENT USE ONLY

Attachments:

No file attached



No file attached



No file attached

☒ Approved

☐ On Hold

☐ Send Request to County Admin

☐ Disapproved

Comments:

Good job Brittanee. The "Approved as to Form" signature line for the County Attorney can be removed, but otherwise looks good to me. The next step is to get this on a Public Facilities or Finance Committee agenda.

cinglese

Legal Department Staff

7/1/2019

8:30:22 AM

Date/Time

Click the SAVE and CLOSE buttons on the top ribbon to commit changes



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

--

Council Committee:

--

Meeting Date:

--

Committee Presenter (Name and Title):

--

Issues for Consideration:

--

Points to Consider:

--

Funding & Liability Factors:

--

Council Options:

--

Recommendation:

--

ORDINANCE 2019/___

AN ORDINANCE AUTHORIZING THE TERMINATION OF A LEASE OF COUNTY OWNED REAL PROPERTY TO GENE BARDO

WHEREAS, The Trust for Public Land (“TPL”) acquired from John Lucky approximately 70.69 acres of real property (“Property”) as described in Exhibit A in the amount of \$750,000 by Deed dated December 5, 2005, which deed is recorded in Deed Book 2282 at Page 1080 in the ROD Office for Beaufort County, South Carolina; and

WHEREAS, at the time of acquisition, TPL conveyed the Property to Beaufort County (“County”) for conservation, open space, public access, passive recreation, education and other similar uses; and

WHEREAS, at the time of acquisition the Former Abutters and Owners agreed to amend the Private Restrictions to be effective at the time the United States Marine Corps Air Station (MCAS) Restrictive Easement was imposed on the Property by conveyance from the County to the MCAS; and

WHEREAS, the County conveyed a Restrictive Easement on April 28, 2006 on the Property to the MCAS to prevent the Property from being developed and allowing the Property to be used for conservation, parks, open space and other similar uses, which easement is recorded in Deed Book 2364 at Page 1060 in the ROD Office for Beaufort County, South Carolina; and

WHEREAS, the County entered into a month to month with 30 days notification of vacancy Lease Agreement for the Property with Gene Bardo dated December 1, 2005, which was approved by Beaufort County Council by ordinance on January 9, 2006; and

WHEREAS, the MCAS conducts routine easement inspections of the Property and has filed reports with the County indicating repeated “Failing” grades concerning the residence, trash and garbage on the Property by the Lessee; and

WHEREAS, the County no longer finds that a Lease Agreement of the Property with the Lessee is in the best interests of Beaufort County and the public in general and wishes to terminate the Lease Agreement dated December 1, 2005 as provided in Section 18 of the Lease Agreement; and

WHEREAS, the County wishes to include the residence and any other structures on the Property in a razing plan to be developed by the County Passive Parks Manager.

NOW, THEREFORE, BE IT RESOLVED THAT THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA HEREBY AUTHORIZES:

1. The County Administrator to provide a 30 day termination notice to the Property Lessee for the dissolution of the Property Lease Agreement dated December 1, 2005.
2. The County Passive Parks Manager to include the structures on the Property in the County Passive Parks Razing Plan.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah Brock, Clerk to Council

3rd Reading: _____

2nd Reading: _____

Public Hearing: _____

1st Reading: _____

Public Facilities Committee: June 3, 2019

Exhibit A

Property Description

All that certain piece, parcel or lot of land, with improvements thereon, situate, lying and being in the Grays Hill Section of Beaufort County, South Carolina consisting of 70.69 acres, more or less and having such metes, bounds, courses and distances as will more fully appear on that certain plat prepared by Robert D. Trogdon, IV RLS dated June 4, 1999 and recorded in the Office of the Register of Deeds for Beaufort County in Plat Book 77 at Page 21. For a more completed description as to metes, bounds, courses and distances, reference is made to a plat prepared by David S. Youmans, RLS dated October 3, 2005, revised November 22, 2005, which is recorded in the Office of the Register of Deeds for Beaufort County in Plat Book 110 at Page 84.

TMP: R100-016-000-0238-0000

LEASE AGREEMENT

IN CONSIDERATION of the mutual promises, obligations and agreements herein set forth, this LEASE AGREEMENT is entered into as of this 1st day of December, 2005 by and between Gene Bardo, with a mailing address of 5 Winn Farm Road., Beaufort, SC 29906 ("LESSEE") and the County of Beaufort, South Carolina, having a mailing address of County of Beaufort, Administrator, P.O. Drawer 1228, Beaufort, South Carolina 29901-1228 ("LESSOR"). LESSOR is the owner of Real Property to the Leased Premises (as herein defined) hereby consents to this lease by LESSOR to LESSEE.

1. Description of Premises. LESSOR hereby agrees to lease to LESSEE, and LESSEE hereby agrees to accept, subject to the terms and conditions set forth below, the land consisting of approximately 71 acres and a single family residence thereon currently occupied by LESSEE, located at 5 Winn Farm Road, Beaufort, South Carolina 29906 (the "Leased Premises").

2. Term. The term of this Lease shall commence on December 30, 2004 and shall terminate on an undetermined time (the "Term") unless sooner terminated pursuant to the provisions of this Lease.

3. Base Rent. The monthly rent for the Term of this Lease is Six Hundred Fifty Dollars (\$650.00), which LESSEE covenants to pay to LESSOR on the first day of each month. A check for the Base Rent will be payable to Beaufort County Treasurer, with a mailing address of County of Beaufort, Attn: Controller, P.O. Drawer 1228, Beaufort, SC 29901-1228.

4. Heat, Water, Utility Charges. LESSEE shall pay all utility charges for electricity, gas, and other utility services used on the Leased Premises (including telephone).

5. Compliance with Laws. LESSEE shall not make or permit any use of the Leased Premises which will be unlawful, improper, or contrary to any applicable law or municipal 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 LESSOR.

6. Condition of the Leased Premises. LESSEE is fully familiar with the physical condition of the Leased Premises. LESSOR has made no representation in connection with the condition of the Leased Premises and shall not be liable for any latent defects therein; provided however, that if such latent defects render the Leased Premises untenantable for the purposes of this Lease, LESSEE may, at its option, upon prior written notice to LESSOR, terminate this Lease.

7. Furnishing of the Leased Premises. LESSEE shall, at its sole cost

and expense, provide any furnishings for the Leased Premises.

8. Repairs. Subject to applicable law, LESSEE shall keep and maintain the Leased Premises and all equipment and fixtures thereon or used therewith repaired, 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 LESSEE's negligence) only excepted. If LESSEE fails within a reasonable time to make such repairs, or makes them improperly, then and in any such event or events, LESSOR may (but shall not be obligated to) make such repairs and LESSEE shall reimburse LESSOR for the reasonable cost of such repairs in full, as additional rent, upon demand.

9. Fixtures. The improvement or fixtures installed by LESSEE which are located on or are affixed to the real estate must be removed upon the termination of this Lease, and all damage or defacement of the Leased Premises caused by such removal must be repaired by LESSEE to the satisfaction of LESSOR. Any improvements or fixtures which are not removed prior to the termination of this Lease shall become the property of LESSOR.

10. Alterations and Improvements. LESSEE shall have the option and the right, at its expense, to improve the decor and appearance of the exterior or interior of the single family residence located on the Leased Premises, but shall not construct any other structures on the Leased Premises. Any work done by LESSEE shall be done in accordance with all applicable laws and regulations, with a proper permit, using first-class materials and in a workmanlike manner. LESSEE shall pay when due all claims for labor or materials furnished or alleged to have been furnished to or for LESSEE at or for use in the Leased Premises, which claims are or any be secured by any mechanics' liens or materialmen's liens against the Leased Premises.

11. Fire, Other Casualty. Should a substantial portion of the Leased Premises be damaged by fire or other casualty, LESSOR shall terminate this Lease. When such fire, casualty, or taking renders the Leased Premises or any part thereof unfit for use and occupancy, a just and proportionate abatement of rent shall be made.

12. Condemnation. If the Leased Premises are partially or wholly taken for any public use, LESSOR or LESSEE may terminate this Lease by giving written notice to the other party within five (5) days after the taking becomes final.

13. Insurance. LESSEE understands and agrees that LESSEE bears full responsibility for insuring LESSEE's personal property. LESSEE shall also carry comprehensive general liability insurance insuring LESSOR and its agents and LESSEE. LESSOR shall obtain and keep in force during the Term of this Lease public liability insurance insuring LESSOR against liability arising out of ownership, use, occupancy or maintenance of the Leased Premises or the building of which it is a part.

At his election, LESSOR may also obtain and keep in force during the Term of this Lease casualty insurance insuring the value of the structures on the Leased Premises.

14. Subletting and Assignment. LESSEE shall not assign this Lease nor sublet the Leased Premises in whole or in part, nor mortgage or otherwise transfer or encumber all or any part of LESSEE's interest in the Lease or the Leased Premises.

15. Entry, Inspection and Maintenance. LESSEE shall allow LESSOR or its agents during the Term, at any time to enter and view the Leased Premises and to make repairs and alterations if they should elect to do so.

16. Quiet Possession. LESSOR covenants and warrants that LESSOR has full right and lawful authority to enter into this Lease for the full Term hereof. LESSOR further covenants and warrants that if LESSEE shall discharge the obligations herein set forth to be performed by LESSEE, then LESSEE shall have and enjoy the quiet and undisturbed possession of the Leased Premises for the uses herein described, together with all appurtenances thereto.

17. Default and Remedies. In the event that: (a) LESSEE shall default in the payment of any installment of rent or other sum herein specified and such default shall continue for ten (10) days after written notice thereof; or (b) LESSEE shall default in the observance or performance of any other of LESSEE's covenants, agreements or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof; or (c) LESSEE shall be declared insolvent, or shall be adjudicated or bankrupt, or shall assign its assets for the benefit of creditors, or (d) the Leased Premises shall be taken on execution, LESSOR may immediately, or at any time thereafter, (1) make demand to LESSEE to quit, or (2) elect to enter upon said Leased Premises and to take possession thereupon, whereupon, after either (1) or (2), this Lease shall absolutely terminate and it shall be no defense to LESSEE that previous violations of any covenants have been waived by LESSOR either expressly or by implication. Any such election by LESSOR shall not discharge LESSEE's obligations under this Lease and LESSEE shall indemnify LESSOR against all loss or damages suffered by reason of such termination.

18. Termination. LESSEE agrees to quit and deliver up the Leased Premises peaceably and quietly to LESSOR, or its attorney, or other duly authorized agent, at the expiration or other termination of this Lease. This Lease may be terminated upon thirty days (30) notice from Lessor to Lessee or upon the occurrence of any of the events set forth in Paragraph 17.

19. Waiver. LESSEE agrees that the failure of LESSOR to insist upon strict performance of any of the covenants or conditions herein contained, shall not constitute or be construed as a waiver or relinquishment of LESSOR's right thereafter to enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.

20. Notices. All notices hereunder by LESSOR to LESSEE shall be given in hand or by registered or certified mail, return receipt requested, addressed to LESSEE at the Leased Premises, or to such other address as LESSEE may from time to time give to LESSOR for this purpose, and all notices by LESSEE to LESSOR shall be given in hand or by registered or certified mail, return receipt requested, addressed to LESSOR's address shown in the initial paragraph of this Lease, or to such other address as LESSOR may from time to time give in writing to LESSEE for this purpose. Such notice shall be deemed delivered, if by hand when hand delivered or if by mail when deposited with the US Postal Service.

21. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction or by any future legislative action, such holding or such action shall not invalidate or render unenforceable any other provisions hereof.

22. Miscellaneous. 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 inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns; and may be cancelled, modified or amended only by written instrument signed by both LESSOR and LESSEE.

24. Non-Recourse. No shareholder, officer, director, trustee or employee of LESSOR shall be personally liable for the performance or observance of any obligation expressed or implied hereunder.

25. Security Deposit. LESSOR acknowledges receipt from LESSEE of Six Hundred Fifty Dollars as the Security Deposit to be held by LESSOR, as security, without interest, for and during the Term, which deposit shall be returned to LESSEE at the termination of this Lease, provided there exists no breach of any undertaking of LESSEE. If all or any part of the Security Deposit is applied to an obligation of LESSEE hereunder, LESSEE shall immediately upon request by LESSOR restore the Security Deposit to its original amount. LESSOR may apply the Security Deposit to repair any damage to the Leased Premises caused by LESSEE. The balance of the Security Deposit, if any, will be returned to LESSEE when he vacates the Leased Premises at the end of the Term.

IN WITNESS WHEREOF, the parties hereto have executed this Lease all as of the date first-above written.

Atty. W. Bradshaw
Witness

Chris Hume
Witness

Approved as to form:
[Signature]
Beaufort County Attorney

LESSOR:
Beaufort County
By: [Signature]
Gary T. Kubic, County Administrator

LESSEE:

[Signature]
Gene Bardo

[Signature]
Witness

[Signature]
Witness



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

An Ordinance for the Sale of Real Estate known as the Bob Jones Fields

Council Committee:

Public Facilities

Meeting Date:

September 3, 2019

Committee Presenter (Name and Title):

Thomas J. Keaveny, II, County Attorney

Issues for Consideration:

Points to Consider:

Funding & Liability Factors:

N/A

Council Options:

Approve or deny the request.

Recommendation:

Staff recommends Council approve the request.

ORDINANCE 2019 / _____

AN ORDINANCE AUTHORIZING THE SALE OF PROPERTY KNOWN AS BOB JONES FIELD OR BOB JONES PARK

WHEREAS, Beaufort County is the owner of certain property which is located in the City of Beaufort and which is known in the community generally as Bob Jones Field or Bob Jones Park. The address of the property is 2712 Jones Avenue and 304 Burroughs Avenue. It consists of three parcels (R120 003 000 0842 000, R 120 003 000 0843 000 and R120 003 000 0844 000) all of which collectively total approximately 4.31 acres more or less; and

WHEREAS, Beaufort County received this land from the City of Beaufort several years ago with the condition that the land be used for recreational purposes and that it be returned to the City if ever the County stops using the property for these purposes. The County has used the property for recreational purposes ever since receiving it; and

WHEREAS, Holy Trinity School is located in the City of Beaufort on property which adjoins Bob Jones Field. The school would like to expand onto the field. The City believes the presence of the school is a benefit to the City and would like the school to remain in its current location and to be able to expand onto the field. To this end the City has authorized the County to sell the property to the school for the amount of \$387,900 provided that the County use these funds on parks and recreation programs, services and infrastructure in the City of Beaufort exclusively, which the County has agreed to do; and

WHEREAS, the County and Holy Trinity School have further agreed that in addition to the sales price stated above, and as further consideration for the sale of the property, Holy Trinity will, if after purchasing the property, it decides to leave its current location without expanding the footprint of the school onto the field, offer to sell the property back to the County for the value of the land as determined by a certified appraiser at that time. If Holy Trinity decides to leave its current location after expanding the footprint of the school onto the field so that the field can no longer be used as a recreational facility, it agrees to pay Beaufort County the full current appraised value (land and improvements) of \$444,000.

NOW, THEREFORE, BE IT ORDAINED, that Beaufort County Council does hereby authorize the County Administrator to execute any and all documents necessary to effectuate the sale of the above referenced property to Holy Trinity School on the conditions set forth above.

This _____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah Brock, Clerk to Council

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



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

A RESOLUTION TO APPROPRIATE \$398,000 FROM THE COMMUNITY SERVICES GRANTS PROGRAM FUNDS AS PROVIDED IN THE FISCAL YEAR 2020 BUDGET AS RECOMMENDED BY THE HUMAN SERVICES ALLIANCE, AN INITIATIVE OF THE BEAUFORT COUNTY HUMAN SERVICES DEPARTMENT

Council Committee:

Community Services Committee

Meeting Date:

September 23, 2019

Committee Presenter (Name and Title):

Fred Leyda, Human Services Director

Issues for Consideration:

- Process in place to formalize human/social services funding requests and maximize resources.

Points to Consider:

- The mission of the Beaufort County Human Services Alliance is to promote and sustain activities that improve the quality of life for all Beaufort County residents by creating coordinated, comprehensive, and integrated systems of human services. The Alliance also serves as the backbone organization to *Together for Beaufort County (T4BC)*, an organizational framework that enhances our community's capacity to address specific social problems for Beaufort County residents.
- This framework was envisioned in 2004 by community leaders seeking to unite our community's diverse public and private agencies around a common purpose.

Funding & Liability Factors:

- Council approved \$398,000 in its FY2020 budget for the Community Services Grants Program (Together for Beaufort County/Public Welfare Subsidies 10001598-55600).

Council Options:

- Approve or disapprove the Community Services Grants Program recommendations.

Recommendation:

- Approve the Community Services Grants Program recommendations.

RESOLUTION 2019/ _____

A RESOLUTION TO APPROPRIATE \$398,000 FROM THE COMMUNITY SERVICES GRANTS PROGRAM FUNDS AS PROVIDED IN THE FISCAL YEAR 2020 BUDGET AS RECOMMENDED BY THE HUMAN SERVICES ALLIANCE, AN INITIATIVE OF THE BEAUFORT COUNTY HUMAN SERVICES DEPARTMENT

WHEREAS, the County Council of Beaufort County, South Carolina (County Council) is committed to ensuring a high quality of life for all residents; and

WHEREAS, County Council approved \$398,000 in its FY2020 budget for the Community Services Grants Program (“Grant Program”);

WHEREAS, the Human Services Alliance, an initiative of the Human Services Department, received grant applications for the Grant Program from local not-for-profit human service organizations that actively participate in the community’s collective impact model, also known as *Together for Beaufort County (T4BC)*; and

WHEREAS, the Human Services Alliance convened an independent panel of community stakeholders on Wednesday, September 11, 2019, to consider the grant applications and recommends allocation of funds as provided below; and

WHEREAS, the Community Services Committee considered the recommendations of the Human Services Alliance at the September 16, 2019 meeting and recommends to County Council approval of the grant recipients and the amounts provided as follows:

• AccessHealth Lowcountry	\$22,500
• Alliance Match Funds (T4BC)	\$25,000
• Beaufort County Community Relations Council	\$12,500
• Beaufort Jasper Economic Opportunity Commission	\$5,000
• Bluffton Jasper Volunteers in Medicine	\$25,000
• Bluffton Self-Help	\$10,000
• Child Abuse Prevention Association	\$22,000
• Coalition for Aging in Place (T4BC)	\$18,000
• Community Services Organization (T4BC)	\$18,000
• Family Promise	\$10,000
• Good Neighbor Free Medical Clinic	\$20,000
• Hopeful Horizons	\$37,000
• Lowcountry Affordable Housing Coalition	\$7,000
• Lowcountry Food Bank	\$3,000
• LowCountry Habitat for Humanity	\$15,000
• Mental Health Access (T4BC)	\$5,000
• Military and Veterans Service Alliance (T4BC)	\$17,500
• Med-I-Assist Program	\$15,000
• NAMI Lowcountry	\$5,000

- Ronald McDonald Mobile Care Unit \$19,000
- Safe Harbour \$5,000
- Second Helpings \$10,000
- The Literacy Center \$16,000
- Transitional Workforce Education Assistance Collaborative \$17,500
- United Way of the Lowcountry \$20,000
- Volunteers in Medicine - Hilton Head Island \$18,000

NOW, THEREFORE, BE IT RESOLVED, that County Council of Beaufort County hereby adopts this resolution as follows:

Section 1. The above recitals are true and correct and incorporated into this Resolution herein by reference.

Section 2. The County Administrator, is authorized to release the appropriated funds of \$398,000.00 to the grant recipients as stated herein.

Adopted this _____ day of September, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By:

Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

A resolution approving the Memorandum of Understanding and Agreement between Beaufort County and the SC Association of Counties relating to the Setoff Debt Collection Act and Authorizing the Beaufort County Alcohol and Drug Abuse Department to Use the Procedures Allowing for Collection of Delinquent Fees.

Council Committee:

Community Services Committee

Meeting Date:

September 16, 2019

Committee Presenter (Name and Title):

Steve Donaldson, Alcohol and Drug Abuse Director

Issues for Consideration:

- Participation in the program will increase department revenues and reduce the financial burden to the County.

Points to Consider:

- The department provides indigent care for patients who meet federal poverty guidelines.
- Responsible payment for services rendered is part of a patient's treatment and recovery, e.g., becoming responsible for personal affairs.

Funding & Liability Factors:

- Council has approved participation in the program by other departments, e.g. Treasurer's Office, EMS, and the Library System

Council Options:

- Approve or disapprove the Alcohol and Drug Abuse Department's participation in the program.

Recommendation:

- Approve the Alcohol and Drug Abuse Department's participation in the program.

PLEASE MAKE SURE YOU ARE USING INTERNET EXPLORER AS YOUR BROWSER



OFFICE OF THE COUNTY ATTORNEY

Post Office Drawer 1228 • Beaufort, SC 29901

102 Industrial Village Road, Building #1

843.255.2055 (O) • 843.255.9414 (F)

LEGAL REVIEW REQUEST FORM

Form Number: 2019 - 0026

Originally submitted on: 9/10/2019 7:58:47 AM

Select Type: Ordinance/Resolution

Document Title: Debt Set-off Resolution and MOA

Department: Alcohol and Drugs

Requester's Name: sdonaldson

Ph: 8432556008

Em:

Date Needed by: 9/13/2019

Description of Document or Any Concerns:

This is a MOA and Resolution that needs council support for the department to participate in Debt Set-off. This will be part of a presentation to a council committee on 09/16/2019. Your support now and there would be appreciated.

If applicable, please provide the total value amount of the contract:

- ☐ Amount BELOW \$50,000.00
☒ Amount \$50,000 to \$99,999
☐ Amount \$100,000 and above

Has the item been approved by Council Committee? ☐ Yes ☒ No ☐ N/AHas the item been approved by full Council? ☐ Yes ☒ No ☐ N/A

Attachments:



Debt Setoff Resolution 2019 and
MOA.docx
57.76 KB

2019-09-10T08:13:35



No file attached



No file attached

LEGAL DEPARTMENT USE ONLY- INITIAL REVIEW

Attachments:



Debt Setoff Resolution 2019 and
MOA 9.11.2019.docx
65.26 KB



No file attached



No file attached

2019-09-11T08:28:15

☒ Approved

☐ On Hold

☐ Send to County Admin

☐ Disapproved

☐ Additional Documents Requested

Comments:

Some additional minor edits in the uploaded form. I recommend presenting to SCAC during the pendency of final Council approval.

Christopher S. Inglese

9/11/2019

8:27:52 AM

Legal Staff

Date / Time

ADMINISTRATION USE ONLY

☐ Approved

☐ Disapproved

Comments:

County Administration

Date / Time

RESOLUTION 2019/ ____

TO APPROVE THE MEMORANDUM OF UNDERSTANDING AND AGREEMENT BETWEEN THE COUNTY AND THE SOUTH CAROLINA ASSOCIATION OF COUNTIES RELATING TO THE SOUTH CAROLINA ASSOCIATION OF COUNTIES BEING AUTHORIZED AND DESIGNATED AS THE CLAIMANT AGENT FOR THE COUNTY PURSUANT TO THE SETOFF DEBT COLLECTION ACT OF 2003, AS AMENDED, AND TO AUTHORIZE THE BEAUFORT COUNTY ALCOHOL AND DRUG ABUSE DEPARTMENT TO USE THE PROCEDURES PROVIDED IN CHAPTER 56, TITLE 12 AS THE INITIAL STEP IN THE COLLECTION OF DELINQUENT FEES.

WHEREAS, the Setoff Debt Collection Act of 2003, as amended, (South Carolina Code Section 12-54-10), allows the South Carolina Department of Revenue to render assistance in the collection of delinquent accounts or debts owing to the County; and

WHEREAS, S.C. Code Ann. § 12-51-40(e) authorizes, in the alternative and subject to the prior approval of the county governing body, the Beaufort County Alcohol and Drug Abuse Department to use the procedures provided in Chapter 56, Title 12 (Setoff Debt Collection Act), as the initial step in the collection of delinquent fees; and

WHEREAS, the County Council wishes to increase the collection rate of debts that are due and owing to the County by availing itself of the Setoff Debt Collection Act of 2003, as amended; and

WHEREAS, County Council has reviewed and approved the Memorandum of Understanding and Agreement designating the South Carolina Association of Counties to serve as the claimant agent.

NOW, THEREFORE, BE IT RESOLVED, the County Council of Beaufort County hereby authorizes the Administrator to execute the attached Memorandum of Understanding and Agreement between Beaufort County and the South Carolina Association of Counties relating to SCAC serving as the claimant agent pursuant to the Setoff Debt Collection Act of 2003, as amended. A copy of the Memorandum of Understanding and Agreement is incorporated herein by reference.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____

Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council.

DRAFT

STATE OF SOUTH CAROLINA)	
COUNTY OF RICHLAND)	MEMORANDUM OF UNDERSTANDING
)	AND AGREEMENT FOR PARTICIPATION
)	IN THE SETOFF DEBT COLLECTION
)	PROGRAM
SOUTH CAROLINA ASSOCIATION)	
OF COUNTIES)	
and)	
BEAUFORT COUNTY ALCOHOL AND)	
DRUG ABUSE DEPARTMENT)	
)	

This AGREEMENT is made and entered into this ____ day of ____ 2019, by and between the Beaufort County Alcohol and Drug Abuse Department (“Claimant Agency”) and the South Carolina Association of Counties (“SCAC”) in furtherance of Act No 114, 1999 S.C. acts codifying the 1999 amendments to the Setoff Debt Collection Act, S.C. Code § 12-56-10 *et seq.*

WHEREAS, the Setoff Debt Collection Act, S.C. Code §12-56-10 *et seq.* (2003), authorizes the South Carolina Department of Revenue (“Department”) to render assistance to collect any delinquent account or debt owing to any Claimant Agency by the Department’s setting off any income tax refunds due to a debtor by the sum certified by the Claimant Agency as a delinquent debt; and

WHEREAS, the Claimant Agency desires to enter into this Agreement with SCAC in order to participate in the Setoff Debt Collection Act to increase the collection rate of delinquent debts owed to Claimant Agency; and

WHEREAS, SCAC is a political subdivision for purposes of the Setoff Debt Collection Act and is authorized to submit claims on behalf of its members, other political subdivisions and Claimant Agencies as defined in S.C. Code §12-56-10 *et seq.* (1999);

NOW THEREFORE, in consideration of the mutual covenants and agreements, terms and conditions contained herein, it is hereby understood and agreed by and between the Claimant Agency and SCAC that:

1. The Claimant Agency is a state agency, board, committee, commission, public institution of higher learning, political subdivision of the State of South Carolina, South Carolina Student Loan Corporation, a housing authority established pursuant to Articles 5, 6, and 9 of Chapter 3 of Title 31 of the South Carolina Code or a member of SCAC and is authorized to participate in the Setoff Debt Collection Act.
2. The Claimant Agency hereby designates, appoints, and authorizes SCAC to process for submission to the Department, the Claimant Agency’s delinquent debts.

Delinquent debt means any sum due and owing to the Claimant Agency, including collections costs, administrative fees, court costs, fines, penalties and interest which have accrued through contract, subrogation, tort, operation of law or any other legal theory regardless of whether there is an outstanding judgment for that sum which is legally collectible and for which a collection effort has been or is being made. Delinquent debt does not include sums owed to a county hospital when the hospital and the debtor have entered into a written payment agreement and the debtor is current in meeting the obligations of the agreement.

3. SCAC agrees to submit delinquent debts to the Department. The Claimant Agency is responsible for complying with the notice and appeal provisions and other requirements of the Setoff Debt Collection Act.

4. Upon execution of this Agreement, Claimant Agency shall file a "Participation Form" with SCAC designating a Setoff Debt Coordinator with SCAC. The Setoff Debt Coordinator shall be the designated contact between SCAC and Claimant Agency for all communications and is authorized by Claimant Agency to carry out the requirements of the Setoff Debt Collection act, S.C. Code §12-56-10 *et seq.* (2003). The Setoff Debt Coordinator shall supply SCAC with any and all information which in the opinion of SCAC is necessary for the proper implementation of this Agreement.

5. The Claimant Agency shall use SCAC's "entity User Setoff Debt Software Program" or an ASCII file or Excel file layout specified by SCAC to prepare diskettes or electronic transfer files referred to herein as "debt files" and "adjustment to debt files." If, in the opinion of SCAC, change to the "entity User Setoff Debt Software program" or specifications of an ASCII file or Excel file are necessary to carry out this program, SCAC shall timely notify the Claimant Agency. The Claimant Agency covenants and agrees that it shall immediately implement any changes required by SCAC.

SCAC shall not accept a debt file or adjustment to debt file that is not prepared as specified by SCAC. SCAC will accept debt files that are electronically transferred through SCAC's File Transfer Protocol FTP software. Paper hard copies shall not be accepted.

Each "debt file" submitted to SCAC is deemed to bear a certification that the debts are owed and due to the Claimant Agency, for which prior efforts to collect have been made, and which Claimant Agency instructs SCAC to submit to the Department for collection from a debtor's tax refund. Each "adjustment to debt file" is deemed as authorization to SCAC to notify Department to reduce a previously submitted debt to the amount stated. A "debt file" and an "adjustment to debt file" shall have the certification provided in paragraph 6 affixed to it.

6. SCAC is not, and shall not be liable for a wrongful or improper setoff. Each "debt file" supplemental "debt file" or "adjustment to debt file" shall have affixed to it a "Certification Form" provided by SCAC, and executed by the Claimant Agency representative, which states:

"I hereby certify that the Claimant Agency for who the attached data diskette was prepared has complied with all the requirements of the Setoff Debt Collection act; that the Claimant Agency has properly given each individual debtor whose name appears in the data diskette the notice of intention to set off and the Claimant Agency's appeal procedures pursuant to S.C. Code §12-56-62; that the information contained in the attached data diskette has been reviewed by me and is, to the best of my knowledge and belief, true, correct, and complete."

7. Not less than thirty (30) days before a debt file with SCAC, Claimant Agency shall provide the debtor with the statutory notice advising the debtor of the Claimant Agency's intention to cause the debtor's tax refund to be set off.

8. Only after the required statutory thirty (30) days' notice is provided to debtor by Claimant Agency may Claimant Agency transmit a "debt file" to SCAC. Debt files shall be received in the SCAC offices on or before November 1 of the preceding calendar year in which the refund would be paid.

9. Upon receipt of Claimant Agency's "debt file," SCAC shall compile the information and submit the data to the Department on or before the close of business on December 15.

10. Debts totaling less than fifty (\$50.00) dollars per individual at the time the debt is first submitted to SCAC for setoff may not be submitted. This provision does not prohibit submitting in subsequent years under paragraph 12 of this Memorandum, those debts which were fifty (\$50.00) or more when first submitted to SCAC even though, in subsequent years, that debt is less than fifty (\$50.00) because of successful interception(s) resulting in partial payment of the delinquent debt.

If a debtor is due a refund of more than twenty-five dollars (\$25.00), the Department sets the tax refund off in the amount of the delinquent debt plus twenty-five dollars (\$25.00).

Pursuant to the S.C. Code §12-56-63 of the Setoff Debt Collection Act, as amended the South Carolina Department of Revenue shall add to each debt setoff the sum of \$25 to defray its administrative cost, and SCAC as claimant agent for the Entity, shall add \$25 to each "successful interception" as provided below, which shall be retained by SCAC to defray its administrative costs.

"Successful interception" means the Department matched a debt submitted by SCAC against a tax refund for interception and payment towards a delinquent debt owed to Claimant Agency. Payment shall be made as provided in paragraph 11.

11. Payment to SCAC by Claimant Agency for each successful interception is made as follows: SCAC will add the amount of the debt due Claimant Agency in the amount of twenty – five dollars (\$25.00) and retain said twenty-five dollars (\$25.00); provided, however, SCAC will not collect more than twenty- five dollars (\$25.00) from any one individual in a calendar year.

12. In the event of partial payment of a delinquent debt, the balance of the debt may be submitted in a following year and twenty-five dollars (\$25.00) shall be paid to SCAC for successful interception of a tax return in a subsequent year notwithstanding the previous year's interception and payment.

13. Claimant Agency acknowledges that Claimant Agency is responsible for the notice and hearing requirements of the Setoff Debt Collection Act and that SCAC is exempt from these provisions of the Setoff Debt Collection Act. The Claimant Agency affirms to SCAC that it will comply with the notice and hearing procedures required by S.C. Code §12-56-10 *et seq.*

14. The Claimant Agency shall file an "Appointment of Hearing Officer" form with SCAC certifying the appointment of a hearing officer. If the appointed hearing officer is unable to serve at any time, the Claimant Agency shall appoint another officer and file a new "Appointment of Hearing Officer" form with SCAC.

15. Within seven (7) calendar days of Claimant Agency's receipt of a debtor's Notice of Protest the Claimant agency shall send Notice of Protest to the Department and send a copy to SCAC. At the same time the Claimant Agency shall notify SCAC with an Adjustment to debt file" diskette marking the protested delinquent debt a protest account.

The Claimant Agency shall conduct a protest hearing in conformity with S.C. Code §12-56-65 and shall provide the Department and SCAC with a copy of the “verification of Hearing and “Decision of Hearing Officer” no later than seven (7) calendar days from the date these forms are executed by the hearing officer. If further appeal is taken, Claimant Agency shall immediately file copies of all pleadings and papers with the Department and SCAC. Upon resolution of protest, Claimant Agency shall notify SCAC of the resolution of the protest by sending an “adjustment to debt file” diskette (or other acceptable format) either reducing the balance or taking the debt out of protest status.

16. If the Claimant Agency is found to be entitled to no part of the amount of a setoff, it shall make a refund to the debtor in an amount equal to the amount of the debt plus the fee to the Department and the fee paid to SCAC along with interest, if any, as required by the Setoff Debt Collection Act.

17. SCAC shall remit to the Claimant Agency through a check or an electronic bank deposit funds received from the Department within a reasonable time from the date of receipt from the department. Thereafter, SCAC shall provide the Claimant Agency an accounting of the funds collected which will include the name of the debtor, the debtor’s social security number, and the amount of the setoff. The Claimant Agency shall provide debtors with proper notice of payment and balance, if any, as required by the Setoff Debt Collection Act.

18. The Claimant Agency shall hold SCAC free and harmless ~~and shall indemnify SCAC~~ against any and all damages, claims, causes of action, injuries, actions, liabilities or proceedings arising from the performance of SCAC unless such damages or liabilities arise from the negligent acts of SCAC or its agents.

19. This Memorandum of Understanding and Agreement shall remain and continue in full force and effect from year to year unless modified or terminated in writing by either party upon ninety (90) days written notice to the other party; provided, however, that any debts submitted by the Claimant Agency to SCAC shall continue to be covered under the terms and conditions of the agreement until SCAC is notified by the Department that it has completed the collection cycle for that setoff year.

20. This Memorandum of Understanding is solely between SCAC and the Claimant Agency and is not intended to benefit any other person or entity. No debtor and/or taxpayer or their spouse, family member, successor or assign is intended to be a third party beneficiary of this Memorandum of Understanding.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum of Understanding and Agreement to be properly executed on the day and year first above written.

ATTEST:

On Behalf of Claimant Agency:

Counties: By:

Signature: _____

Printed Name: _____

Title: _____

Address: _____

Phone: _____

ATTEST:

On Behalf of the S.C. Association of

By:

Signature: _____

Printed Name: _____

Title: _____

Address: _____

Phone: _____



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Zoning Map Amendment/Rezoning Request for R100 029 000 0046 0000, 10.69 acres at 126 Broad River Boulevard, from C3-Neighborhood Mixed Use District to C5-Regional Center Mixed-Use District

Council Committee:

Natural Resources

Meeting Date:

May 20, 2019

Committee Presenter (Name and Title):

Robert Merchant, AICP, Assistant Community Development Director

Issues for Consideration:

See staff report

Points to Consider:

See staff report

Funding & Liability Factors:

Council Options:

Approve or disapprove

Recommendation:

Approval



MEMORANDUM

TO: Natural Resources Committee of County Council
FROM: Robert Merchant, AICP, Beaufort County Community Development Department
DATE: May 13, 2019
SUBJECT: Zoning Map Amendment/Rezoning Request for R100 029 000 0046 0000, 10.69 acres at 126 Broad River Boulevard, from C3-Neighborhood Mixed Use District to C5-Regional Center Mixed-Use District; Owner: 10 Frontage Road LLC, Applicant: Andy Burris

STAFF REPORT:

A. BACKGROUND:

Case No. ZMA-2019-02
Owner/Applicant: 10 Frontage Road, LLC; Agent: Andy Burris
Property Location: Located in the Burton area on the north side of Broad River Boulevard approximately 1,200 feet west of the intersection with US 21 (Parris Island Gateway)
District/Map/Parcel: R100 0290 000 0046 0000
Property Size: 10.69 acres
Current Future Land Use Designation: Urban Mixed Used
Current Zoning District: C3-Neighborhood Mixed-Use (C3-NMU)
Proposed Zoning District: C5-Regional Center Mixed-Use (C5-RCMU)

B. SUMMARY OF REQUEST:

The owners of a 10.69-acre parcel located on the north side of Broad River Boulevard approximately 1,200 feet west of the intersection with US 21 (Parris Island Gateway) is requesting to change the zoning of the property from C3-NMU to C5-RCMU. The owner is interested in development multi-family housing on the property. While C3-NMU allows multi-family housing, developments are limited to a maximum of 80 dwelling units and a maximum height of 2 ½ stories.

While the parcel is just over 10 acres, the rear half of the property is a wetland. The parcel contains a dwelling unit that is in the Beaufort County Above Ground Historic Sites Survey. The structure has been determined to be not eligible for the National Register of Historic Places.

This same rezoning went before the Metro Planning Commission at their December 19, 2016, meeting. At that time, the MPC did not recommend rezoning the property because it was felt that the applicant had options to develop multi-family housing under its existing zoning designation – C3-Neighborhood Mixed-Use. Since that time, Beaufort County Council approved a zoning amendment that removed a requirement that multi-family housing in C3 needed to be located in mansion apartments with no more than 6 units per building. However, the applicant wishes to construct more than 80 units in 3 story buildings, and utilize the affordable housing density bonuses available in the C5-Regional Center Mixed-Use district.

C. ZONING MAP AMENDMENT ANALYSIS: Section 7.3.40 of the Community Development Code (CDC) 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:*

The proposed amendment is not consistent with the future land use map of the Beaufort County Comprehensive Plan and would require an amendment to the plan itself. The Comprehensive Plan advocates the development of affordable housing. This zoning amendment has the potential to foster the development of affordable housing in a centrally located area with relatively close proximity to employment and retail.

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

As stated above, the proposed zoning district of C5-RCMU is not consistent with Table 1.4.10.A of the CDC for parcels that are designated as Urban Mixed-Use in the Comprehensive Plan.

3. *Addresses a demonstrated community need:*

The proposal has the potential to foster the development of affordable housing.

4. *Is required by changing conditions:*

The character of the surrounding area has not changed significantly in the last 10 years.

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.*

There is a mix of uses along Broad River Boulevard in the vicinity of this parcel. These uses include small warehouses, private social clubs, churches, a small mobile home park, and single-family residential.

6. *Would not adversely impact nearby lands.*

Properties located to the east and across from Broad River Boulevard from this parcel are zoned C5-RCMU and would not be adversely impacted by amending the zoning of this parcel.

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

See item 6 above.

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.*

Approximately one half of the parcel is wetland that would be required to be preserved. There should be no adverse impacts assuming that applicable local, state, and federal

environmental protection requirements are met with any future development of the parcel.

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 proposed rezoning is located in close proximity to utilities and public facilities.

Sewer is available on Parris Island Gateway; water lines are available along Broad River Boulevard.

D. NORTHERN BEAUFORT COUNTY REGIONAL PLAN

The proposed parcel is located within the growth boundary as put forth in the Northern Beaufort County Regional Plan. The regional plan and the intergovernmental agreement that implements the plan require that all increases in zoning in unincorporated Beaufort County located within the growth boundary explore options to annex into the appropriate municipality – in this case the City of Beaufort. The intergovernmental agreement states the following:

The county shall encourage any landowner who seeks an increase in densities/intensities under current zoning on lands that are not contiguous to a municipality but within the growth boundary, to explore ways to annex the land. If annexation is not feasible, following the procedures outlined in Section G (below) the County will consult with the Planning Staffs of the City of Beaufort and the Town of Port Royal to determine the following: a. Whether the proposed zoning amendment or planned unit development is consistent with the Comprehensive Plan of the municipality in whose future growth area the proposed development is located; and b. Whether the proposed zoning amendment or planned unit development is consistent with the Northern Beaufort County Regional Plan.

This report has been sent to the City of Beaufort staff. Beaufort County staff will consult with City staff to determine whether annexation is feasible and whether this rezoning is consistent with the Northern Regional Plan.

E. STAFF RECOMMENDATION:

Staff supports the rezoning of this property from C3-NMU to C5-RCMU with the following condition:

- County staff will consult with City of Beaufort staff to determine whether annexation is feasible for this parcel and whether the proposed zoning designation is consistent with the Northern Beaufort County Regional Plan.

F. BEAUFORT-PORT ROYAL METROPOLITAN PLANNING COMMISSION

RECOMMENDATION: At the March 18, 2019 meeting of the Metro Planning Commission, Judy Alling motioned and Jim Crowder seconded to recommend approval of the proposed zoning amendment. The motion passed unanimously.

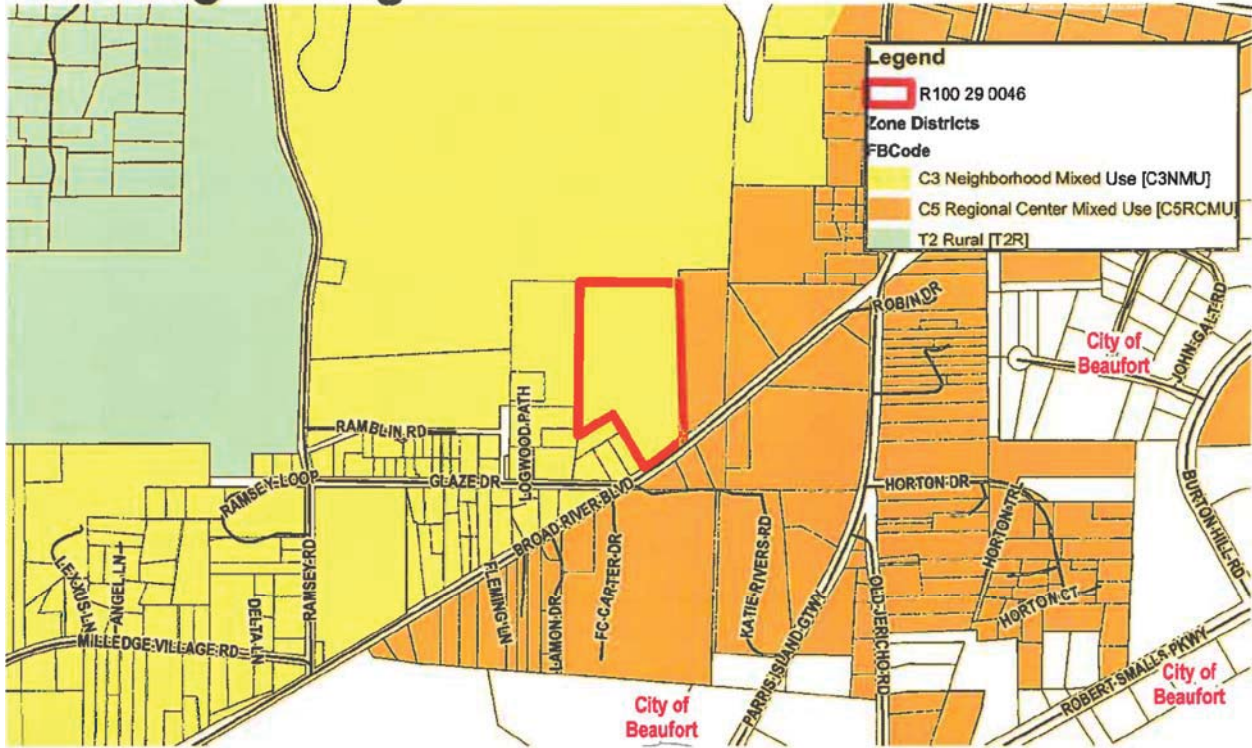
G. BEAUFORT COUNTY PLANNING COMMISSION RECOMMENDATION:

Chairman Semmler asked for a motion regarding the rezoning request. Mr. Jason Hinchler made a motion to approve the rezoning request from C3 Neighborhood Mixed Use to C5 Regional Center Mixed Use with a strong recommendation to forward the affordable housing issue to the Natural Resources Committee for their input. Dr. Caroline Fermin seconded the

motion. The motion to approve the request was unanimous. The affordable housing issue that was brought up at the meeting was the possibility of adopting a text amendment regarding the C3 zoning to exceed the 80-unit cap if a percentage of the units meet the definition of affordable housing.

H. ATTACHMENTS: Zoning Map (existing and proposed)

Existing Zoning



Proposed Zoning





BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

River Oaks

Council Committee:

County Council

Meeting Date:

September 23rd, 2019

Committee Presenter (Name and Title):

Eric Greenway, Community Development Director

Issues for Consideration:

During the March Natural Resources Committee meeting the Community Development Director, on a motion by Council Member Glover and Seconded by Council Member Covert, was tasked with working with the developer on the following three items: 1) Formalize an agreement on the affordable housing commitment made by the developer, 2) Obtain a letter of approval from the Beaufort County School District regarding the density and capital fees, 3) Work with the developer on the density/layout of the development. During the April NRC meeting the direction on the BCSD approval was modified to request the developer work on language agreeing to pay the School Impact Fee if adopted by the County Council. Please see the attached comparison summary between the developer submitted Development Agreement amendment and the Staff's recommended amendment through our work with outside counsel. At the August 2019 NRC meeting the committee recommended on a 6-5 vote the developer version of the DA with the stipulation that 40 units meet the requirements for attainable housing and be deed restricted and that the developer pay all the costs associated with the DA amendment preparation. Those items are reflected in the attached DA amendment.

Points to Consider:

None remain as the current document reflects the recommendation from the August 2019 NRC meeting.

Funding & Liability Factors:

Funding issues are only related to School Impact/Capital Fees.

Council Options:

1. Recommend the Developer version of the River Oaks DA amendment.
2. Recommend the Community Development Department Staff version of the restated and amended DA.
3. Recommend Modification of each development agreement to include specifics from each version into the modified document.
4. Recommend Denial of Development Agreement amendment and leave the current/amended version in place.

Recommendation:

Staff recommends that the Community Development Department staff's and Legal Counsel's version be recommended for approval as it more thoroughly implements the direction of the NRC's March and April directives.

ORDINANCE 2019/___

AN ORDINANCE TO ADOPT BEAUFORT COUNTY AMENDED AND RESTATED DEVELOPMENT AGREEMENT (RIVER OAKS AT OKATIE VILLAGE) ("Amended Agreement") REFERENCED AS PIN NUMBER R600 013 000 008C 0000 CONTAINING PLUS OR MINUS 63.54 ACRES OFF OF S.C. HIGHWAY 170.

WHEREAS Beaufort County Council Adopted Ordinance 2008/48, Adopting the River Oaks at Okatie Village; and

WHEREAS the River Oaks at Okatie Village was amended on July 25, 2014 as a minor amendment; and

WHEREAS the original River Oaks at Okatie Village Development Agreement is hereby amended and restated to incorporate the document entitled River Oaks at Okatie Village PUD Planned Unit Amended and Restated Development Agreement, a copy of which is attached hereto as Attachment 1 and incorporated herein by reference.

NOW THEREFORE BE IT ORDAINED, that the County Council of Beaufort County, South Carolina, hereby amends and restates the River Oaks at Okatie Village Development agreement and the ordinance authorizing the same. The summary and findings of the County Council for the amendment to the River Oaks at Okatie Village Development Agreement is attached hereto and adopted by the County Council.

Adopted this ___ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Chairman

ATTEST:

Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

~~July 10, 2019~~Draft – As Approved by the Natural Resources Committee (August 19, 2019)

(Space above this line for recording use)

STATE OF SOUTH CAROLINA)	AMENDED AND RESTATED
)	DEVELOPMENT AGREEMENT
COUNTY OF BEAUFORT)	(RIVER OAKS AT OKATIE VILLAGE)

This **AMENDED AND RESTATED DEVELOPMENT AGREEMENT (RIVER OAKS AT OKATIE VILLAGE)** ("Amended Agreement") is made and entered the ____ day of _____, 2019 (the "Effective Date"), by and between **BBII HOLDING COMPANY, LLC**, a South Carolina limited liability company ("Owner"), and the **COUNTY OF BEAUFORT**, a body politic and corporate, a political subdivision of the State of South Carolina ("County"). (Owner and County are each a "Party" and, collectively, are the "Parties").

RECITALS

WHEREAS, the legislature of the State of South Carolina has enacted the South Carolina Local Government Development Agreement Act as set forth in Sections 6-31-10 through 6-31-160 of the South Carolina Code of Laws (1976), as amended (the "Act"); and

WHEREAS, the Act recognizes that "[t]he lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning." [Section 6-31-10 (B)(1)]; and

WHEREAS, the Act also states that "[d]evelopment agreements will encourage the vesting of property rights by protecting such rights from the effect of subsequently enacted local legislation or from the effects of changing policies and procedures of local government agencies which may conflict with any term or provision of the development agreement or in any way hinder, restrict, or prevent the development of the project. Development agreements will provide a reasonable certainty as to the lawful requirements that must be met in protecting vested property rights, while maintaining the authority and duty of government to enforce laws and regulations which promote the public safety, health, and general welfare of the citizens of our State." [Section 6-31-10 (B)(6)]; and,

WHEREAS, the Act further authorizes local governments, including county governments, to enter into development agreements with developers to accomplish these and other goals as set forth in Section 6-31-10 of the Act; and,

WHEREAS, Owner has acquired a tract of land containing a total of approximately 63.54 acres of highland and wetland located in the County in Bluffton Township on S.C. 170 and known as the River Oaks at Okatie

Village development and presently zoned by Ordinance 2008/14, as amended, as River Oaks Planned Unit Development; and

WHEREAS, a development agreement dated September 3, 2009, for the River Oaks at Okatie Village development was entered into by the development's former owner, ARD Hilton Head, LLC, and the County which was recorded in the records of the County Register of Deeds in Book 02888, Pages 0579-1047 (the "Original Agreement"); and

WHEREAS, the Original Agreement was set to terminate five (5) years after the date of execution by the parties, however, by 2010 S.C. Act No. 297 (Permit Extension Joint Resolution of 2010) and 2013 S.C. Act No. 112 (Permit Extension Joint Resolution of 2013) the General Assembly provided for the suspension of the running of certain development approvals, thereby resulting in the Original Agreement having a termination date of January 1, 2022; and

WHEREAS, a minor amendment to the Original Agreement was made in 2014 that provided for the development of River Oaks at Okatie Village as a non-age restricted, family community; and

WHEREAS, since the approval of the Original Agreement, and the 2014 minor amendment, no development or sales activity has taken place in the River Oaks at Okatie Village development; and

WHEREAS, Owner has revised the plan for the development of the River Oaks at Okatie Village development; and

WHEREAS, the revised development plan requires the amendment of the Original Agreement; and

WHEREAS, the Act and Original Agreement provide for the amendment of the Original Agreement only by written agreement of the parties; and

WHEREAS, the nature and scope of the proposed amendments to the Original Agreement have led Owner and County to conclude that the most efficient and practical way to accomplish the amendment of the Original Agreement is by amending and restating the Original Agreement in its entirety, thereby providing a single comprehensive document for the use of the Parties and the public; and

WHEREAS, Owner and County have determined that it is in the best interests of the County and Owner to enter into this Amended Agreement to set forth the terms and conditions of the development in order to more fully protect the Owner's development rights, thereby providing certainty and predictability to the Owner of those rights and providing certainty and predictability to the County on the scope and terms of the development.

AMENDED AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions set forth herein, the encouragement of well-planned development, and other good and valuable consideration, including the potential economic benefits to both County and Owner by entering into this Amended Agreement, the receipt and sufficiency of such consideration being hereby acknowledged, County and Owner hereby agree as follows:

SECTION 1. INCORPORATION.

The above recitals are hereby incorporated into this Amended Agreement.

SECTION 2. DEFINITIONS.

As used herein, the following terms mean:

"Amended Agreement" means this Amended and Restated Development Agreement (River Oaks at Okatie Village) entered into by the Parties on the Effective Date.

"Design Guidelines" means the design guidelines set forth in Section 4E and Exhibit F.

"Development" means the land disturbance of portions of the Property and/or vertical or horizontal construction of improvements thereon as contemplated by the Zoning Regulations.

"Development Plan" means the layout and development scheme contemplated for the Property, as more fully set forth in the PUD approval for River Oaks at Okatie Village, attached hereto as Exhibit B, and as may be modified per the terms of this Amended Agreement.

"Development Rights" shall mean the right to undertake Development in accordance with the Zoning Regulations and this Amended Agreement.

"Effective Date" means the date this Amended Agreement was made and entered into by the Parties, the _____ day of _____, 2019, which is the date this Amended Agreement takes effect.

"Homeowner's Association" or "Owner's Association" shall mean a duly constituted Owner's Association under South Carolina law, pursuant to a Declaration of Covenants and Restrictions, filed of record in Beaufort County at or about the time of land subdivision, providing regulations for the governance of such subdivision, the upkeep of common elements, including assessment provisions, and other related matters.

"Owner" means BBII Holding Company, LLC, a South Carolina limited liability company, and any and all successors in title to all or a portion of the Property who or which undertake or cause to be undertaken development activity on the Property. "Owner" includes a person or entity that is transferred or assigned Development Rights to all or a portion of the Property.

"Party" means, each, the County and the Owner.

"Parties" means the County and the Owner, collectively.

"Property" means that certain tract of land described on Exhibit A.

"PUD" means the Development Plan and zoning approved for the Property by Ordinance 2008/14, as amended by Ordinance 2019/_____, as set forth in Exhibit B.

"Term" means the duration of this Amended Agreement, as set forth in Section 3 hereof.

"Zoning Regulations" means, unless otherwise provided in this Amended Agreement, those laws and land development regulations set forth in Exhibit C and includes the terms and conditions of: (i) the River Oaks at Okatie

Village PUD approval, as amended, as set forth in Exhibit B; (ii) the Zoning and Development Standards Ordinance (ZDSO) of Beaufort County, in effect on September 3, 2009; (iii) the Design Guidelines, as set forth in Exhibit F; and (iv) the terms and conditions of this Amended Agreement. In case of any conflict between or among the laws and land development regulations, the terms and conditions of this Amended Agreement shall take precedence, followed by the terms and conditions of the PUD, as set forth in Exhibit B, followed by the terms and conditions of the ZDSO.

SECTION 3. TERM.

The term of this Amended and Restated Development Agreement shall be for five years from the date of execution hereof, provided that the term shall be further extended for an additional five years if neither party hereto is in material breach hereof and if development of the subject property has not been completed during the initial term. Both parties agree that with the execution and adoption hereof, no present defaults exist between the parties and all future activities within River Oaks shall be governed by the terms hereof.

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SECTION 4. DEVELOPMENT REQUIREMENTS AND DEVELOPMENT OF THE PROPERTY.

A. Zoning Regulations Apply. The Property shall be developed in accordance with the Zoning Regulations.

B. Consistency Finding. The County agrees that it finds the development permitted by this Amended Agreement is consistent with the County's Comprehensive Plan and land development regulations.

C. Permitted Uses. Permitted uses on the Property include single-family detached dwelling and accessory uses thereto and community recreational uses such as parks and water-related amenities. No more than three hundred fifteen (315) single-family detached dwelling units shall be constructed on the Property. Timesharing or fractional ownership uses are not permitted on the Property.

D. Development. The location of roads, building types, uses, amenities, recreation facilities, layouts and development standards for permitted uses are shown on the Master Plan (Exhibit B, B-1, and B-2). Changes to the Development Plan (Exhibit B) may be made but only in accordance with the provisions of the PUD. Projecting porches may fall within the setback.

E. Design Guidelines. The Design Guidelines (Exhibit F, Exhibit B-1 & B-2) apply to the

Development of the Property.

F. **Tree Preservation.** In the Development of the Property, Owner agrees to comply with the Zoning Regulations, including specifically the Zoning and Development Standards Ordinance (ZDSO) of Beaufort County, in effect on September 3, 2009, applicable to tree preservation. Protection for and removal of specimen trees has been anticipated by the Master Plan (Exhibit B) and will follow the 1999 Zoning and Development Standards Ordinance to the maximum extent practicable. In the event the Plan (Exhibit B) is in conflict with the 1999 Beaufort County Zoning and Development Ordinance, the Plan shall govern.

G. **Alleys.** Owner agrees that in the Development of the Property alleys are required when the average lot width on a street is thirty-nine (39) feet or less measured at the front or rear setback line, whichever is less, as shown on the Master Plan (Exhibit B, B-1, and B-2).

H. **Porches.** Owner agrees that all single-family houses in the River Oaks at Okatie Village development shall have either a projecting porch, engaged porch, or side yard porch. The interior alley-fed lots (30' Lots) porches will be a minimum 4' X 6' and up to 6' X 8' as shown on Exhibit B-1. The perimeter front loaded lots (40' Lots) porches will be a minimum 4' X 6' and up to 4' X 10" and set behind the garage front facade wall as shown on Exhibit B-2.

I. ~~**Affordable Housing.** The original River Oaks Development Agreement did not contain a Workforce Housing Requirement (as was required for Osprey Point and Okatie Marsh) because River Oaks was to be a retirement and age restricted development. In order to assist in meeting the needs of the County to produce more housing in the affordable price range, Owner commits to the following requirement, which shall totally replace all prior provisions relating to affordable and/or workforce housing. Owner/Developer agrees that thirty percent (30%) of the residential units offered for initial third-party sale by the Owner shall be offered at prices that allow purchasers to buy a home who earn up to 120% of the latest posted Average Median Income for Beaufort County, which Median Income was established at \$83,000.00 for a family of four (2018). Standards established by the US Department of Housing and Urban Development shall control regarding the calculation of pricing to meet the terms hereof. The sole responsibility of Owner hereunder shall be to regularly report to County such qualifying sales until the 30% threshold has been met, and no other County standards regarding affordable housing, moderate housing, or workforce housing shall be applied within the Property, nor shall any deed covenants be required.~~

J. **Affordable Housing.** Owner agrees that 40 housing units in the River Oaks at Okatie Village development will be sold as affordable housing units and will be sold at a price that meets up to 100% of the area median income (AMI) for a family of four for 2018 as determined by the United States Department of Housing and Urban Development, as adjusted by the County Human Services Department or its successor. Owner agrees that the 40 affordable housing units will be restricted by deed as affordable housing units for 20 years. The affordable housing units shall be chosen by the purchaser and placed by the purchaser based on the availability of lots. Owner agrees to pay on behalf of the applicant for a building permit for each of the 40 affordable housing units the School Capital Construction Fee, imposed pursuant to Section 9.B. of this Agreement. Except as may otherwise be provided in this Section 4.I, incentives available under the County's affordable housing program apply to the 40 affordable housing units. County agrees to work with Owner to ensure an easy process for certifying that the proposed purchaser of an affordable housing unit meets the financial qualifications to purchase the house.

J. **Trail and Open Space Plan.** The location of trails and open spaces for the River Oaks at Okatie development are shown on the Trail and Open Space Plan, attached to the Amended Agreement as Exhibit G. Changes to the Trail and Open Space Plan may be made but only in accordance with the provisions of the PUD.

SECTION 5. **DEVELOPMENT SCHEDULE.**

The estimated development schedule for the Property is set forth on Exhibit D. The Parties acknowledge that the development schedule is an estimate. Pursuant to the Act, the failure of the Owner to meet the initial development schedule shall not, in and of itself, constitute a material breach of this Amended Agreement. In such event, the failure to meet the development schedule shall be judged by the totality of circumstances, including but not limited to the Owner's good faith efforts to attain compliance with the development schedule. These schedules are planning and forecasting tools only, and shall not be interpreted as mandating the development pace initially forecast or preventing a faster pace if market conditions support a faster pace. The fact that actual development may take place at a different pace, based on future market forces, causing modifications to the development schedule, shall not be considered a default hereunder as long as the Owner demonstrates good cause for such modifications, which good cause may include market conditions. The parties acknowledge that development activity may occur faster or slower than the development schedule, depending upon market conditions. Furthermore, periodic adjustments to the development schedule which may be submitted by Owner as a result of

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market conditions shall not be considered a material amendment or breach of this Amended Agreement as long as the Owner demonstrates good cause for such adjustments, such as market conditions.

SECTION 6. VESTED RIGHTS; EFFECT OF FUTURE LAWS.

County agrees that Owner, upon receipt of its development permits, may proceed to develop the Property according to the terms and conditions of this Amended Agreement. As of the Effective Date, the right of Owner to develop the Property is deemed vested with Owner for the Term of this Amended Agreement. County agrees that the Zoning Regulations, as set forth in Exhibit C to this Amended Agreement, in force on the Effective Date, unless another date is otherwise specified in this Amended Agreement, shall govern all aspects of the Development of the Property, according to the terms and conditions as stated in this Amended Agreement, for the Term of this Amended Agreement. All laws, regulations and ordinances of the County, other than the Zoning Regulations, and those as may be enacted in the future, shall be applicable to Owner and the Development of the Property so long as they do not conflict with the Zoning Regulations or interfere with the ability to utilize and develop the Property in accordance with the Development Plan (Exhibit B).

Except as provided in Section 6-31-80 of the Act or as may be otherwise provided in this Amended Agreement, the Zoning Regulations as applied to the Property and Development shall not be amended or modified during the Term. Owner agrees that the County may amend or modify the procedures contained in the Zoning Regulations for processing land development applications and approvals, approval of subdivision plats, or the issuance of building permits and those amended or modified procedures shall apply to the Property and Development.

It is specifically acknowledged that this Amended Agreement shall not prohibit the application of any current or future building, housing, electrical, plumbing, gas, swimming pool or other standard codes of general application throughout the County, of any tax or fee of general application throughout the County, or of any law or ordinance of general application throughout the County found by the County Council to be necessary to protect the health, safety and welfare of the citizens of County. Specifically, the County may apply subsequently enacted laws applicable to development to the Property and Development in accordance with Section 6-31-80(B) of the Act.

SECTION 7. INFRASTRUCTURE AND SERVICES.

County and Owner recognize that services will be provided for the River Oaks at Okatie Village development by the County and other governmental or quasi-governmental entities. For clarification, the parties make specific note and acknowledge the following:

A. **Private Roads.** All roads within the Property shall be constructed by the Owner and maintained by it and/or a Homeowners' Association. The County shall not be responsible for the construction or maintenance of any roads within the Property, and the Owner and/or Homeowners' Association shall continue the maintenance until such time as the roads are accepted for maintenance by an appropriate governmental body. The County shall not be required to accept title to, or responsibility for maintenance of, any roads within the Property. Roads within the Property may be restricted regarding public access; *provided, however*, that Owner agrees that residents of the Osprey Point development shall be allowed access to reach the ____ school and Cherry Point areas during daylight hours and school-related trips.

B. **Public Roads.** The major public road that serves the Property is S.C. 170 and it is under the jurisdiction of the State of South Carolina regarding construction, improvements and maintenance. County shall not be responsible for construction, improvements or maintenance of S.C. 170 or any other public roads which now or hereafter serve the Property, unless the County elects to do so in the future. It shall be the responsibility of the Owner to adhere to applicable state or County requirements regarding ingress and egress to S.C. 170 or any other public roads that may serve the Property.

C. **Potable Water.** Potable water will be supplied to the Property by Beaufort-Jasper Water & Sewer Authority (BJWSA). Owner will construct or cause to be constructed all necessary water service infrastructure within the Property, which will be maintained by it or the BJWSA or a Homeowner's Association. County shall not be responsible for any construction, treatment, operation, maintenance or costs associated with water service to or for the Property. Owner agrees that all Development, with the exception of irrigation and facilities existing on the Effective Date, will be served with potable water prior to occupancy and that when the existing buildings are demolished all new construction will be served with potable water provided by BJWSA. Owner shall be responsible for all financial arrangements with the BJWSA.

D. **Sewage Treatment and Disposal / Access for Neighboring Properties.** Sewage collection, treatment and disposal will be provided by BJWSA. Owner will construct or cause to be constructed all necessary sewer service infrastructures within the Property, which will be maintained by it or the BJWSA or a Homeowner's Association. County shall not be responsible for any construction, treatment, maintenance or costs associated with sewer service to the Property. The Owner agrees that all Development, with the exception of facilities existing at the date of this Agreement, will be served by sewer prior to occupancy and that when the existing buildings are demolished all sewage disposal shall be through BJWSA. Owner shall be responsible for financial arrangements with BJWSA. If the BJWSA concurs, Owner is not required to use treated wastewater for irrigation purposes.

Owner agrees that the sewer service pipe system for the Property will be appropriately sized so as to accommodate potential future hookup to the system for the immediately adjacent existing homes in the neighboring Cherry Point Road community to the west of the Property, estimated to be approximately 20 homes. Owner will extend an appropriately sized sewer line to the property line of the Property. Any cost of connection regarding neighboring properties or any further improvements to facilitate connection and flow from neighboring properties shall be the sole responsibility of those seeking to establish such connection, and not the responsibility of Owner, the Homeowner's Association or the County. Any necessary system design work for such offsite work, permitting work or other related expense shall also be the responsibility of others and not Owner, the Homeowner's Association or the County. All required laws and regulations must be followed by those seeking connection to the River Oaks at Okatie Village sewer system, and the provision of sewer service to neighboring properties is subject to the approval of BJWSA and other relevant agencies. Owner's responsibility to extend the sewer line as described in this Section 7.D. shall be completed according to the Development Schedule set forth in Section 5 and Exhibit D of this Amended Agreement.

E. Drainage System. All storm water runoff and drainage system improvements within the Property will be (i) designed utilizing the County's best management practices in effect at the time development permits are applied for, (ii) will be constructed by Owner, and (iii) will be maintained by Owner and/or a Homeowners' Association. The County is not responsible for any construction or maintenance costs associated with the drainage system within the Property.

Owner shall be required to abide by all provisions of federal and state laws and regulations, including those established by the South Carolina Department of Health and Environmental Control (DHEC), Office of Ocean and Coastal Resource Management (OCRM), and their successors, for the handling of storm water that are in effect at the time of permitting.

F. Solid Waste Collection. Solid waste collection is currently provided by agreements with private companies. Solid waste collection shall be provided to the Property on the same basis as is provided to other residents and businesses within the County.

G. Police Protection. The County shall provide police protection services to the Property on the same basis as is generally provided to other residents and businesses within the County.

H. Emergency Medical Services. Emergency medical services are now being provided by the

County, and the County will continue to provide emergency medical services to the Property on the same basis as is provided to other residents and businesses within Bluffton Township.

I. **Library Services.** Library services are now provided by the County, and the County will provide library services to the Property as it currently provides on a County-wide basis.

J. **School Services.** School services are now provided by the Beaufort County School District and such service shall continue.

K. **Fire Services.** Fire services are now provided by the County, and the County will provide fire protection to the Property on the same basis as is provided to other property within Bluffton Township.

SECTION 8. AGREEMENT NOT TO ANNEX; PROCESSING OF APPLICATIONS.

A. **Annexation.** Owner agrees that it will not seek or permit the Property to be annexed into Jasper County, the City of Hardeeville, or any other local government prior to the expiration of the Term of this Amended Agreement. This Section 8 may be enforced by the County by all available legal means, and includes all remedies available at law or in equity, including specific performance and injunctive relief.

B. **Processing of Applications.** County agrees that its Community Development Department will process all complete application submittals on matters within its jurisdiction that do not require outside review within two weeks of receipt by providing comments or decisions. If the Owner has questions or concerns regarding the timely processing of any application submittals made to the County, the Owner shall contact the Director of the Community Development Department and County Attorney, who will investigate the question or concern and report back to the Owner within ten (10) days of being notified.

SECTION 9. FEES AND RELATED AGREEMENTS.

A. **Purpose.** The Parties understand and agree that Development of the Property imposes certain burdens and costs on the County, including those for certain services and infrastructure improvements. Eventually, *ad valorem* taxes collected from the Property may meet or exceed the burdens and costs placed upon the County, but certain initial costs and capital expenditures are now required that are not to be funded by any increase in taxes paid by existing residents of the County. The purpose of this Section 9 is to identify the matters agreed upon to be provided by Owner to mitigate those burdens and costs.

B. School Capital Construction Fee. Owner shall pay an impact fee of \$1,500 for each residential unit at the time of obtaining the building permit for the residential unit (the "\$1500 Impact Fee"). The \$1,500 Impact Fee terminates if the County adopts a school impact fee during the Term at which time Owner shall pay the county-wide school impact fee adopted by the County. For purposes of this Section 9.B and the 40 affordable housing units provided for in Section 4.I, "Owner" means BBII Holding Company, LLC, a South Carolina limited liability company.

C. Impact Fees, User Fees and Assessments. The Parties agree that the Property and Development shall be subject to all applicable impact fees, user fees and assessments in effect in the County at the time the Owner submits its permit applications, specifically including any impact fees, user fees and assessments that are in effect on the Effective Date and those that may be adopted by the County after the Effective Date.

D. Payment of Costs. Upon submission of appropriate documentation of the expenditure, Owner agrees to reimburse the County, not later than 180 days after the Effective Date, for the County's reasonable unreimbursed actual costs related to this Amended Agreement, including attorney's fees. ~~The foregoing cost reimbursement is capped at Four Thousand Dollars (\$4,000.00) and is limited to County payments to third party vendors and service providers.~~

E. Processing Fees. Owner is subject to the payment of any and all present or future fees enacted by the County that are of county-wide application and that relate to the County's costs of processing applications, issuing development permits, reviewing plans, conducting inspections or similar type processing costs.

F. Other Entity Charges and Fees. Nothing in this Amended Agreement shall be construed as relieving Owner from the payment of any fees or charges that may be assessed by entities other than the County.

SECTION 10. PERIODIC REVIEWS.

Owner shall cooperate with the County's zoning administrator in the periodic review conducted by the zoning administrator to determine if Owner is in compliance with this Amended Agreement. Periodic reviews will be conducted not less frequently than every twelve months. Cooperation by Owner includes meeting with the zoning administrator and providing documents and information required to be provided by this Section 10 and other documents and information that may be requested by the zoning administrator. Owner is required to provide such

information as may reasonably be requested by the zoning administrator, to include, but not be limited to, the amount of acreage or number of lots of the Property sold in the prior year, acreage or lots of the Property under contract, the number of certificates of occupancy anticipated to be issued in the ensuing year and any relevant information regarding fee payment, taxes and assessments, including an accounting by Owner regarding payments made under Section 9 of this Amended Agreement. Reporting of information required by this Section 10 will be made upon such forms as the County and Owner may agree upon from time to time. The review required by this Section 10 is in addition to, and not in lieu of, any other reporting or filing required by this Amended Agreement. If, as a result of a review, the County determines that Owner has committed a material breach of the terms or conditions of this Amended Agreement, the County shall serve such party in writing notice of such breach pursuant to the procedures set forth in Section 6-31-90(B) of the Act, affording the breaching party the opportunity to respond as set forth in Section 6-31-90(C) of the Act.

SECTION 11. DEFAULTS.

The failure of Owner or the County to comply with the terms and conditions of this Amended Agreement shall constitute a default, entitling the non-defaulting party to pursue such remedies as deemed appropriate, including specific performance and the termination of this Amended Agreement in accordance with the Act; provided, however, no termination of this Amended Agreement may be declared by the County absent its according the Owner the notice, hearing and opportunity to cure as provided in the Act. Nothing in this Section 11 shall be deemed or construed to preclude the County or its designee from issuing stop work orders or voiding permits issued for development when such development contravenes the provisions of the Zoning Regulations.

Notwithstanding the foregoing, it is acknowledged by all Parties to this Amended Agreement that the following events shall constitute a default, entitling the County to pursue the termination of this Amended Agreement, in accordance with the Act: (i) the failure to timely remit payments required hereunder to the County per the terms of this Amended Agreement; and (ii) if at any time during the Term, prior to the Owner having fulfilled any of their payment obligations, there shall be filed by or against the Owner in any court, pursuant to any state or federal statute, a petition in bankruptcy or insolvency, or for reorganization or appointment of a receiver or trustee of all or part of the assets of the Owner, or if it makes an assignment for the benefit of creditors.

SECTION 12. MODIFICATION OF AGREEMENT.

This Amended Agreement may be modified or amended only by the written agreement of the Parties. No statement, action or agreement made after the Effective Date shall be effective to change, amend, waive, modify,

discharge, terminate or effect an abandonment of this Amended Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom the change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced. Any amendment to this Amended Agreement shall comply with the Act.

SECTION 13. NOTICES.

Any notice, demand, request, consent, approval or communication which a Party is required to or may give to another Party hereunder shall be in writing and shall be delivered or addressed to the other at the address set forth below or to such other addresses such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or by facsimile or, if by mail, on the fifth (5th) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications to the County shall be addressed to:

The County of Beaufort
P.O. Box 1228
Beaufort, South Carolina 29901-1228
Attention: County Administrator

With Copy to:

The County of Beaufort
P.O. Box 1228
Beaufort, South Carolina 29901-1228
Attention: Community Development Director

And to the Owner at:

BBII Holding Company, LLC

With Copy to:

Richard Schwartz
President & COO
Village Park Homes LLC
4454 Bluffton Park Crescent
Suite 101
Bluffton, SC 29910

SECTION 14. ENFORCEMENT.

Any Party hereto shall have the right to enforce the terms, provisions and conditions of this Amended Agreement, if not cured within the applicable cure period, by any remedies available at law or in equity, including specific performance and the right of the prevailing party to recover attorney's fees and costs associated with said enforcement. Any Court action concerning this Amended Agreement shall be conducted in Beaufort County, South Carolina.

SECTION 15. GENERAL.

A. Subsequent State and Federal Laws. In the event state or federal laws or regulations are enacted after the Effective Date which prevent or preclude compliance with the Act or one or more provisions of this Amended Agreement ("New Laws"), the provisions of this Amended Agreement shall be modified or suspended as may be necessary to comply with such New Laws. Immediately after enactment of any such New Law, the Parties shall meet and confer in good faith in order to agree upon such modification or suspension based on the effect that such New Law would have on the purposes and intent of this Amended Agreement. During the time that the Parties are conferring on such modification or suspension or challenging the New Laws, the County may take reasonable action to comply with such New Laws. Should the Parties be unable to agree to a modification or suspension, any Party may petition a court of competent jurisdiction for an appropriate modification or suspension of this Amended Agreement. In addition, any Party shall have the right to challenge the New Laws preventing compliance with the terms of this Amended Agreement. In the event that such challenge is successful, this Amended Agreement shall remain unmodified and in full force and effect.

B. Estoppel Certificate. Each Party may, at any time, and from time to time, deliver written notice to the other applicable party requesting such party to certify in writing:

1. that this Amended Agreement is in full force and effect,
2. that this Amended Agreement has not been amended or modified, or if so amended, identifying the amendments,
3. Whether, to the knowledge of such party, the requesting party is in default or claimed default in the performance of its obligations under this Amended Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default, and
4. Whether, to the knowledge of such party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, would constitute a default and, if so, specifying each such event.

C. Entire Agreement. This Amended Agreement sets forth and incorporates by reference all of the agreements, conditions, and understandings between or among the Parties relative to the Property and its Development, and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, between or among these Parties relative to the matters addressed herein other than as set forth or as referred to herein. The Parties agree that this Amended Agreement replaces in its entirety the Original Agreement and that on the Effective Date of this Amended Agreement that the Original Agreement is no longer in force or

effect.

D. **No Partnership or Joint Venture.** Nothing in this Amended Agreement shall be deemed to create a partnership or joint venture between or among the County and any other Party or to render the County or such other Party liable in any manner for the debts or obligations of another Party.

E. **Exhibits.** All exhibits attached hereto and/or referred to in this Amended Agreement are incorporated herein as though set forth in full.

F. **Construction.** The Parties agree that each Party and its counsel have reviewed and revised this Amended Agreement, and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Amended Agreement or any amendments or exhibits hereto.

G. **Successors and Assigns.**

(1) **Binding Effect.** This Amended Agreement shall be binding upon the Owner's successors and assigns in the ownership of part or all of the Property or in the transfer of Development Rights for part or all of the Property. A successor or assigns to the Owner shall be responsible for the performance of the Owner's obligations under this Amended Agreement as to portion or portions of the Property, or Development Rights thereto, so transferred during the Term of this Amended Agreement. Owner's successors and assigns of part or all the Property, or Development Rights thereto, shall be required to execute a written acknowledgement applicable to the portion of the Property being conveyed accepting the Owner's obligations under this Amended Agreement, said document to be in recordable form and provided to the County at the time of recording any deed transferring all or a portion of the Property or instrument transferring Development Rights. This Section 15G(1) shall not be construed to prevent the assignor from obtaining indemnification of liability to the County from the successor or assignee, as applicable, and their successors and assignees. Further, Owner shall not be required to notify the County of, nor shall this Section 15G(1) apply to, the sale of single-family dwelling units or residential lots which have been platted, subdivided and approved in accordance with the terms of the Zoning Regulations, *provided, however*, nothing in this Section 15G(1) shall relieve the person obtaining a building permit for a residential unit from the obligation to pay the \$1500 Impact Fee required by Section 9B of this Amended Agreement.

(2) **Transfer of Property.** In addition to the requirements of Section 15G(1), Owner shall be entitled to transfer title to, or Development Rights for, any portion or all of the Property to a successor or

assignee subject to the following requirements:

(a) **Notice.** When the Owner intends to transfer all or a portion of the Property, the Owner shall notify the County in writing thirty (30) days in advance of the transfer specifying the name, address, telephone number, facsimile number, and contact person for the successor or assignee, as applicable.

(b) **Assignment.** Any and all conveyances of any portion of the Property to a successor or an assigns to undertake Development within the Property shall by contract and covenant running with the land in the deed or recorded assignment agreement into the successor or assignee, as applicable, assign a precise number of density units, which assigned number shall reduce the assigning Owner's number of density units provided for herein. Owner agrees to provide to the County Planning Department a copy of the deed or recorded assignment agreement.

(3) **Assignment Form.** The Parties hereto contemplate that the provisions of this Section 15G shall be fulfilled and set forth in a form of "Partial Assignment and Assumption of Rights and Obligations Under Development Agreement", to be executed at the time of any transfer of property covered under this Section 15G, by the assignor and assignee, in a form to be approved by the County and recorded in the land records of the County.

H. **Governing Law.** This Amended Agreement shall be governed by the laws of the State of South Carolina.

I. **Counterparts.** This Amended Agreement may be executed in several counterparts, each of which shall be deemed an original, and the counterparts shall constitute but one and the same instrument.

J. **Agreement to Cooperate.** In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Amended Agreement, the parties hereby agree to cooperate in defending such action; provided, however, each party shall retain the right to pursue its own independent legal defense.

K. **Eminent Domain.** Nothing contained in this Amended Agreement shall limit, impair or restrict the County's right and power of eminent domain under the laws of the State of South Carolina.

L. **No Third Party Beneficiaries.** The provisions of this Amended Agreement may be enforced only by the County and the Owner. No other persons shall have any rights hereunder.

M. Severability. If any provision in this Amended Agreement or the application of any provision of this Amended Agreement is held invalid, the invalidity shall apply only to the invalid provision, and the remaining provisions of this Amended Agreement, and the application of this Amended Agreement or any other provision of this Amended Agreement, shall remain in full force and effect. However, if the invalid provision would prevent or materially impair Owner's right or ability to complete performance of this Amended Agreement, the Parties agree to use their best efforts to renegotiate that provision in order for Owner to complete performance of this Amended Agreement.

N. No Waiver. Failure of any Party hereto to exercise any right hereunder shall not be deemed a waiver of such right and shall not affect the right of such Party to exercise at some future time said right or any other right it may have hereunder.

SECTION 16. STATEMENT OF REQUIRED PROVISIONS.

Section 6-31-60(A) of the Act requires that a development agreement must include certain mandatory provisions. Although certain mandatory provisions are addressed elsewhere in this Amended Agreement, the following listing of the required provisions is set forth for convenient reference. The numbering below corresponds to the numbering utilized under Section 6-31-60(A) of the Act for the required items:

(A)(1) Legal Description of Property and Legal and Equitable Owners. The legal description of the Property is set forth in Exhibit A, attached hereto. The legal owner of the Property is BBII Holding Company, LLC.

(A)(2) Duration of Agreement. The duration of this Agreement is five (5) years as set forth in Section 3 of this Amended Agreement.

(A)(3) Permitted Uses, Densities, Building Heights and Intensities. A complete listing and description of permitted uses, building intensities and heights, as well as other development-related standards, are contained in the Zoning Regulations and on the Development Plan (Exhibit B). Exhibit E sets forth anticipated population density of the Property at build out. Building heights will be limited to 45 feet, unless otherwise permitted in the Design Guidelines (Exhibit F), measured from the average adjacent ground level to the building (as measured for federal flood elevation certificates) to the eaves of the building (excluding chimneys, cupolas, and other such non-habitable spaces).

(A)(4) Required Public Facilities. The County will provide, or cause to be provided, police and fire services, as well as development application services to the Property. Beaufort-Jasper Water & Sewer Authority will provide water to the Property. Beaufort-Jasper Water & Sewer Authority will provide sewer collection services to the Property. Mandatory provisions and procedures of the Zoning Regulations and this Amended Agreement will ensure availability of roads and utilities to serve the residents on a timely basis.

(A)(5) **Dedication of Land and Provisions to Protect Environmentally Sensitive Areas.** The Zoning Regulations contain numerous provisions for the protection of environmentally sensitive areas. All relevant state and federal laws will be fully complied with, in addition to the provisions set forth in this Amended Agreement, and as shown on Exhibit B.

(A)(6) **Local Development Permits.** Specific permits must be obtained prior to commencing development, consistent with the standards set forth in the Zoning Regulations. Building Permits must be obtained under County law for any vertical or horizontal construction, and appropriate permits must be obtained from the DHEC (OCRM) and the Army Corps of Engineers, when applicable, prior to any impact upon critical area or jurisdictional freshwater wetlands. Access to S.C. 170 will be in accordance with permitting procedures of the South Carolina Department of Transportation. It is specifically understood that the failure of this Amended Agreement to address a particular permit, condition, term or restriction does not relieve the Owner from the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.

(A)(7) **Comprehensive Plan and Development Agreement.** The Development permitted and proposed in this Amended Agreement is consistent with the County's Comprehensive Plan and land development regulations.

(A)(8) **Terms for Public Health, Safety and Welfare.** The County finds that all issues relating to public health, safety and welfare have been adequately considered and appropriately dealt with under the terms of this Amended Agreement, the Zoning Regulations and existing law, and further, that entering into this Amended Agreement will further the public health, safety and welfare of the present and future residents of Beaufort County.

(A)(9) **Historical Structures.** Any historical or archaeological issues will be addressed through the permitting process at the time of Development under the Zoning Regulations and no exception from any existing standard is hereby granted.

SECTION 17. RECORDING.

Owner shall record this Amended Agreement in the real estate records of the County within fourteen (14) days of the execution of this Amended Agreement by the County.

SIGNATURES FOLLOW ON NEXT PAGE.

IN WITNESS WHEREOF, the Parties hereto have executed this Amended Agreement, effective on the Effective Date.

BBII HOLDING COMPANY, LLC

By: _____

Name: _____

Title: _____

STATE OF SOUTH CAROLINA)

) PROBATE

COUNTY OF BEAUFORT)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named BBII HOLDING COMPANY, LLC, by its Manager, _____, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

First Witness Signs Again Here

SWORN to before me this

___ day of _____, 2019

Notary Public Signs AS NOTARY

Notary Public for _____

My Commission Expires: _____

COUNTY SIGNATURE FOLLOWS ON NEXT PAGE.

BEAUFORT COUNTY, SOUTH CAROLINA

By: _____

Name: _____

Title: _____

STATE OF SOUTH CAROLINA)

) PROBATE

COUNTY OF BEAUFORT)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named BEAUFORT COUNTY, SOUTH CAROLINA, by its duly authorized officer, sign, seal and as its act and deed, deliver the within written instrument and that (s)he, with the other witness above subscribed, witnessed the execution thereof.

First Witness Signs Again Here

SWORN to before me this

____ day of _____, 2019

Notary Public Signs AS NOTARY

Notary Public for South Carolina

My Commission Expires: _____

List of Exhibits

Exhibit A – Property Description, River Oaks at Okatie Village

Exhibit B – River Oaks at Okatie Village Planned Unit Development (PUD), Ordinance 2008/14 as amended by Ordinance 2019/___

Exhibits B-1 and B-2- Lot Standards

Exhibit C – Zoning Regulations

Zoning Regulations

1. Ordinance 2008/14, zoning the Property River Oaks Planned Unit Development, as amended by Ordinance 2019/___, as set forth in Exhibit B.
2. Zoning and Development Standards Ordinance (ZDSO) of Beaufort County, in effect on September 3, 2009. A copy of the ZDSO is on file in the office of the County Planning Department. [Attach as Exhibit, attached selected provisions as Exhibit ~~2~~]
3. The Design Guidelines, as set forth in Exhibit F.
4. This Amended Agreement.
5. Ordinance 2019/___ approving this Amended Agreement.

Exhibit D – Development Schedule

Exhibit E – Population ~~??~~

Exhibit F – Design Guidelines

Exhibit G - Trail and Open Space Plan

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BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Brewer Memorial Park 2019 JOA and Operating Policy

Council Committee:

Natural Resources Committee - September 16, 2019

Meeting Date:

September 23, 2019

Committee Presenter (Name and Title):

Stefanie M. Nagid, Passive Parks Manager

Issues for Consideration:

A revised Joint Ownership Agreement (JOA) between the County and BCOLT for Brewer Memorial Park.

A new Operating Policy between the County and BCOLT for Brewer Memorial Park.

Points to Consider:

With the construction of the new stormwater demonstration site at Brewer Memorial Park, revisions to the original 2011 JOA, and the development of a more specific operating and maintenance policy, are necessary. County staff/Legal and BCOLT agree to the documents as written.

Funding & Liability Factors:

None

Council Options:

1) Approve the 2019 JOA and Operating Policy as written; 2) Approve the 2019 JOA and Operating Policy with revisions; 3) Do not approve the 2019 JOA and Operating Policy

Recommendation:

Approve the County Administrator to execute the Brewer Memorial Park 2019 Joint Ownership Agreement and Operating Policy as written.

ORDINANCE 2019/ ____

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE BREWER MEMORIAL PARK 2019 JOINT OWNERSHIP AGREEMENT AND OPERATING POLICY WITH THE BEAUFORT COUNTY OPEN LAND TRUST

WHEREAS, Beaufort County (“County”) and the Beaufort County Open Land Trust (“BCOLT”) are joint owners of certain real property in Beaufort County, South Carolina known as Brewer Memorial Park (aka Factory Creek Vista) on Lady’s Island under and by virtue of that certain general warranty deed dated December 9, 2011 and recorded at Deed Book 03104, Pages 1056-1058, Beaufort County, South Carolina recorded (said real property being referred to hereinafter as “Property”); and

WHEREAS, the County is the owner of a 49% undivided interest in the Property and BCOLT is the owner of a 51% undivided interest in the Property; and

WHEREAS, County Council finds that it is in the best interests of County citizens, residents and visitors to enter into a Joint Ownership Agreement and an Operating Policy with BCOLT, which designate shared ownership, operating and maintenance responsibilities between the parties.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council, duly assembled, does hereby authorize the County Administrator to execute the Brewer Memorial Park 2019 Joint Ownership Agreement and Operating Policy with the Beaufort County Open Land Trust, 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:

Sarah Brock, Clerk to Council

BREWER MEMORIAL PARK

(aka Factory Creek Vista)

JOINT OWNERSHIP AGREEMENT

This agreement made and entered into this ____ day of _____, 2019 by and between Beaufort County, a political subdivision of the State of South Carolina (referred to hereinafter as the “County”), and the Beaufort County Open Land Trust, a South Carolina non-profit corporation, (referred to hereinafter as “BCOLT”) as follows:

WHEREAS, the County and BCOLT are joint owners of certain real property in Beaufort County, South Carolina known as Brewer Memorial Park (aka Factory Creek Vista) on Lady’s Island under and by virtue of that certain general warranty deed dated December 9, 2011 and recorded at Deed Book 03104, Pages 1056-1058, Beaufort County, South Carolina recorded (said real property being referred to hereinafter as “Property”); and

WHEREAS the County is the owner of a 49% undivided interest in the Property and BCOLT is the owner of a 51% undivided interest in the Property; and

WHEREAS, the County and BCOLT intend by this Agreement to delineate their respective rights, duties, and obligations respecting the joint ownership and use of the Property.

NOW, THEREFORE, in consideration of these premises and other good and valuable consideration, BE IT AGREED AS FOLLOWS:

1. JOINT OWNERSHIP

It is acknowledged that the parties to the Agreement jointly own the Property and the respective shares of ownership of the owners are as follows:

Beaufort County	49% undivided interest
Beaufort County Open Land Trust	51% undivided interest

The parties intend that the Property shall be used as a passive park and open space for the enjoyment of the citizens of Beaufort County as provided for in this Agreement. The Property is a memorial to Judith Haskell Brewer in honor of the individual whose private donation initiated and enabled the preservation of the land. A plaque inlaid on a brick monument has been constructed and is maintained by BCOLT as a memorial. Additionally, a small sign commemorating the collaborative purchase, similar to other jointly preserved properties, has been constructed and is to be maintained by the County.

2. INTENDED USAGE

It is agreed that the Property shall be used as a passive park and the Brewer Memorial Park Stormwater Demonstration Site open to the public by mutual consent of both parties and in accord with an Operating Policy agreed to by both parties.

The Property currently has a community pier and dock facility on the site which is under the jurisdiction of the County. It is intended that this pier and dock will remain for the enjoyment of the public with the following understanding:

1. The pier and dock is for non-motorized watercraft only.
2. Recreational fishing is allowed from the dock.
3. Repair and maintenance of the pier and dock is the responsibility of the County.
4. Enforcement and security of the pier and dock is the responsibility of the County.
5. The County will hold the dock facility permit.

BCOLT and the County shall jointly develop an Operating Policy governing the public use of the Property, which can be amended from time to time to reflect the current desires of the parties.

3. INSURANCE

County and BCOLT each shall at all times maintain a policy of liability insurance with limits of liability of at least \$1,000,000.00 per occurrence for the uplands. County will carry liability insurance for the pier and dock.

4. MONITORING AND INSPECTIONS

The property and grounds will be operated and maintained by BCOLT in accordance with the Operating Policy as open space. Monitoring and inspection of the grounds will be conducted by BCOLT.

The pier and dock facility will be operated and maintained by the County in accordance with its applicable policies. Monitoring and inspection of the pier and dock facility will be conducted by County personnel.

The Brewer Memorial Park Stormwater Demonstration Site, as illustrated in Exhibit A, will be operated and maintained by the County in accordance with its applicable policies. Monitoring and inspection of the Brewer Memorial Park Stormwater Demonstration Site will be conducted by County personnel.

5. NOTICE

Each party shall give the other prompt notice of any adverse circumstance or situation arising in connection with the use of the Property including notice of any claim or dispute arising from its use. Any such notice including and any other notice necessary or appropriate under this Agreement shall be given as follows:

Beaufort County, Attn: County Administrator, P.O. Box 1228, Beaufort, SC 29901

Beaufort County Open Land Trust, Attn: Executive Director, P.O. Box 75, Beaufort, SC 29901

6. BREACH OF CONTRACT

If a party to this Agreement determines that the other party is in breach of the terms of this Agreement or that a breach is threatened, the claiming party shall notify the other party of the breach (hereinafter, "First Notice") and request voluntary compliance. In the event that voluntary cure is not agreed upon within sixty (60) days of receipt of First Notice, the claiming party shall give written notice to the noticed party of such breach (hereinafter, "Second Notice") and demand corrective action.

If the noticed party fails to cure the breach within sixty (60) days after receipt of Second Notice, the claiming party may bring an action at law or in equity in a court of competent jurisdiction.

7. TERMINATION

Either party shall have the right to terminate this Agreement upon six (6) months' prior written notice. In the event either party terminates this Agreement, it shall accompany notice of termination with an offer to purchase the ownership interest of the other party in the Property based upon a current professional (MAI) appraisal of the Property. The noticed party shall have thirty (30) days to respond to the terminating notice with a written confirmation of purchase offer acceptance.

8. OTHER PROVISIONS

- (a) This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, administrators, executors, successors, and assigns.
- (b) All prior agreements by or between the parties shall be deemed to have merged into this Agreement, including the Factory Creek Vista Joint Ownership Agreement dated March 2, 2011.
- (c) No amendment or change to this Agreement shall be effective unless made in writing and signed by authorized representative of both parties.
- (d) This Agreement shall be construed and enforced in accordance with the laws of the State of South Carolina.

SO AGREED this ____ day of _____, 2019.

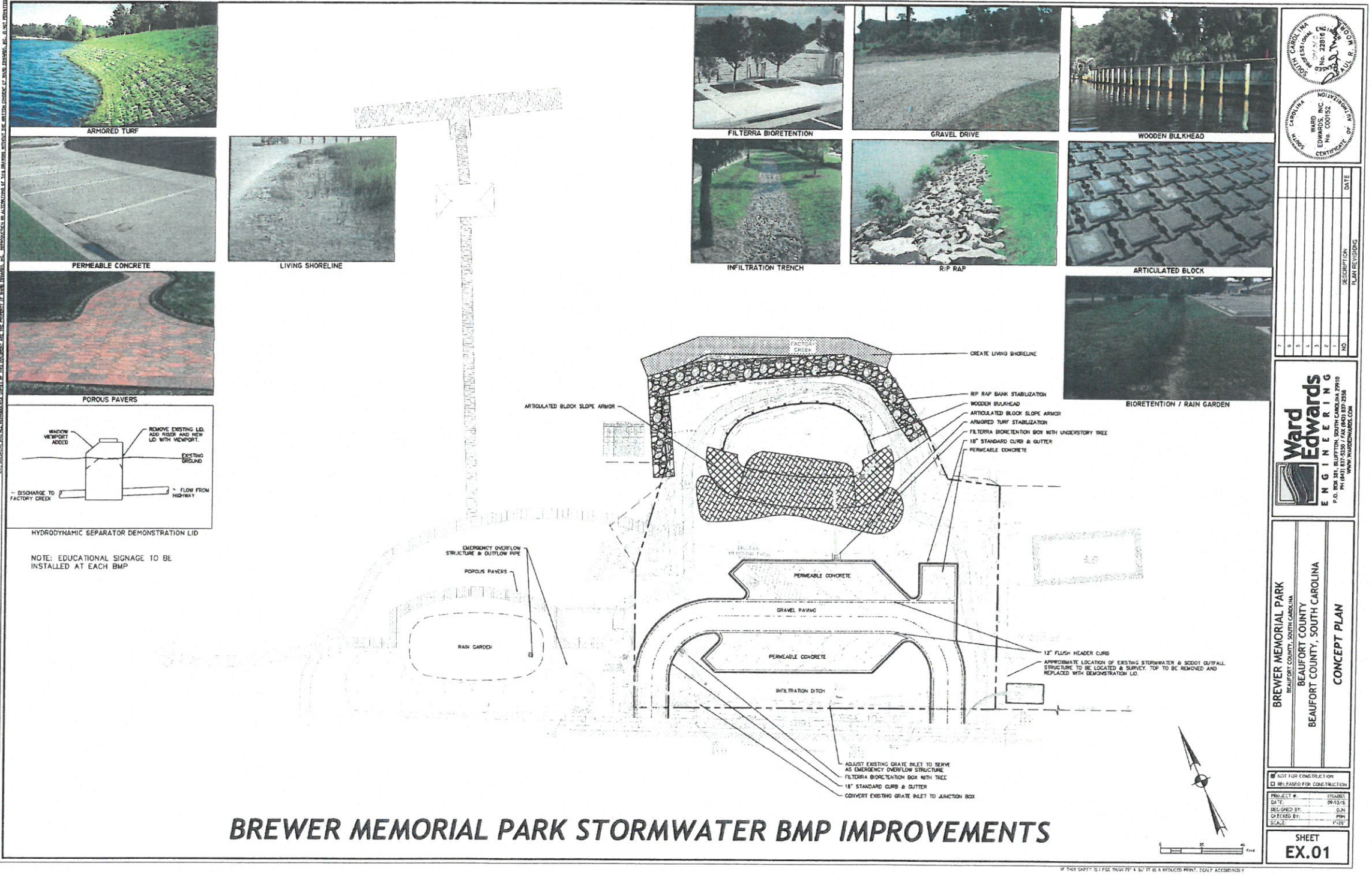
WITNESSES:

BEAUFORT COUNTY

By: _____
Name: Ashley Jacobs
Title: County Administrator

BEAUFORT COUNTY OPEN LAND
TRUST

By: _____
Name: Kristin Williams
Title: Executive Director



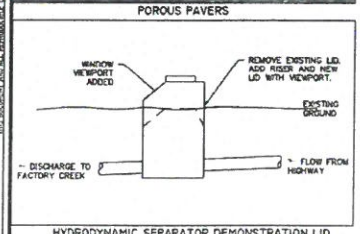
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PERMEABLE CONCRETE



POROUS PAVERS



HYDRODYNAMIC SEPARATOR DEMONSTRATION LID

NOTE: EDUCATIONAL SIGNAGE TO BE INSTALLED AT EACH BMP



LIVING SHORELINE



FILTERRA BIOTENTION



GRAVEL DRIVE



WOODEN BULKHEAD



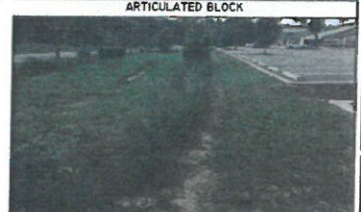
INFILTRATION TRENCH



RIP RAP



ARTICULATED BLOCK



BIOTENTION / RAIN GARDEN

WARD
EDWARDS
ENGINEERING
P.O. BOX 381, BEAUFORT, SOUTH CAROLINA 29919
TEL: 843.724.2338
WWW.WARDENG.COM

DATE

DESCRIPTION

PLAN REVISIONS

BREWER MEMORIAL PARK
BEAUFORT COUNTY, SOUTH CAROLINA

BEAUFORT COUNTY, SOUTH CAROLINA

CONCEPT PLAN

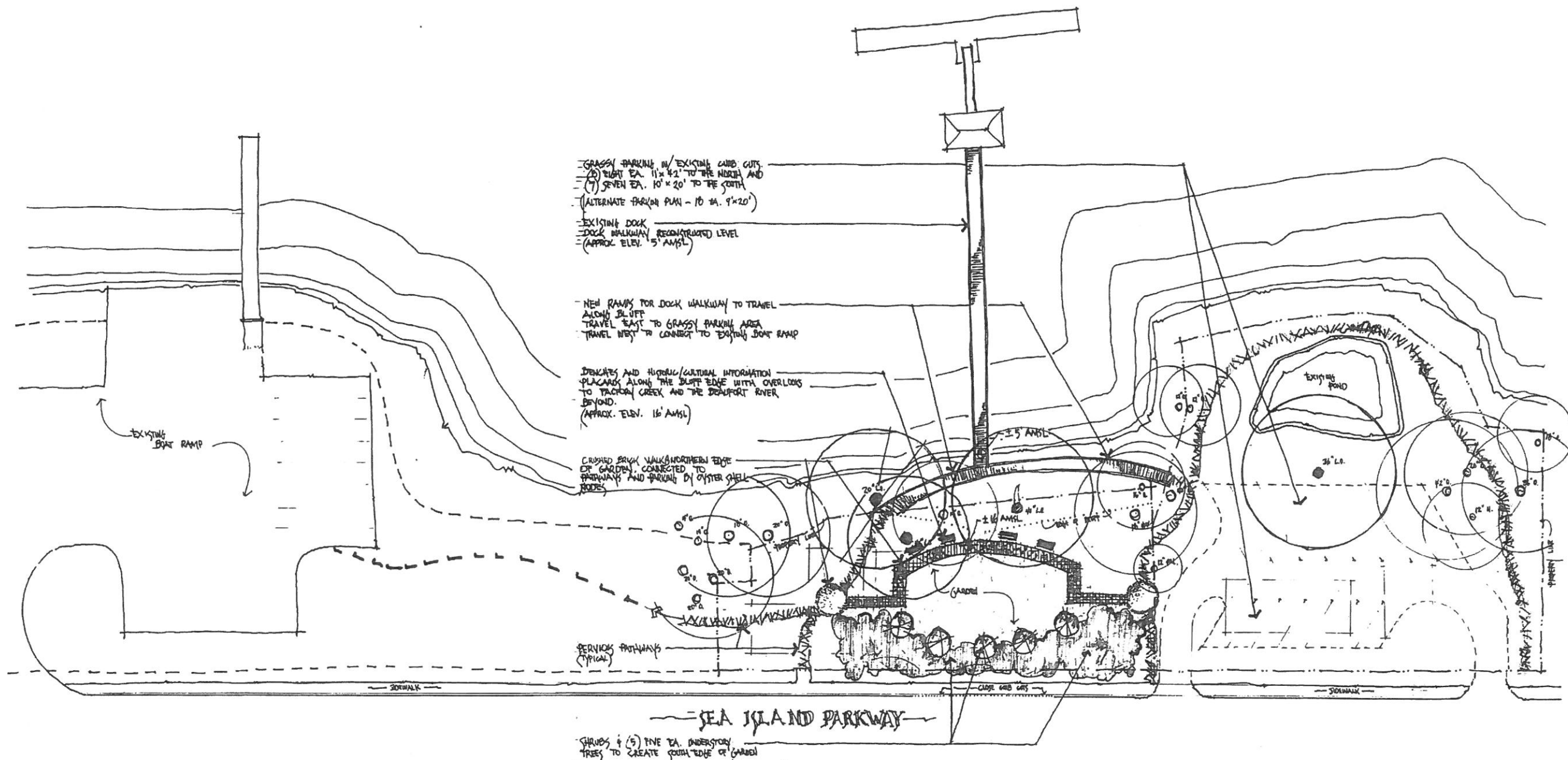
NOT FOR CONSTRUCTION
RELEASED FOR CONSTRUCTION

PROJECT #
DATE: 09/13/19
DESIGNED BY: DJN
CHECKED BY: JPM
SCALE: 1"=50'

SHEET
EX.01

BREWER MEMORIAL PARK STORMWATER BMP IMPROVEMENTS

IF THIS SHEET IS LARGER THAN 24" X 36" IT IS A REDUCED PRINT. SCALE ACCORDINGLY



Project VISTA

Factory Creek

BREWER MEMORIAL PARK

(aka Factory Creek Vista)

OPERATING POLICY

As designated by the Brewer Memorial Park Joint Ownership Agreement (JOA), Beaufort County (“County”) and the Beaufort County Open Land Trust (“BCOLT”) mutually agree to the duties and responsibilities as described in this Operating Policy.

PROPERTY DESCRIPTION

The Properties (R200 015 000 0142/143C 0000), known as Brewer Memorial Park (aka Factory Creek Vista), are jointly owned by the County (49%) and BCOLT (51%) and is more particularly described in Exhibit A.

USE OF PROPERTY

Brewer Memorial Park shall be used as a passive park for passive recreation, as described in the JOA and defined by the County’s Community Development Code and also as the Brewer Memorial Park Stormwater Demonstration Site. The County’s Passive Parks Ordinance (2018/53) shall apply to the Property.

HOURS OF OPERATION

Brewer Memorial Park shall be open to the public from dawn to dusk, with the public entrance off U.S. Highway 21 at the south base of the Woods Memorial Bridge on Lady’s Island.

ROUTINE MAINTENANCE BY BCOLT

BCOLT shall be responsible for certain routine maintenance tasks of Brewer Memorial Park, including but not limited to:

- Grass cutting and landscape plants along the property entrance, parking area, and open grounds.
- Landscape plants within the bioretention tree box and bioretention/rain garden, after installation by the County.
- Tree pruning and limb removal as needed for health and safety of the trees and the public, as approved by the County’s Natural Resource Planner.
- Irrigation systems.
- Lighting, including rental of fixtures and monthly utility bills.

Routine maintenance shall be provided by BCOLT.

ROUTINE MAINTENANCE BY COUNTY

County shall be responsible for certain routine maintenance tasks of Brewer Memorial Park including but not limited to:

- Signage, fencing, gates, bollards, locks, roadways, parking areas, piers, docks, and debris removal requiring the use of heavy equipment.
- The Brewer Memorial Park Stormwater Demonstration Site, as shown on Exhibit B, which may include:
 - Armored turf pond slope treatment
 - Articulated block pond slope treatment
 - Rip rap pond slope treatment
 - Wooden bulkhead pond edge treatment
 - Permeable concrete
 - Porous pavers
 - Hydrodynamic separator demonstration lid
 - Bioretention tree box
 - Infiltration trench
 - Gravel drive
 - Bioretention/rain garden
 - Living shoreline

MINOR REPAIR

It shall also be the responsibility of BCOLT to repair or replace any condition on the Property mutually deemed by the parties to be unsafe, the cost of which shall not exceed \$2,500.00.

MAJOR REPAIR OR MAINTENANCE

In the event the estimated cost of a repair or maintenance item exceeds \$2,500.00, the entire cost of such major maintenance or repair shall be shared in the proportion of ownership, or as mutually agreed upon by County and BCOLT.

MAJOR ALTERATIONS AND CAPITAL IMPROVEMENTS

Any “major alterations” or “capital improvement” on Brewer Memorial Park shall be mutually agreed to by both parties and shall be undertaken under the supervision of the County and their policies and procedures. The cost of such major repairs or capital improvements shall be mutually agreed to between the parties on a case by case basis. For the purposes of this Policy, the term “major alteration” or “capital improvement” shall be deemed to be any alteration or capital improvement having a cost or expense including all labor, materials, permits, and related items totaling in excess of \$2,500.00.

EDUCATIONAL EVENTS

The Brewer Memorial Park Stormwater Demonstration Site installed on the Property by the County is intended to be educational in nature. As such, the County and BCOLT shall encourage field trips and site visits to the Property by schools, civic groups, environmental clubs, and similar organizations. There shall be no charge for these types of events.

SECURITY

Brewer Memorial Park shall fall under the jurisdiction of the Beaufort County Sheriff's Department and will be routinely monitored by such.

TERMINATION

Either party shall have the right to terminate this Operating Policy upon thirty (30) days written notice for cause, which shall mean material breach of any obligation of the other party under the terms and provisions of this Operating Policy. In addition, either party shall have the right to terminate this Operating Policy upon six (6) months' prior written notice without cause.

BEAUFORT COUNTY**BEAUFORT COUNTY OPEN LAND TRUST**

By: Ashley Jacobs

Title: County Administrator

Date: _____

By: Kristin Williams

Title: Executive Director

Date: _____

WITNESSES:

WITNESSES:

EXHIBIT A

Parcel R200 015 000 143C 0000

ALL that certain piece, parcel or tract of land, situate, lying and being on Lady's Island, Beaufort County, South Carolina, being a portion of Lot 25, Section 9, 1S1W as shown on a plat prepared by R.D. Trogon, Jr., RLS, dated October 29, 1968, and recorded in Deed Book 160 at Page 23 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description of said property, reference may be had to an individual plat prepared by David S. Youmans, RLS, dated October 4, 1994, and recorded in Record Book 736 at Page 741 at the office of the Register of Deeds for Beaufort County, South Carolina. SAVE AND EXCEPT THEREFROM that portion of the property shown as Parcels "A" and "C" on a plat prepared by David E. Gasque, RLS, dated January 8, 1997, and recorded in Plat Book 59 at Page 117 at the office of the Register of Deeds for Beaufort County, South Carolina, which was conveyed to Beaufort County by deed of James A. Trumps dated January 31, 1997, and recorded in Record Book 923 at Page 2419 at the office of the Register of Deeds for Beaufort County, South Carolina. AND ALSO, all those certain pieces, parcels or lots of land, situate, lying and being on Lady's Island in Beaufort County, South Carolina, being shown as Parcels "B" and "D" on a plat prepared by David E. Gasque, RLS, dated January 8, 1997, and recorded in Plat Book 59 at Page 117 at the office of the Register of Deeds for Beaufort County, South Carolina. For a more complete description of said property, reference may be had to a plat prepared by Lorick V. Fanning, dated January 2, 2009, which is recorded in Plat Book 133 at Page 149 in the Office of the Register of Deeds for Beaufort County, South Carolina.

This is the same property acquired by the within Grantor by way of deed dated September 22, 2004 and recorded in Book 2027 at Page 472 in the Office of the Register of Deeds for Beaufort County, South Carolina.

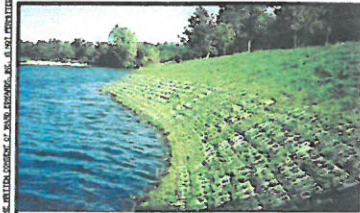
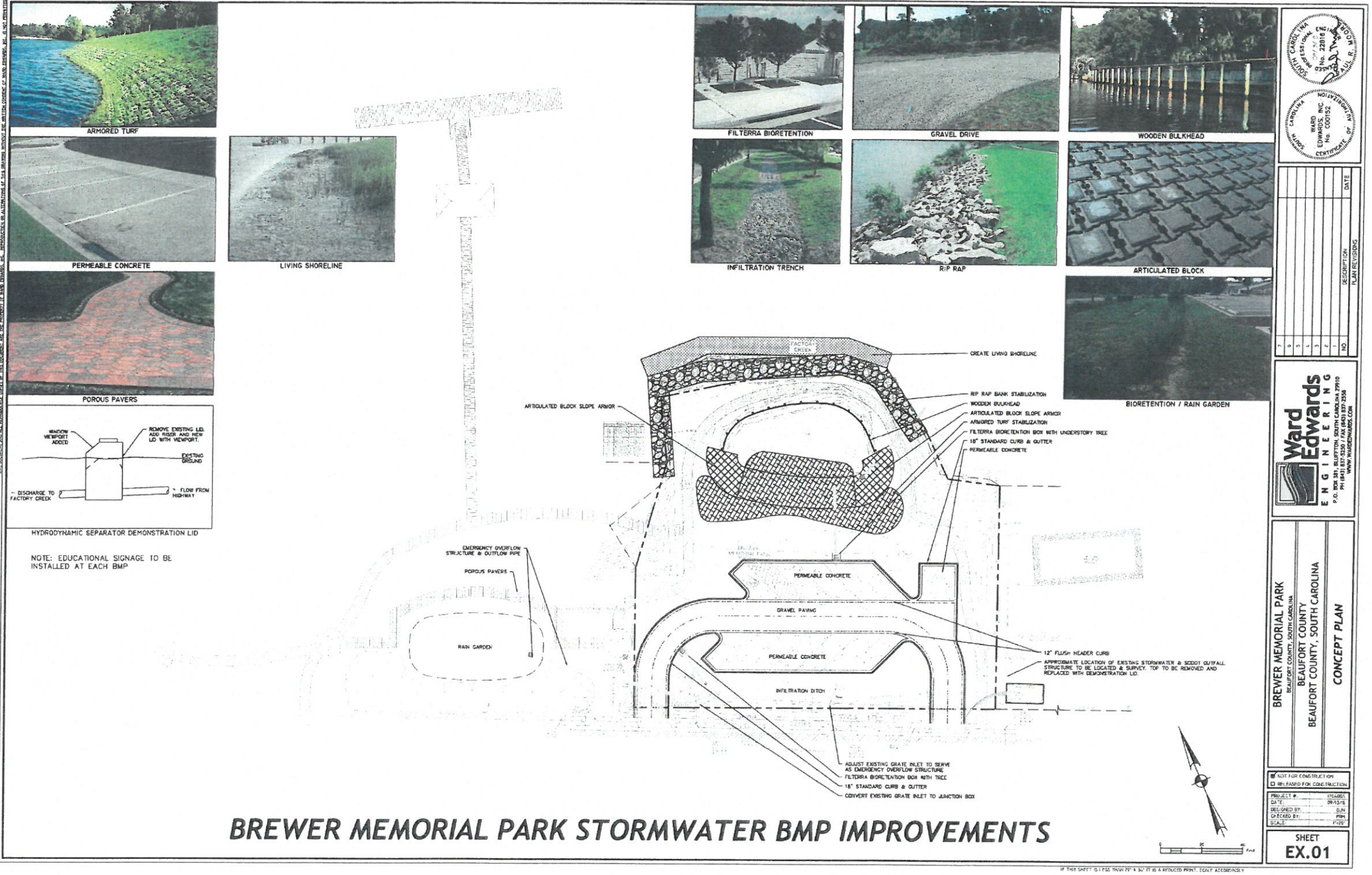
Parcel R200 015 000 0142 0000

All that certain piece, parcel or lot of land with improvements thereon, situated, lying and being on Lady's Island in the City of Beaufort, County of Beaufort, State of South Carolina, and being shown and designated as 0.580 acres, more or less, on a plat prepared for Lois Jenkins, dated February 14, 2007 and recorded in the Office of the Register of Deeds for Beaufort County in Plat Book 118 at Page 120.

The property conveyed herein is the same property conveyed to Lois P. Jenkins, Vivian Pigler (a/k/a Vivian P. Tolbert), and James E. Pigler, by Deed of Willie Pigler, dated January 20, 1966 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Book 135, at Page 105. Thereafter, upon the death of James E. Pigler on March 30, 1989, by Deed of Distribution dated August 7, 1993, and recorded in the Office of the Register of Deeds in Book 664, at Page 399, Muriel H. Pigler, Personal Representative of the Estate of James E. Pigler, conveyed the decedent's undivided one-third (1/3) interest as follows: Muriel H. Pigler, an undivided one-sixth (1/6) interest; Yvonne Pigler Magness, an undivided one-twenty-fourth (1/24) interest; Sandra Patricia Pigler, an undivided one-twenty-fourth (1/24) interest; and James Edward Pigler, Jr., an undivided one-twenty-fourth (1/24) interest. (See Beaufort County Probate Case No. 89ES0700371). Thereafter, by Deed dated September 7, 1993, and recorded in the Office for the Register of Deeds, Muriel H. Pigler conveyed her undivided one-sixth (1/6) interest in said property to Yvonne Pigler Magness, Sandra Patricia Pigler, Carmen Celeste Pigler and James Edward Pigler, Jr., each of whom owned an undivided one-twelfth (1/12) interest in the above-described real property.

EXHIBIT B

Brewer Memorial Park Stormwater Demonstration Site Project Plans



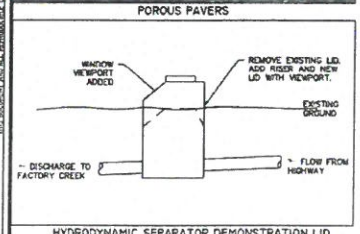
ARMORED TURF



PERMEABLE CONCRETE



POROUS PAVERS



HYDRODYNAMIC SEPARATOR DEMONSTRATION LID

NOTE: EDUCATIONAL SIGNAGE TO BE INSTALLED AT EACH BMP



LIVING SHORELINE



FILTERRA BIOTENTION



INFILTRATION TRENCH



GRAVEL DRIVE



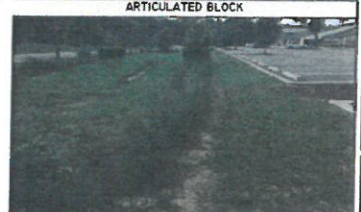
RIP RAP



WOODEN BULKHEAD



ARTICULATED BLOCK



BIOTENTION / RAIN GARDEN



NO.	DESCRIPTION	DATE
1	PLAN REVISIONS	
2		
3		
4		
5		
6		
7		

Ward Edwards
ENGINEERING
P.O. BOX 381, BEAUFORT, SOUTH CAROLINA 29919
TEL: 843/735-2338
WWW.WARDENG.COM

BREWER MEMORIAL PARK
BEAUFORT COUNTY, SOUTH CAROLINA
CONCEPT PLAN

NOT FOR CONSTRUCTION
RELEASED FOR CONSTRUCTION

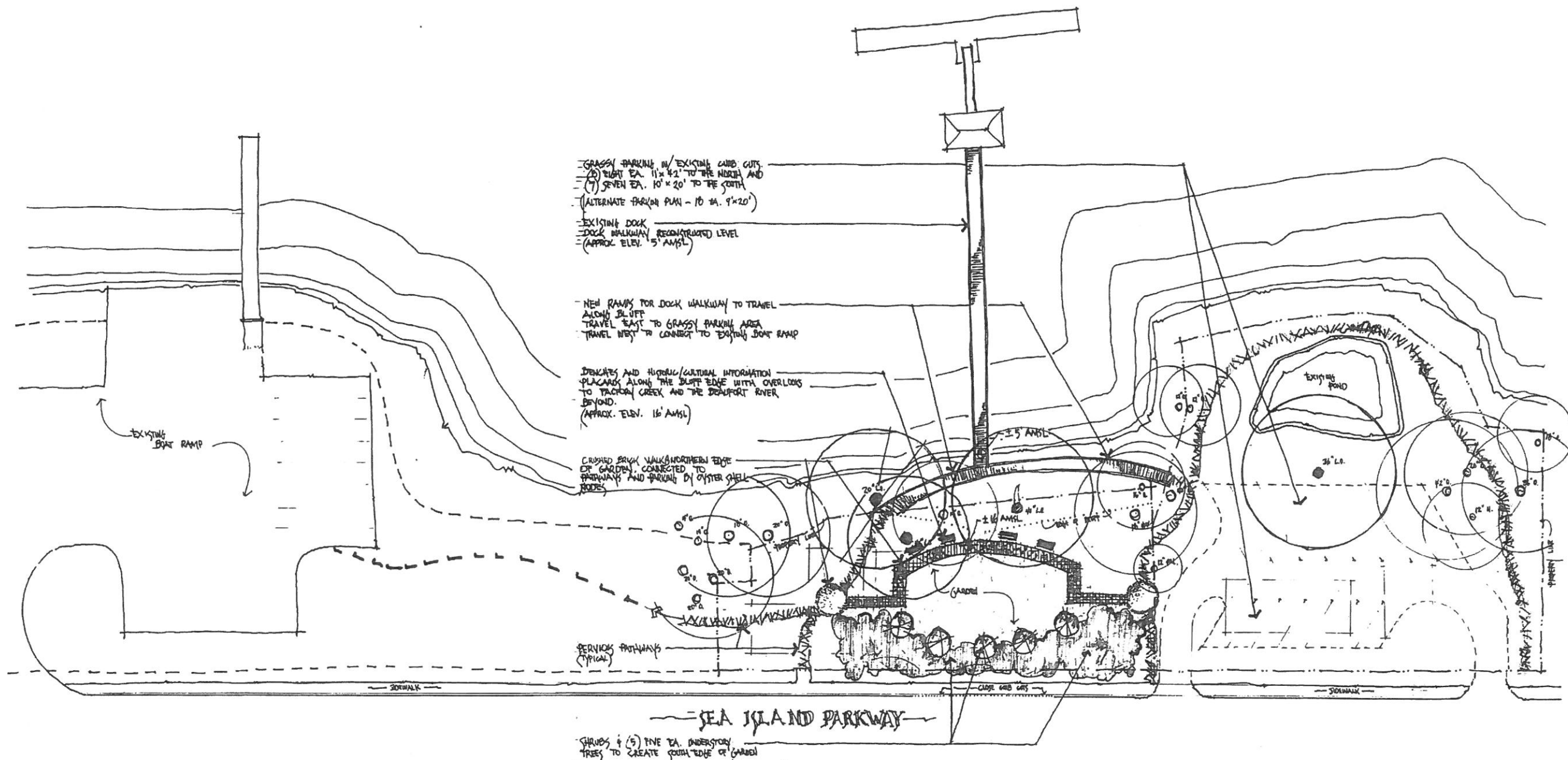
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DATE	09/15/19
DESIGNED BY	DJA
CHECKED BY	PM
SCALE	1"=50'

SHEET
EX.01

BREWER MEMORIAL PARK STORMWATER BMP IMPROVEMENTS



IF THIS SHEET IS LARGER THAN 24" X 36" IT IS A REDUCED PRINT. SCALE ACCORDINGLY



Project VISTA

Factory Creek



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Ordinance authorizing execution of a declaration restrictive covenants on 75 Confederate Avenue, also known as Bailey Memorial Park

Council Committee:

Natural Resources

Meeting Date:

August 19, 2019

Committee Presenter (Name and Title):

Eric Greenway, Community Development Director

Issues for Consideration:

Whether or not to place restrictive covenants on 75 Confederate Avenue.

Points to Consider:

The request, if approved, will result in restrictive covenants which place limitations on how the property is to be developed, used, and maintained as a public space consistent with the conservation value of the property.

Funding & Liability Factors:

None.

Council Options:

Approve, modify, or reject

Recommendation:

Staff recommends Council approve the request.

ORDINANCE 2019/_____

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A DECLARATION OF
RESTRICTIVE COVENANTS ON PROPERTY LOCATED AT 75 CONFEDERATE
AVENUE, ALSO KNOWN AS BAILEY MEMORIAL PARK.**

WHEREAS, Beaufort County (“County”) is the sole owner in fee simple of certain real property located at 75 Confederate Avenue, Bluffton, South Carolina, 29910, which is known as the Bailey Memorial Park (“Property”) ; and

WHEREAS, the County established the Rural and Critical Land Preservation Program in 1999 with purposes which include providing for the purchase of fee simple interests in lands which are deemed critical for the protection of natural resources, historic and cultural significance, regional or local recreation potential, viewscapes and lands suitable for public use; and

WHEREAS, the County purchased the Property through the Rural and Critical Lands Preservation Program to provide the public with a park for passive recreation, the opportunity to enjoy natural resource-based activities and to enjoy the scenic natural surrounds and views; and

WHEREAS, the County desires to establish restrictive covenants to ensure that the use of, and any future owners of any portion of the Property, protect the unique character of the Property in a manner which provides for public use and enjoyment of the Property; and

WHEREAS, Beaufort County Council has determined that it is in the best interests of its citizens and residents of Beaufort County to authorize the execution and delivery of the Declaration of Restrictive Covenants (Exhibit “A”) which are attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that the County Administrator is hereby authorized to execute and record the Declaration of Restrictive Covenants as are set forth in Exhibit “A”.

Adopted this _____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

EXHIBIT A

STATE OF SOUTH CAROLINA)	
)	
COUNTY OF BEAUFORT)	DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS (“Declaration”) is made and established this _____ day of _____, 2019 (“Effective Date”), by Beaufort County (“County”),

WHEREAS, the County is the sole owner in fee simple of certain real property located at 75 Confederate Avenue, Bluffton, South Carolina, 29910, otherwise known as the Bailey Memorial Park, and more particularly described in Exhibit “A” attached hereto and incorporated herein by reference (“Property”); and

WHEREAS, the Property possesses open space, natural value, and scenic value which are all of great importance to the County and to the people of South Carolina, the protection of which will yield significant public benefit; and

WHEREAS, the County established the Rural and Critical Land Preservation Program in 1999 with purposes which include providing for the purchase of fee simple interests in lands which are deemed critical to provide for the protection of natural resources, historic and cultural significance, regional or local recreation potential, viewscapes and lands suitable for public use; and

WHEREAS, the County purchased the Property through the Rural and Critical Lands Preservation Program to provide among other things the public with a park for passive recreation, the opportunity to enjoy natural resource-based activities and to enjoy the scenic natural surrounds and views; and

WHEREAS, the County desires to establish this Declaration to ensure that future use of the Property, and any future owners of any portion of this Property, must adhere to the restrictions described in this Declaration in order to protect the unique character of the Property in a manner that provides for public use and enjoyment of the Property.

NOW, THEREFORE, the County, in accordance with the purposes of the Rural and Critical Lands Preservation Program, hereby declares that the Property is and shall be held, transferred, sold, devised, assigned, conveyed, given, purchased, leased, occupied, possessed, mortgaged, encumbered, improved, and used subject to these Restrictive Covenants. These Restrictive Covenants, the benefits of these Restrictive Covenants, and the affirmative and negative burden of the Restrictive Covenants, whether pertaining to items, benefits and obligations presently existing or to be created or executed in the future, do and shall, in equity and at law, touch and concern, benefit and burden, and run with the land and any estates in the land herein referred to as the Property; and these Restrictive Covenants are intended to be covenants and servitudes burdening and benefiting all persons now or hereafter deriving a real property interest in the Property whether by assignment, succession, or inheritance, or other method of conveyance.

1. **Purpose.** The purpose of this Declaration (hereinafter the “Purpose”) is to retain and protect natural, scenic, historical, or open space values of real property, to assure its availability for agricultural, forestry, passive parks, recreational, educational, open space use, protect natural features and resources,

to maintain or enhance air quality or preserve the natural, historical, architectural, archeological or cultural aspects of the Property and protection for all other purposes in perpetuity.

This Purpose is further to ensure that the Property will be retained in perpetuity predominantly in its relatively natural and scenic condition for conservation goals and to prevent any use of the Property that would significantly impair or interfere with the Purpose while allowing for public passive recreation and education use of the Property that are compatible with, and not contrary to, the goals and purposes of the Rural and Critical Lands Preservation Program and Beaufort County's Community Development Code.

2. Restrictions. The County, and any future owners of any portion of the Property, shall be restricted to use the Property in accordance with these covenants. Specifically the following acts or uses are prohibited:
 - a. *Residential Structures*. No structure on the Property shall be used as a temporary or permanent dwelling for human beings.
 - b. *Industrial Uses*. There shall be no industrial uses, activities, or structures. No right of passage across or upon the Property shall be allowed or granted if that right of passage is used in conjunction with any industrial uses or activities.
 - c. *Commercial Use*. There shall be no commercial uses, activities or structures on the Property, unless approved by the current owner of the Property. The owner of the Property may grant approval for use of the Property for the purpose of events or activities, so long as the events or activities do not violate a reasonable standard for passive park and recreation activities, or for a purpose in furtherance of the Purpose as stated in this Declaration.
3. Enforceability. This Declaration shall be binding upon the County and any subsequent owner of the Property. The failure of the County, or any subsequent owner of the Property, to enforce any provision hereof shall not be deemed a waiver of any provision established in this Declaration.
4. General Provisions.
 - a. *Amendment*. Any amendments to this Declaration shall be made in writing and recorded in the Beaufort County Register of Deeds by the current owner of the Property.
 - b. *Captions*. The section headings appearing in this Declaration are for convenience of reference only and are not intended to any extent for the purpose, to limit or define any section or any subsection hereof.
 - c. *Severability*. If any provision of this Declaration is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Declaration shall nonetheless remain in full force and effect.
 - d. *Governing Law and Forum*. This Declaration shall be governed by and construed and enforced in accordance with the laws of the State of South Carolina. The forum and jurisdiction for any litigation associated with this Declaration shall be the Court of Common Pleas for Beaufort County, South Carolina.

IN WITNESS WHEREOF, the Grantor has executed this instrument on the _____ day of _____, 2019.

WITNESSES:

Beaufort County:

(Witness #1)

Ashley M. Jacobs
Beaufort County Administrator

(Witness #2/Notary Public)

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) **ACKNOWLEDGEMENT**

I, the undersigned, a Notary Public for South Carolina, do hereby certify that **Ashley M. Jacobs**, personally appeared before me this day and, in the presence of the two witnesses named above, acknowledged the due execution of the foregoing instrument.

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

Notary Public for _____
My Commission Expires _____

County Use Only
Location: Beaufort County
Township:
Tax Map No.

EXHIBIT A

ALL that certain piece, parcel or tract of land, situate, lying and being in Bluffton Township, Beaufort County, South Carolina, and being more particularly described as Parcel "B" containing 54.318 Acres as shown and described in that certain plat entitled "Southmark Properties" dated September 26, 1980 and revised on February 12, 1981, and prepared by Low Country Land Surveyors and signed by Forrest F. Baughman, RLS which said plat is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 29 at Page 81. For a more detailed description as to the courses, metes, distances, bounds, reference may be had to a drawing of TMS #R600 039 00B 0147 prepared by Mark W. Douglas, III of Coastal Surveying Co., Inc. dated July 13, 2015, and recorded with the Warranty Deed in Book 3763 at Page 1764.



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

RCLP Program Ordinance (NEW)

Council Committee:

Natural Resources

Meeting Date:

September 16, 2019

Committee Presenter (Name and Title):

Eric Greenway, Community Development Director

Issues for Consideration:

Adoption of a new ordinance that provides process specificity for the Rural and Critical Lands Preservation Program.

Points to Consider:

An RCLPP Ordinance was adopted in 1998. In 2006, the RCLPP Ordinance was removed from the code. There is currently no County code governing the administration of the RCLP Program. In 2006 a guidelines resolution was adopted, but it lacks detail. This new ordinance is needed in order to memorialize current RCLP Program procedures. The Beaufort County Open Land Trust and Beaufort County Staff/Legal agree with this ordinance as written. As a follow up to the August NRC discussion, the staff and Open Land Trust representatives met to address comments received since that meeting.

Funding & Liability Factors:

N/A

Council Options:

1. Approve as written. 2. Approve with revisions. 3. Do not approve.

Recommendation:

Staff recommends to approve the ordinance as written.

2019/ __

**AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, WHICH SHALL BE REFERRED TO AS
THE RURAL AND CRITICAL LANDS PRESERVATION PROGRAM ORDINANCE**

Chapter 26 – COMMUNITY DEVELOPMENT

ARTICLE II – RURAL AND CRITICAL LANDS PRESERVATION PROGRAM

SECTION 26-26: TITLE

This ordinance shall be known as the Rural and Critical Lands Preservation Program Ordinance.

SECTION 26-27: PURPOSE

It is the purpose of this ordinance to:

1. Provide a means by which rural and critical lands may be protected and enhanced as economic and environmental resources of major importance.
2. Encourage landowners to make a voluntary long-term commitment to rural and critical land protection by offering landowners financial incentives and security of land use.
3. Preserve open space; protect critical and natural resources; and/or provide land for passive recreation.
4. Leverage federal, state, local, and private conservation efforts and development rights purchase funds and protect the investment of taxpayers in purchased and donated conservation easements.
5. Provide a means whereby rural landowners can maintain and preserve the rural character of their land through land conservation.
6. Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property.
7. Reduce and defer the need for major urban infrastructure improvements in the rural areas of the county and the expenditure of public funds for such improvements.
8. Provide for the purchase of fee simple interests in lands deemed critical to provide for the protection of the natural resources, historic and cultural significance, passive recreation, viewscapes and lands suitable for public use in a manner consistent with its conservation values.

9. Provide for purchase of development rights and fee simple interest in lands threatened by development, which if it occurs will have detrimental effects on land use patterns, traffic, public safety, stormwater runoff, water quality or other conservation objectives.
10. Provide for purchase of development rights on rural lands, which provide protection of natural resources and stability of agricultural, timber and other open space uses.

SECTION 26-28: FINDINGS

1. Rural and critical lands in many parts of the county are under significant development pressure from expanding urban areas.
2. This urban pressure takes the form of scattered development in wide belts around urban areas and brings conflicting land uses into juxtaposition, creates high costs for public services, and stimulates land speculation.
3. Many of the rural and critical lands in the county are in jeopardy of being lost due to these activities.
4. These rural and critical lands constitute unique and irreplaceable land resources of countywide importance.
5. There are additional critical lands which are also valued natural and ecological resources which provide open space for wildlife habitat, wildlife corridors, clean air, clean water, groundwater recharge, and protection of cultural resources.
6. It is the declared policy of the county to provide a voluntary program to acquire or otherwise permanently protect rural lands and other lands containing critical natural, cultural and historic resources.
7. It is the policy of the county that rural and critical lands are valued natural and ecological resources which provide certain needed open space for wildlife habitat, wildlife corridors, clean air, clean water, groundwater recharge, and protection of historic and cultural resources.
8. It is the policy of the county to provide opportunities, through the purchase of development rights, to landowners to protect agricultural lands so that they may continue to farm the land, as well as to acquire such rights to protect other parcels where the landowner wishes to retain an ownership interest.

SECTION 26-29: DEFINITIONS

The following words and terms shall have the meaning respectively ascribed to them in this section:

1. *Conservation easement* means a non-possessory interest of a holder in real property imposing restrictions or affirmative obligations as defined in S.C. Code Ann. Section 27-8-20, or as defined in 26 U.S. Code Section 170(h).
 - a. These easements could take the form of an agricultural conservation easement, which would be rights and restrictions encumbering a property primarily for the purpose of protecting the agricultural soils, including prime, statewide, and locally important agricultural soils, viability, and productivity of that property.
2. *County* means Beaufort County, South Carolina.
3. *County Council* or *Council* means the elected County Council of Beaufort County, South Carolina.
4. *Critical lands* means any lot(s), tract(s), parcel(s), or areas(s), within the county that possess unique, significant, or important characteristics as may be identified by the Rural and Critical Land Preservation Board and subject to final approval by County Council. "Unique, significant, or important characteristics" include but are not limited to protection of cultural and historic resources and sites, the potential for medium to high density development, the ability to use the land for public access and passive recreation, the ability to use the land for public access to waterways, the ability of the land to be used for the preservation of public views of waterways or other scenic vistas, the quality of the land for purposes of a wildlife sanctuary, or such other and further characteristics which may be used to further the goals of Council.
5. *Development right* means the right to legally develop or subdivide property under current county codes and ordinances. The term includes, but is not limited to, the right to develop property for any commercial, industrial or residential use except as expressly permitted by this article and as further defined by the Beaufort County Community Development Code, as adopted and amended by County Council.
6. *Easement holder* means a holder as defined by S.C. Code Ann. Section 27-8-20(2), or a qualified organization as defined by 26 U.S. Code Section 170(h)(3).
7. *Greenprint* means the most recent Beaufort County Council approved version of the map of identified and prioritized parcels for acquisition under the County's Rural and Critical Lands Preservation Program.
8. *Landowner* means the record owner of the land or the authorized contract purchaser of the land.
9. *Land Preservation Board* or *Board* means the Beaufort County Rural and Critical Lands Preservation Board established by County Council as more fully described in County Code of Ordinances Chapter 2, Section 2-281 through 2-290.

10. *Land trust* means a nonprofit land conservation organization accredited by the Land Trust Alliance which meets the requirements of Internal Revenue Code Section 170 and is active in conservation efforts in the county or state.
11. *Passive park* means any fee-simple county owned or co-owned property purchased with Rural and Critical Lands Preservation Program designated funding as adopted by the Beaufort County Council. A list of passive parks is available with the Passive Parks Manager upon request and/or on the Beaufort County website. Properties not designated by the Council as a passive park may still be managed through the Passive Park Program/Manager.
12. *Passive recreation* means recreation requiring little or no physical exertion focusing on the enjoyment of one's natural surroundings. In determining appropriate recreational uses of passive parks, the promotion and development of resource-based activities such as fishing, camping, hunting, boating, gardening, bicycling, nature studies, horseback riding, visiting historic sites, hiking, etc., shall be the predominant measure for passive park utilization.
13. *Resource conservation area* means those areas of land in the County designated as "resource conservation areas" on the Zoning Map of Beaufort County, as adopted and amended by County Council.
14. *Restrictive easement* means rights and restrictions encumbering a property primarily for the purpose of limiting development on that property that would be incompatible with the United States of America's mission of Marine Corps Air Station Beaufort.
15. *Rural land* means ~~those areas designated as "rural service areas" and "resource conservation areas" on the Zoning Map of Beaufort County, as adopted and amended by County Council;~~ any lots, tracts, parcels that are zoned for low-density residential, rural, agricultural or farming uses, or which are being used, or which have the ability to be used, for such purposes, including but not limited to wildlife management or recreation. Rural lands possess unique, significant, or important characteristics as may be identified by the Beaufort County Rural and Critical Land Preservation Board and subject to final approval by the County Council. Unique, significant, or important characteristics include but are not limited to protection of farmland, prime soils, other working landscapes, river frontages, small marsh islands, wildlife corridors, fresh and saltwater wetlands, and land on the urban-rural edge or immediately outside the municipal boundary under threat of development or such other and further characteristics which may be used to further the goals of the county.
- ~~16. *Rural service area* means those areas of land in the County designated as "rural service areas" on the Zoning Map of Beaufort County, as adopted and amended by County Council.~~
- ~~17.~~ 16. Any terms left undefined by this ordinance shall take the meaning as otherwise defined by the Beaufort County Community Development Code, as adopted and amended by County Council. In the event of conflicting meanings, the definitions of this section shall control.

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SECTION 26-30: IN GENERAL

1. The County Council may designate by Resolution any policies, procedures, rules and regulations for the purpose of regulating the Rural and Critical Lands Preservation Program, its operation and funding, and may request and receive recommendations from the Rural and Critical Lands Preservation Board.
2. The County shall retain a Rural and Critical Lands Preservation Program Land Acquisition Contractor who shall be trained and properly qualified for the work and who shall work with the County Community Development Department, or other County staff as assigned, to procure, dispose of, and administer real estate and land rights for the County which have been procured through the Rural and Critical Lands Preservation Program in accordance with the County's purchasing policies and procurement code.

SECTION 26-31: TYPES OF ACQUISITIONS

There are two types of property interests that can be acquired under the provisions of this ordinance, the Purchase of Development Rights and the Purchase of Fee Simple Interests.

A. Purchase of Development Rights (PDR)

Development rights will typically be purchased in areas designated "Rural land", although there may be instances where PDR may be appropriate for purchase in other zoning designations. Generally, properties considered for PDR are those areas of the County where one or more of the following apply:

1. There are conservation values in or on the property to be preserved.
2. Development of the property would result in adverse impacts to the environment or public infrastructure serving the property.
3. The character of the property and its surrounding area would be threatened by proposed or possible future development.
4. The owner wishes to retain ownership of the property.
5. Public access to the property is not required or desirable.

The development rights purchased shall be transferred to Beaufort County by a Deed of Development Rights. If the development rights are to be purchased, the property may also be subject to the provisions of a conservation easement, and/or other applicable legal instruments as approved by Beaufort County Council which will assure that the property is protected from development other than what is permitted by the PDR agreement, the conservation easement, and/or any other legal instruments as approved by Beaufort County Council.

B. Purchase of Fee Simple Interests (PFSI)

Fee simple interests shall be applicable in all areas of the County, including those designated as "Rural land". Generally, properties considered for PFSI are those where the property owner(s) are willing to sell in those instances where one or more of the following apply:

1. There are conservation values in or on the property to be acquired and the owner is only willing to sell all of their interest in the property.
2. Public access to the property is required or desirable.
3. Development of the property for public access and passive recreation use is desirable.
4. Development of the property would result in adverse impacts to the environment or public infrastructure serving the property.

SECTION 26-32: GENERAL PROCESS

- A. The PDR and PFSI is a multi-step process within the Rural and Critical Lands Preservation Program (RCLPP or Program) whereby, at a minimum:
 1. The Land Preservation Board receives initial acquisition applications and does or does not recommend due diligence authorization to County Council.
 2. The County Council does or does not authorize due diligence funding.
 3. The Land Preservation Board receives acquisition proposals due diligence information and does or does not recommend acquisition approval to County Council.
 4. The County Council does or does not approve acquisition proposal.
- B. The PDR and PFSI is also an application process within the RCLPP whereby the following apply:
 1. Generally, eligible applicants are those individual property owners, land trusts, environmental advocacy organizations, or municipalities located in Beaufort County where property has been identified on the most recent version of the Greenprint.
 2. An application form shall be completed and submitted, as provided and instructed on the County website.
 3. Applications will be compiled and reviewed by the appropriate County staff and the Land Acquisition Contractor on no less than a quarterly basis.
 4. Eligible applications will be provided to the Land Preservation Board where they will discuss, prioritize, and recommend to the County Natural Resource Committee (NRC) for due diligence approval.
 5. The Board recommendation will be presented to the NRC, or other committees as may be appropriate or required, where a decision to fund due diligence will or will not be approved for each application.
 6. If approved by the NRC, the Land Acquisition Contractor will proceed with obtaining due diligence, which will be reviewed and each application ranked by the appropriate County staff and Contractor upon completion utilizing the Board adopted ranking forms.
 7. Applicant due diligence will be presented to the Land Preservation Board where they will discuss, prioritize, and make a recommendation to the NRC for acquisition approval.
 8. The Board recommendation will be presented to the NRC where a decision recommendation to acquire will or will not be approved for each application made to County Council for approval.

9. The NRC ~~approved recommendation and~~ applications will be presented to the full County Council for final approval. ~~no less than thirty (30) days prior to the closing date.~~
10. All closing documents will be provided to the County Attorney no less than three (3) days prior to closing for review and approval.
11. All contractual discussions by the Board, NRC, or Council may or may not be in Executive Session, as permitted by the South Carolina Freedom of Information laws.

SECTION 26-33: DUE DILIGENCE

Any PDR or PFSI will be subject to all due diligence being satisfactorily completed, reviewed and approved by the County. All due diligence shall be reviewed by the appropriate County staff before being sent to County Council for action. Due diligence shall include, but may not be limited to:

1. An appraisal of the value of the interest being acquired prepared by a Member of the Appraisal Institute (MAI), or other appropriately licensed or certified South Carolina appraiser.
2. A boundary survey completed by a South Carolina Registered Land Surveyor. In those instances of PFSI, a topographic survey, tree survey, archaeological survey, or other due diligence items shall also be obtained when appropriate.
3. A Phase I Environmental Assessment by a qualified environmental consulting firm. In instances where the Phase I report so indicates, a Phase II Environmental Assessment including a plan for any remediation, by the seller or purchaser, is required for the property to address the concerns to the satisfaction of the County.
4. When warranted by the Community Development ~~Code~~Department or the Land Acquisition Contractor as a part of due diligence, a title search, title opinion, and/or title insurance commitment with only normal title exceptions.

SECTION 26-34: CONSERVATION EASEMENTS

1. Conservation easements ~~shall~~may be placed on property where development rights have been acquired (Section 26-31:A.).
2. The conservation easements shall be granted directly to an appropriate easement holder by the owner, or by the County. The RCLP Board shall recommend an appropriate easement holder to County Council.
3. The stewardship funding required by the easement holder to defend and provide the necessary annual monitoring required for the easement may be granted by the County for the easement depending on the nature of the agreement reached between the County and the easement holder.

4. When the County and Marine Corps Air Station (MCAS) Beaufort collaborate on a PDR acquisition, an appropriate restrictive easement will be applied to the acquired property.

SECTION 26-35: COVENANTS AND RESTRICTIONS

1. Covenants and restrictions may be placed on property where development rights have been acquired.
2. Generally, covenants and restrictions will describe in some detail how a property is to be developed, used and maintained consistent with the conservation values of the property.

SECTION 26-36: RESALE, SWAP, CONDEMNATION OR LEASE OF ACQUIRED PROPERTY

There may be instances where property acquired under the RCLPP for its conservation value(s), and possibly to mitigate the impacts of development, may not be suitable or needed for county ownership in the future. In such cases, the County Council may request the RCLP Board to evaluate and make a recommendation on selling, swapping or leasing the property, in whole or in part.

In those instances, the RCLP Board shall be guided by the following:

1. To ensure that the resale, swap or lease of the property, in whole or in part, will not have an adverse impact on the conservation value(s) of the property, which can be assured through the placement of a conservation easement or other appropriate instruments on the sold, swapped or leased property if necessary.
2. To ensure that the development of the property for use(s) permitted under a conservation easement will be carefully monitored by the easement holder.

Additionally, the following will apply:

1. Any RCLPP property considered for sale, swap or lease shall require appropriate action by Council following prescribed procedures for sale, swap or lease of County-owned land.
2. If all or part of a RCLPP property is sold, swapped or condemned, the County and any co-owners will be entitled to respective ownership ratio compensation of any net proceeds, after payment of all closing expenses.
3. Any RCLPP property sold, swapped or condemned will have the County's portion of any proceeds deposited into the Land Preservation fund for use in future RCLPP acquisitions.
4. Any RCLPP property leased by the County will have any proceeds deposited into the Passive Parks fund for use in management and maintenance of RCLPP passive parks.

Secs. 26-37 – 26-49. Reserved

This ordinance supersedes and repeals Resolution 2006-3.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

APPROVED AS TO FORM:

Thomas J. Keaveny, II, Esquire
Beaufort County Attorney

ATTEST:

Sarah Brock, Clerk to Council

**AN ORDINANCE OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, WHICH SHALL BE REFERRED TO AS
THE RURAL AND CRITICAL LANDS PRESERVATION PROGRAM ORDINANCE**

Chapter 26 – COMMUNITY DEVELOPMENT

ARTICLE II – RURAL AND CRITICAL LANDS PRESERVATION PROGRAM

SECTION 26-26: TITLE

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SECTION 26-27: PURPOSE

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2. Encourage landowners to make a voluntary long-term commitment to rural and critical land protection by offering landowners financial incentives and security of land use.
3. Preserve open space; protect critical and natural resources; and/or provide land for passive recreation.
4. Leverage federal, state, local, and private conservation efforts and development rights purchase funds and protect the investment of taxpayers in purchased and donated conservation easements.
5. Provide a means whereby rural landowners can maintain and preserve the rural character of their land through land conservation.
6. Provide compensation to landowners in exchange for their relinquishment of the right to develop their private property.
7. Reduce and defer the need for major urban infrastructure improvements in the rural areas of the county and the expenditure of public funds for such improvements.
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2. This urban pressure takes the form of scattered development in wide belts around urban areas and brings conflicting land uses into juxtaposition, creates high costs for public services, and stimulates land speculation.
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2. *County* means Beaufort County, South Carolina.
3. *County Council* or *Council* means the elected County Council of Beaufort County, South Carolina.
4. *Critical lands* means any lot(s), tract(s), parcel(s), or areas(s), within the county that possess unique, significant, or important characteristics as may be identified by the Rural and Critical Land Preservation Board and subject to final approval by County Council. "Unique, significant, or important characteristics" include but are not limited to protection of cultural and historic resources and sites, the potential for medium to high density development, the ability to use the land for public access and passive recreation, the ability to use the land for public access to waterways, the ability of the land to be used for the preservation of public views of waterways or other scenic vistas, the quality of the land for purposes of a wildlife sanctuary, or such other and further characteristics which may be used to further the goals of Council.
5. *Development right* means the right to legally develop or subdivide property under current county codes and ordinances. The term includes, but is not limited to, the right to develop property for any commercial, industrial or residential use except as expressly permitted by this article and as further defined by the Beaufort County Community Development Code, as adopted and amended by County Council.
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7. *Greenprint* means the most recent Beaufort County Council approved version of the map of identified and prioritized parcels for acquisition under the County's Rural and Critical Lands Preservation Program.
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12. *Passive recreation* means recreation requiring little or no physical exertion focusing on the enjoyment of one's natural surroundings. In determining appropriate recreational uses of passive parks, the promotion and development of resource-based activities such as fishing, camping, hunting, boating, gardening, bicycling, nature studies, horseback riding, visiting historic sites, hiking, etc., shall be the predominant measure for passive park utilization.
13. *Resource conservation area* means those areas of land in the County designated as "resource conservation areas" on the Zoning Map of Beaufort County, as adopted and amended by County Council.
14. *Restrictive easement* means rights and restrictions encumbering a property primarily for the purpose of limiting development on that property that would be incompatible with the United States of America's mission of Marine Corps Air Station Beaufort.
15. *Rural land* means any lots, tracts, parcels that are zoned for low-density residential, rural, agricultural or farming uses, or which are being used, or which have the ability to be used, for such purposes, including but not limited to wildlife management or recreation. Rural lands possess unique, significant, or important characteristics as may be identified by the Beaufort County Rural and Critical Land Preservation Board and subject to final approval by the County Council. Unique, significant, or important characteristics include but are not limited to protection of farmland, prime soils, other working landscapes, river frontages, small marsh islands, wildlife corridors, fresh and saltwater wetlands, and land on the urban-rural edge or immediately outside the municipal boundary under threat of development or such other and further characteristics which may be used to further the goals of the county.
16. Any terms left undefined by this ordinance shall take the meaning as otherwise defined by the Beaufort County Community Development Code, as adopted and amended by County Council. In the event of conflicting meanings, the definitions of this section shall control.

SECTION 26-30: IN GENERAL

1. The County Council may designate by Resolution any policies, procedures, rules and regulations for the purpose of regulating the Rural and Critical Lands Preservation Program, its operation and funding, and may request and receive recommendations from the Rural and Critical Lands Preservation Board.
2. The County shall retain a Rural and Critical Lands Preservation Program Land Acquisition Contractor who shall be trained and properly qualified for the work and who shall work with the County Community Development Department, or other County staff as assigned, to procure, dispose of, and administer real estate and land rights for the County which have been procured through the Rural and Critical Lands Preservation Program in accordance with the County's purchasing policies and procurement code.

SECTION 26-31: TYPES OF ACQUISITIONS

There are two types of property interests that can be acquired under the provisions of this ordinance, the Purchase of Development Rights and the Purchase of Fee Simple Interests.

A. Purchase of Development Rights (PDR)

Development rights will typically be purchased in areas designated "Rural land", although there may be instances where PDR may be appropriate for purchase in other zoning designations. Generally, properties considered for PDR are those areas of the County where one or more of the following apply:

1. There are conservation values in or on the property to be preserved.
2. Development of the property would result in adverse impacts to the environment or public infrastructure serving the property.
3. The character of the property and its surrounding area would be threatened by proposed or possible future development.
4. The owner wishes to retain ownership of the property.
5. Public access to the property is not required or desirable.

The development rights purchased shall be transferred to Beaufort County by a Deed of Development Rights. If the development rights are to be purchased, the property may also be subject to the provisions of a conservation easement, and/or other applicable legal instruments as approved by Beaufort County Council which will assure that the property is protected from development other than what is permitted by the PDR agreement, the conservation easement, and/or any other legal instruments as approved by Beaufort County Council.

B. Purchase of Fee Simple Interests (PFSI)

Fee simple interests shall be applicable in all areas of the County, including those designated as "Rural land". Generally, properties considered for PFSI are those where the property owner(s) are willing to sell in those instances where one or more of the following apply:

1. There are conservation values in or on the property to be acquired and the owner is only willing to sell all of their interest in the property.

2. Public access to the property is required or desirable.
3. Development of the property for public access and passive recreation use is desirable.
4. Development of the property would result in adverse impacts to the environment or public infrastructure serving the property.

SECTION 26-32: GENERAL PROCESS

- A. The PDR and PFSI is a multi-step process within the Rural and Critical Lands Preservation Program (RCLPP or Program) whereby, at a minimum:
 1. The Land Preservation Board receives initial acquisition applications and does or does not recommend due diligence authorization to County Council.
 2. The County Council does or does not authorize due diligence funding.
 3. The Land Preservation Board receives acquisition proposals due diligence information and does or does not recommend acquisition approval to County Council.
 4. The County Council does or does not approve acquisition proposal.
- B. The PDR and PFSI is also an application process within the RCLPP whereby the following apply:
 1. Generally, eligible applicants are those individual property owners, land trusts, environmental advocacy organizations, or municipalities located in Beaufort County where property has been identified on the most recent version of the Greenprint.
 2. An application form shall be completed and submitted, as provided and instructed on the County website.
 3. Applications will be compiled and reviewed by the appropriate County staff and the Land Acquisition Contractor on no less than a quarterly basis.
 4. Eligible applications will be provided to the Land Preservation Board where they will discuss, prioritize, and recommend to the County Natural Resource Committee (NRC) for due diligence approval.
 5. The Board recommendation will be presented to the NRC, or other committees as may be appropriate or required, where a decision to fund due diligence will or will not be approved for each application.
 6. If approved by the NRC, the Land Acquisition Contractor will proceed with obtaining due diligence, which will be reviewed and each application ranked by the appropriate County staff and Contractor upon completionutilizing the Board adopted ranking forms.
 7. Applicant due diligence will be presented to the Land Preservation Board where they will discuss, prioritize, and make a recommendation to the NRC for acquisition approval.
 8. The Board recommendation will be presented to the NRC where a recommendation to acquire will or will not be made to County Council for approval.
 9. The NRC recommendation and applications will be presented to the full County Council for final approval.
 10. All closing documents will be provided to the County Attorney no less than three (3) days prior to closing for review and approval.

11. All contractual discussions by the Board, NRC, or Council may or may not be in Executive Session, as permitted by the South Carolina Freedom of Information laws.

SECTION 26-33: DUE DILIGENCE

Any PDR or PFSI will be subject to all due diligence being satisfactorily completed, reviewed and approved by the County. All due diligence shall be reviewed by the appropriate County staff before being sent to County Council for action. Due diligence shall include, but may not be limited to:

1. An appraisal of the value of the interest being acquired prepared by a Member of the Appraisal Institute (MAI), or other appropriately licensed or certified South Carolina appraiser.
2. A boundary survey completed by a South Carolina Registered Land Surveyor. In those instances of PFSI, a topographic survey, tree survey, archaeological survey, or other due diligence items shall also be obtained when appropriate.
3. A Phase I Environmental Assessment by a qualified environmental consulting firm. In instances where the Phase I report so indicates, a Phase II Environmental Assessment including a plan for any remediation, by the seller or purchaser, is required for the property to address the concerns to the satisfaction of the County.
4. When warranted by the Community Development Department or the Land Acquisition Contractor as a part of due diligence, a title search, title opinion, and/or title insurance commitment with only normal title exceptions.

SECTION 26-34: CONSERVATION EASEMENTS

1. Conservation easements may be placed on property where development rights have been acquired (Section 26-31:A.).
2. The conservation easements shall be granted directly to an appropriate easement holder by the owner, or by the County. The RCLP Board shall recommend an appropriate easement holder to County Council.
3. The stewardship funding required by the easement holder to defend and provide the necessary annual monitoring required for the easement may be granted by the County for the easement depending on the nature of the agreement reached between the County and the easement holder.
4. When the County and Marine Corps Air Station (MCAS) Beaufort collaborate on a PDR acquisition, an appropriate restrictive easement will be applied to the acquired property.

SECTION 26-35: COVENANTS AND RESTRICTIONS

1. Covenants and restrictions may be placed on property where development rights have been acquired.
2. Generally, covenants and restrictions will describe in some detail how a property is to be developed, used and maintained consistent with the conservation values of the property.

SECTION 26-36: RESALE, SWAP, CONDEMNATION OR LEASE OF ACQUIRED PROPERTY

There may be instances where property acquired under the RCLPP for its conservation value(s), and possibly to mitigate the impacts of development, may not be suitable or needed for county ownership in the future. In such cases, the County Council may request the RCLP Board to evaluate and make a recommendation on selling, swapping or leasing the property, in whole or in part.

In those instances, the RCLP Board shall be guided by the following:

1. To ensure that the resale, swap or lease of the property, in whole or in part, will not have an adverse impact on the conservation value(s) of the property, which can be assured through the placement of a conservation easement or other appropriate instruments on the sold, swapped or leased property if necessary.
2. To ensure that the development of the property for use(s) permitted under a conservation easement will be carefully monitored by the easement holder.

Additionally, the following will apply:

1. Any RCLPP property considered for sale, swap or lease shall require appropriate action by Council following prescribed procedures for sale, swap or lease of County-owned land.
2. If all or part of a RCLPP property is sold, swapped or condemned, the County and any co-owners will be entitled to respective ownership ratio compensation of any net proceeds, after payment of all closing expenses.
3. Any RCLPP property sold, swapped or condemned will have the County's portion of any proceeds deposited into the Land Preservation fund for use in future RCLPP acquisitions.
4. Any RCLPP property leased by the County will have any proceeds deposited into the Passive Parks fund for use in management and maintenance of RCLPP passive parks.

Secs. 26-37 – 26-49. Reserved

This ordinance supersedes and repeals Resolution 2006-3.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

APPROVED AS TO FORM:

Thomas J. Keaveny, II, Esquire
Beaufort County Attorney

ATTEST:

Sarah Brock, Clerk to Council



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

RCLP Board Ordinance

Council Committee:

Natural Resources

Meeting Date:

September 16, 2019

Committee Presenter (Name and Title):

Eric Greenway, Community Development Director

Issues for Consideration:

The revisions to the existing Rural and Critical Land Preservation Board Ordinance (Division 5, Section 2, 281-290).

Points to Consider:

Clarifying appointment, officer, and procedures sections also including board reporting and grammatical updates. Revisions for consistency with other board ordinances and current procedures. Beaufort County Open Land Trust and Beaufort County Staff/Legal are in agreement with the revisions as written.

Funding & Liability Factors:

N/A

Council Options:

1. Approve as written. 2. Approve with revisions. 3. Do not approve.

Recommendation:

Staff recommendation is to approve revisions as written.

DIVISION 5. – COUNTY RURAL AND CRITICAL LANDS PRESERVATION BOARD

Sec. 2-281. – Appointment.

An 11-member county rural and critical lands preservation board shall be appointed by the county council. One member with relevant experience and qualifications in matters such as estate law, finance, rural land ownership, agriculture, or conservation shall be appointed from each of the 11 county council districts.

Sec. 2-282. – Officers.

The county rural and critical lands preservation board shall elect annually one member of the board to serve as chairman and one member to serve as vice chairman. The chairman and vice chairman will serve a maximum of four (4) consecutive one-year terms. A vacancy in either the chairman and/or vice chairman must be filled for the unexpired term through board election within two (2) board meetings.

Sec. 2-293 – Terms.

The terms of initial appointees to the county rural and critical lands preservation board shall coincide with the expiration of the term of the county council district representative who serves the district which the appointee has been selected to represent. Thereafter, all members shall be appointed for four-year terms. A vacancy in the membership must be filled for the unexpired term in the same manner as the initial appointment. The membership is subject to division 1 of article V of chapter 2 of the Code regulating boards and commissions and appointments thereto as well as the county template ordinance.

Sec. 2-284 – Compensation.

Members of the county rural and critical lands preservation board shall serve without salary, but the county council shall entitle each member to reimbursement for ~~his~~their actual and necessary mileage expenses incurred in the performance of ~~his~~their official duties.

Sec. 2-285. – Conflicts of interest.

No member of the county rural and critical lands preservation board shall be disqualified by reason of ~~his~~their membership from selling any parcel or the development rights of any parcel in which ~~he has~~they have a financial interest, but any member with a direct or indirect financial interest in such parcel shall recuse ~~himself~~themselves from any board vote, discussion, or decision regarding such parcel.

Sec. 2-286. – Rules of procedure.

~~The county rural and critical lands preservation board shall promulgate procedures necessary to promote the efficient, uniform, and countywide administration of this article. The county rural and critical lands preservation board shall adopt rules of procedure governing its procedures and operations. Copies of adopted rules of procedure shall be made available for public inspection in the office of Director during normal business hours.~~

Sec. 2-287. – Powers and duties.

The county rural and critical lands preservation board shall have, but is not limited to, the following powers and duties:

- (1) Develop and recommend to county council, for adoption by resolution, ~~a set of the~~ Beaufort County Rural and Critical Lands Preservation Program ~~GreenPrint Policies and Guidelines~~ to guide the identification ~~and~~, prioritization, ~~and management~~ of parcels to be acquired through the county rural and critical ~~lands~~ preservation program. ~~The board may make recommendations to county council for amendments to the policies and guidelines as the need arises;~~
- (2) Identify, prioritize and recommend to county council rural and critical lands to be acquired through purchase of development rights, the option to purchase development rights, the fee simple purchase of property, or the exchange and transfer of title to parcels, as provided for in the county council's adopted ~~Beaufort County~~ Rural and Critical Lands Preservation Program ~~Ordinance Policies and Guidelines~~;
- (3) Promote, educate and encourage landowners to participate in the county rural and critical lands preservation program; and
- (4) Perform such other duties as may be assigned by county council.

Sec. 2-288. – Board Report

~~The county rural and critical lands preservation board shall submit to county council an annual report in December based on all of the activities carried out pursuant to the rural and critical lands preservation program. The report shall include but is not limited to the following:~~

- ~~(1) Map indicating the location of the total parcels of lands that have been acquired;~~
- ~~(2) Total number of acquired lands, number of acres and type of acquisitions of each of the acquired lands throughout the county;~~
- ~~(3) Number of landowners contacted or properties received for consideration for the program in the given year;~~
- ~~(4) Number of lands acquired, number of acres of each and type of acquisitions of each land acquired throughout the county in the given year;~~
- ~~(5) Total dollars spent in the program and total dollars leveraged with the program; and~~
- ~~(1)(6) Dollars spent and leveraged in the given year for the program.~~

Cross reference – Administration, ch. 2.

Secs. 2-28~~8~~9 – 2-290. – Reserved.

DIVISION 5. – COUNTY RURAL AND CRITICAL LANDS PRESERVATION BOARD

Sec. 2-281. – Appointment.

An 11-member county rural and critical lands preservation board shall be appointed by the county council. One member with relevant experience and qualifications in matters such as estate law, finance, rural land ownership, agriculture, or conservation shall be appointed from each of the 11 county council districts.

Sec. 2-282. – Officers.

The county rural and critical lands preservation board shall elect annually one member of the board to serve as chairman and one member to serve as vice chairman. The chairman and vice chairman will serve a maximum of four (4) consecutive one-year terms. A vacancy in either the chairman and/or vice chairman must be filled for the unexpired term through board election within two (2) board meetings.

Sec. 2-283 – Terms.

The terms of initial appointees to the county rural and critical lands preservation board shall coincide with the expiration of the term of the county council district representative who serves the district which the appointee has been selected to represent. Thereafter, all members shall be appointed for four-year terms. A vacancy in the membership must be filled for the unexpired term in the same manner as the initial appointment. The membership is subject to division 1 of article V of chapter 2 of the Code regulating boards and commissions and appointments thereto as well as the county template ordinance.

Sec. 2-284 – Compensation.

Members of the county rural and critical lands preservation board shall serve without salary, but the county council shall entitle each member to reimbursement for their actual and necessary mileage expenses incurred in the performance of their official duties.

Sec. 2-285. – Conflicts of interest.

No member of the county rural and critical lands preservation board shall be disqualified by reason of their membership from selling any parcel or the development rights of any parcel in which they have a financial interest, but any member with a direct or indirect financial interest in such parcel shall recuse themselves from any board vote, discussion, or decision regarding such parcel.

Sec. 2-286. – Rules of procedure.

The county rural and critical lands preservation board shall adopt rules of procedure governing its procedures and operations. Copies of adopted rules of procedure shall be made available for public inspection in the office of Director during normal business hours.

Sec. 2-287. – Powers and duties.

The county rural and critical lands preservation board shall have, but is not limited to, the following powers and duties:

- (1) Develop and recommend to county council, for adoption by resolution, the Beaufort County Rural and Critical Lands Preservation Program GreenPrint to guide the identification and prioritization of parcels to be acquired through the county rural and critical lands preservation program. ;
- (2) Identify, prioritize and recommend to county council rural and critical lands to be acquired through purchase of development rights, the option to purchase development rights, the fee simple purchase of property, or the exchange and transfer of title to parcels, as provided for in the county council's adopted Rural and Critical Lands Preservation Program Ordinance;
- (3) Promote, educate and encourage landowners to participate in the county rural and critical lands preservation program; and
- (4) Perform such other duties as may be assigned by county council.

Sec. 2-288. – Board Report

The county rural and critical lands preservation board shall submit to county council an annual report in December based on all of the activities carried out pursuant to the rural and critical lands preservation program. The report shall include but is not limited to the following:

- (1) Map indicating the location of the total parcels of lands that have been acquired;
- (2) Total number of acquired lands, number of acres and type of acquisitions of each of the acquired lands throughout the county;
- (3) Number of landowners contacted or properties received for consideration for the program in the given year;
- (4) Number of lands acquired, number of acres of of each and type of acquisitions of each land acquired throughout the county in the given year;
- (5) Total dollars spent in the program and total dollars leveraged with the program; and
- (6) Dollars spent and leveraged in the given year for the program.

Cross reference – Administration, ch. 2.

Secs. 2-289 – 2-290. – Reserved.



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

IFB# 080719 Project Management, Landscape Installation & Maintenance Services for the Highway 278 Medians between Tanger 1 and Westbury Park Way

Council Committee:

Natural Resources Committee

Meeting Date:

September 16, 2019

Committee Presenter (Name and Title):

Dave Thomas, Purchasing Director and Nancy Moss, Community Development Planner

Issues for Consideration:

On August 7, 2019 the Purchasing Department received three responses to the above IFB. See the attached memo. The Community Development Department Staff reviewed all of the responses and selected BrightView as the number one ranked firm. BrightView provided the lowest price of \$67,898.86

Points to Consider:

This service includes landscape site preparation, twelve month hand watering, warranty and maintenance program to facilitate plant establishment, cost of plants and installation of plants, and the cost of pine straw mulch with installation. The work is expected to begin on October 1, 2019 and end on September 30, 2020.

Funding & Liability Factors:

Funding is from the Tree Reforestation Fund which contains \$44,901.31 from the surplus COROC funds for Tanger 1 - Tanger 2 landscaping project and \$22,997.55 from the South-of-th-Broad Tree Mitigation Fund. There was \$971,752.32 in the Tree Reforestation Fund as of 08/20/2019.

Council Options:

Award the contract or not award the contract.

Recommendation:

The Purchasing Department recommends that the Natural Resources Committee approve and recommend to County Council the contract award to BrightView Landscape Services, Inc. in the amount of \$67,898.86 for the aforementioned Landscaping Services from the finding sources listed above.



**COUNTY COUNCIL OF BEAUFORT COUNTY
PURCHASING DEPARTMENT**

106 Industrial Village Road
Post Office Drawer 1228
Beaufort, South Carolina 29901-1228

TO: Councilwoman Alice Howard, Chairman, Natural Resources Committee

FROM: Dave Thomas, CPPO, Purchasing Director

SUBJ: **Recommendation of Contract Award for IFB #080719 Project Management, Landscape Installation & Maintenance Services for the Highway 278 Medians between Tanger 1 and Westbury Park Way for Beaufort County**

DATE: September 16, 2019

BACKGROUND: On August 7, 2019, Beaufort County received three bids for landscaping services for the Highway 278 traffic medians between Tanger 1 and Westbury Park Way in Bluffton, South Carolina. This service includes landscape site preparation, a twelve (12) month hand-watering, warranty and maintenance program to facilitate plant establishment, cost of plants and installation of plants, and the cost of pine straw mulch with installation. The work is estimated to begin on October 1, 2019 and is estimated to end on September 30, 2020. The bids were evaluated by the Community Development Department staff for the following three firms: BrightView Landscape Services, Inc., Hilton Head Landscapes, LLC; and The Greenery on August 13, 2019 and selected BrightView Landscape Services, Inc. as the lowest responsive/responsible bidder. Please see below the three firms that submitted proposals for this project, and their final ranking.

FIRMS FINAL RANKING:

Cost:

1. BrightView Landscape Services, Inc., Bluffton, SC 29910	\$67,898.86
2. Hilton Head Landscapes, LLC, Hilton Head Island, SC 29926	\$69,071.50
3. The Greenery, Inc., Hilton Head Island, SC 29938	\$99,715.10

*All firms are self-performing this project.

FUNDING: Funding is from the Tree Reforestation Fund which contains \$44,901.31 of the surplus COROC funds for Tanger 1 – Tanger 2 project and \$22,997.55 from the South-of-the-Broad Solar Panel Tree Mitigation. There was \$971,752.32 as of 08/20/19.

FOR ACTION: Natural Resources Committee meeting on Monday, September 16, 2019 at 4:00 p.m.

RECOMMENDATION: The Community Development Department recommends that the Natural Resources Committee approve the contract award to BrightView Landscape Services, Inc. in the amount of \$67,898.86 for the aforementioned Landscaping Services from the funding sources listed above.

CC: Ashley Jacobs, County Administrator
Alicia Holland, Asst. Co. Administrator, Finance
Eric Greenway, Community Development Department Director

Att: Landscape Plan Drawing

ORDINANCE NO. _____

AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2019C, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, OF BEAUFORT COUNTY, SOUTH CAROLINA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$25,000,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR OR HER LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS 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 “Code”), and the results of a referendum held in accordance therewith, the 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. Such debt must be incurred for a public purpose and a corporate purpose in an amount not to exceed eight percent (8%) of the assessed value of all taxable property of such county.

(c) Pursuant to Title 4, Chapter 15 of the Code (the same being and hereinafter referred to as the “County Bond Act”), the governing bodies of the several counties of the State of South Carolina (the “State”) may each issue general obligation bonds to defray the cost of any authorized purpose and for any amount not to exceed its applicable constitutional limit.

(d) The County Bond Act provides that as a condition precedent to the issuance of bonds an election be held and the result be favorable thereto. Title 11, Chapter 27 of the Code (“Title 11, Chapter 27”), provides that if an election be prescribed by the provisions of the County Bond Act, but not be required by the provisions of Article X of the Constitution, then in every such instance, no election need be held (notwithstanding the requirement therefor) and the remaining provisions of the County Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.

(e) Pursuant to Ordinance No. 2012/10 adopted on August 13, 2012, the County Council adopted Written Procedures related to Tax-Exempt Debt.

(f) In a referendum (the “Referendum”) held in the County on November 6, 2018, the following question was submitted to the qualified electors of the County:

Shall Beaufort County, South Carolina, issue general obligation bonds, not to exceed \$25 million, for the purpose of land preservation, by purchasing open land in Beaufort County in order to protect water quality, protect local waterways such as the Port Royal Sound, and local creeks and rivers such as the Okatie, Broad and May Rivers, wildlife areas, wetlands, natural lands, farmland, coastal areas, shellfish beds, and nursery areas for recreational and commercial fisheries, and beaches, and provide buffers for the Marine Corps Air Station Beaufort. All expenditures shall be subject to an annual independent audit and an amount not to exceed twenty percent (20%) of the funds created by this referendum may be used to improve existing and newly acquired open space and natural areas protected under this program?

The Referendum was duly conducted and a majority of the qualified electors of the County voted in favor of the issuance of the general obligation bonds.

(g) It is now in the best interest of the County for County Council to provide for the issuance and sale of not to exceed \$25,000,000 principal amount general obligation bonds of the County to provide funds for the following purposes: (i) funding projects approved in the Referendum (the "Projects"); (ii) paying costs of issuance of the Bonds (hereinafter defined); and (iii) such other lawful purposes as the County Council shall determine.

SECTION 2. Authorization and Details of Bonds. Pursuant to the aforesaid provisions of the Constitution and laws of the State, there is hereby authorized to be issued not to exceed \$25,000,000 aggregate principal amount of general obligation bonds of the County to be designated "\$25,000,000 (or such lesser amount issued) General Obligation Bonds, (appropriate series designation), of Beaufort County, South Carolina" (the "Bonds"), for the purposes set forth in Section 1(g) and other costs incidental thereto, including without limiting the generality of such other costs, engineering, financial and legal fees.

The Bonds shall be issued as fully registered bonds registrable as to principal and interest; shall be dated their date of delivery to the initial purchaser(s) thereof; shall be in denominations of \$5,000 or any integral multiple thereof not to exceed the principal amount of Bonds maturing each year; shall be subject to redemption if such provision is in the best interest of the County; shall be numbered from R-1 upward; shall bear interest from their date payable at such times as hereinafter designated by the County Administrator and/or her lawfully-authorized designee at such rate or rates as may be determined at the time of the sale thereof; and shall mature serially in successive annual installments as determined by the County Administrator and/or her lawfully-authorized designee.

Both the principal of and interest on the Bonds 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. Regions Bank, Atlanta, Georgia, shall serve as Registrar/Paying Agent for the Bonds.

SECTION 3. Delegation of Authority to Determine Certain Matters Relating to the Bonds. The County Council hereby delegates to the County Administrator or her lawfully-authorized designee the authority to: (a) determine the par amount of the Bonds; (b) determine the maturity dates of the Bonds and the respective principal amounts maturing on such dates; (c) determine the interest payment dates of the Bonds; (d) determine the redemption provisions, if any, for the Bonds; (e) determine the date and time of sale of the Bonds; (f) receive bids on behalf of the County Council; and (g) award the sale of the Bonds to the lowest bidder therefor in accordance with the terms of the Notice of Sale for the Bonds.

After the sale of the Bonds, the County Administrator and/or her lawfully-authorized designee shall submit a written report to County Council setting forth the details of the Bonds as set forth in this paragraph.

SECTION 4. Registration, Transfer and Exchange of Bonds. The County shall cause books (herein referred to as the “registry books”) to be kept at the offices of the Registrar/Paying Agent, for the registration and transfer of the Bonds. Upon presentation at its office for such purpose the Registrar/Paying Agent shall register or transfer, or cause to be registered or transferred, on such registry books, the Bonds under such reasonable regulations as the Registrar/Paying Agent may prescribe.

Each Bond shall be transferable only upon the registry books of the County, which shall be kept for such purpose at the principal office of the Registrar/Paying Agent, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar/Paying Agent duly executed by the registered owner or her duly authorized attorney. Upon the transfer of any such Bond the Registrar/Paying Agent on behalf of the County shall issue in the name of the transferee a new fully registered Bond or Bonds, of the same aggregate principal amount, interest rate, and maturity as the surrendered Bond. Any Bond surrendered in exchange for a new registered Bond pursuant to this Section shall be canceled by the Registrar/Paying Agent.

The County and the Registrar/Paying Agent may deem or treat the person in whose name any fully registered Bond shall be registered upon the registry books as the absolute owner of such Series Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such Bond and for all other purposes and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the County nor the Registrar/Paying Agent shall be affected by any notice to the contrary. In all cases in which the privilege of transferring Bonds is exercised, the County shall execute and the Registrar/Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. Neither the County nor the Registrar/Paying Agent shall be obliged to make any such transfer of Bonds during the fifteen (15) days preceding an interest payment date on such Bonds.

SECTION 5. Record Date. The County hereby establishes a record date for the payment of interest or for the giving of notice of any proposed redemption of Bonds, and such record date shall be the fifteenth (15th) day (whether or not a business day) preceding an interest payment date on such Bond or in the case of any proposed redemption of Bonds, such record date shall be the fifteenth (15th) day (whether or not a business day) prior to the giving of notice of redemption of bonds.

SECTION 6. Mutilation, Loss, Theft or Destruction of Bonds. In case any Bond shall at any time become mutilated in whole or in part, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the owner, the County shall execute and the Registrar shall authenticate and deliver at the principal office of the Registrar, or send by registered mail to the owner thereof at his request, risk and expense a new Bond of the same series, interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute Bond shall furnish the County and the Registrar evidence or proof satisfactory to the County and the Registrar of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity in an amount as may be required by the laws of the State of South Carolina or such greater amount as may be required by the County and the Registrar. Any duplicate Bond issued under the provisions of this Section in

exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance as was the original Bond in lieu of which such duplicate Bond is issued, and shall be entitled to equal and proportionate benefits with all the other Bonds of the same series issued hereunder.

All expenses necessary for the providing of any duplicate Bond shall be borne by the applicant therefor.

SECTION 7. Execution of Bonds. The Bonds shall be executed in the name of the County with the manual or facsimile signature of the Chairman of the County Council attested by the manual or facsimile signature of the Clerk to the County Council under a facsimile of the seal of the County impressed, imprinted or reproduced thereon; provided, however, the facsimile signatures appearing on the Bonds may be those of the officers who are in office on the date of enactment of this Ordinance. The execution of the Bonds in such fashion shall be valid and effectual, notwithstanding any subsequent change in such offices. The Bonds shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. Each Bond shall bear a certificate of authentication manually executed by the Registrar in substantially the form set forth herein.

SECTION 8. Form of Bonds. The Bonds including the certificate of authentication shall be in substantially the form set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION 9. Security for Bonds. The full faith, credit, and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. There shall be levied annually by the County Auditor and collected by the County Treasurer, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

The County Council shall give the County Auditor and County Treasurer written notice of the delivery of and payment for the Bonds and they are hereby directed to levy and collect annually, on all taxable property in the County, a tax, without limit, sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

SECTION 10. Notice of Public Hearing. The County Council hereby ratifies and approves the publication of a notice of public hearing regarding the Bonds and this Ordinance, such notice in substantially the form attached hereto as Exhibit B, having been published in The Island Packet and The Beaufort Gazette, newspapers of general circulation in the County, not less than 15 days prior to the date of such public hearing.

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

SECTION 12. Exemption from State Taxes. Both the principal of and interest on the Bonds shall be exempt, in accordance with the provisions of Section 12-2-50 of the 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 13. Federal Tax Covenants. The County hereby covenants and agrees with the holders of the Bonds that it will not take any action which will, or fail to take any action which failure will, cause interest on the Bonds to become includable in the gross income of the holders of the Bonds for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the "IRC") and regulations promulgated thereunder in effect on the date of original issuance of the Bonds. The County further covenants and agrees with the holders of the Bonds that no use of the proceeds of the Bonds shall be made which, if such use had been reasonably expected on the date of issue of the Bonds would have caused the Bonds to be "arbitrage bonds," as defined in Section 148 of the IRC, and to that end the County hereby shall:

- (a) comply with the applicable provisions of Sections 103 and 141 through 150 of the IRC and any regulations promulgated thereunder so long as the Bonds are 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 IRC.

SECTION 14. Declaration of Intent to Reimburse Certain Expenditures. This Resolution shall constitute the County's declaration of official intent pursuant to Regulation §1.150-2 of the Code to reimburse the County from a portion of the proceeds of the Bonds for expenditures it anticipates incurring (the "Expenditures") with respect to the Projects prior to the issuance of the Bonds. The Expenditures which are reimbursed are limited to Expenditures which are: (1) properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Regulation §1.150-2 of the IRC) under general federal income tax principals; or (2) certain de minimis or preliminary Expenditures satisfying the requirements of Regulation §1.150-2(f) of the IRC. The source of funds for the Expenditures with respect to the Projects will be the County's reserve funds. To be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (a) the date on which the Expenditures were paid; or (b) the date such Projects were placed in service, but in no event more than three (3) years after the original Expenditures.

SECTION 15. Eligible Securities. The Bonds initially issued (the "Initial Bonds") will be eligible securities for the purposes of the book-entry system of transfer maintained by The Depository Trust Company, New York, New York ("DTC"), and transfers of beneficial ownership of the Initial

Bonds shall be made only through DTC and its participants in accordance with rules specified by DTC. Such beneficial ownership must be of \$5,000 principal amount of Bonds of the same maturity or any integral multiple of \$5,000.

The Initial Bonds shall be issued in fully-registered form, one Bond for each of the maturities of the Bonds, in the name of Cede & Co., as the nominee of DTC. When any principal of or interest on the Initial Bonds becomes due, the Paying Agent, on behalf of the County, shall transmit to DTC an amount equal to such installment of principal and interest. DTC shall remit such payments to the beneficial owners of the Bonds or their nominees in accordance with its rules and regulations.

Notices of redemption of the Initial Bonds or any portion thereof shall be sent to DTC in accordance with the provisions of the Ordinance.

If (a) DTC determines not to continue to act as securities depository for the Bonds, or (b) the County has advised DTC of its determination that DTC is incapable of discharging its duties, the County shall attempt to retain another qualified securities depository to replace DTC. Upon receipt by the County the Initial Bonds together with an assignment duly executed by DTC, the County shall execute and deliver to the successor securities depository Bonds of the same principal amount, interest rate, and maturity registered in the name of such successor.

If the County is unable to retain a qualified successor to DTC or the County has determined that it is in its best interest not to continue the book-entry system of transfer or that interests of the beneficial owners of the Bonds might be adversely affected if the book-entry system of transfer is continued (the County undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify beneficial owners of the Bonds by mailing an appropriate notice to DTC, upon receipt by the County the Initial Bonds together with an assignment duly executed by DTC, the County shall execute, authenticate and deliver to the DTC participants Bonds in fully-registered form, in substantially the form set forth on Exhibit A attached to this Ordinance in the denomination of \$5,000 or any integral multiple thereof.

SECTION 16. Sale of Bonds, Form of Notice of Sale. The Bonds shall be offered for public sale on the date and at the time designated by the County Administrator and/or her lawfully-authorized designee. A Notice of Sale in substantially the form set forth as Exhibit D attached hereto and incorporated herein by reference shall be distributed to prospective bidders and a summary of such Notice of Sale shall be published in a newspaper of general circulation in the State and/or in a financial publication published in the City of New York not less than seven (7) days prior to the date set for such sale.

SECTION 17. Preliminary and Final Official Statement. The County Council hereby authorizes and directs the County Administrator and/or her lawfully-authorized designee to prepare, or cause to be prepared, a Preliminary Official Statement to be distributed to prospective purchasers of the Bonds together with the Notice of Sale. The County Council authorizes the County Administrator to designate the Preliminary Official Statement as “final” for purposes of Rule 15c2-12 of the Securities Exchange Commission. The County Administrator and/or her lawfully-authorized designee are further authorized to see to the completion of the final form of the Official Statement upon the sale of the Bonds so that it may be provided to the purchaser of the Bonds.

SECTION 18. Filings with Central Repository. In compliance with Section 11-1-85 of the Code, the County covenants that it will file or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of the annual financial report of the County within

thirty (30) days from the County's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which adversely affects more than five (5%) percent of the revenues of the County or the County's tax base.

SECTION 19. Continuing Disclosure. In compliance with Rule 15c2-12 promulgated by the Securities and Exchange Commission, the County covenants and agrees for the benefit of the holders from time to time of the Bonds to execute and deliver prior to closing, and to thereafter comply with the terms of a Continuing Disclosure Certificate in substantially the form appearing as Exhibit E attached to this Ordinance. In the event of a failure of the County to comply with any of the provisions of the Continuing Disclosure Certificate, an event of default under this Ordinance shall not be deemed to have occurred. In such event, the sole remedy of any bondholder or beneficial owner shall be an action to compel performance by this Ordinance.

SECTION 20. Deposit and Use of Proceeds. The proceeds derived from the sale of the Bonds shall be deposited with the County Treasurer in a special fund to the credit of the County and shall be applied solely to the purposes for which the Bonds have been issued, including payment of costs of issuance of the Bonds.

SECTION 21. Defeasance. The obligations of the County under this Ordinance and the pledges, covenants and agreements of the County herein made or provided for, shall be fully discharged and satisfied as to any portion of the Bonds, and such Bond or Bonds shall no longer be deemed to be outstanding hereunder when:

(a) such Bond or Bonds shall have been purchased by the County and surrendered to the County for cancellation or otherwise surrendered to the County or the Paying Agent and is canceled or subject to cancellation by the County or the Paying Agent; or

(b) payment of the principal of and interest on such Bonds either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with a corporate trustee in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment, or (2) Government Obligations (hereinafter defined) maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment and all necessary and proper fees, compensation and expenses of the corporate trustee. At such time as the Bonds shall no longer be deemed to be outstanding hereunder, such Bonds shall cease to draw interest from the due date thereof and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this Ordinance.

"Government Obligations" shall mean any of the following:

- (i) direct obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which, in the opinion of the Attorney General of the United States, is fully and unconditionally guaranteed by the United States of America; and
- (ii) non-callable, U. S. Treasury Securities - State and Local Government Series ("SLGS").

SECTION 22. Miscellaneous. The County Council hereby authorizes the Administrator and the Clerk to County Council to execute such documents and instruments as may be necessary to effect the issuance of the Bonds. The County Council hereby retains Burr & Forman LLP (Burr Forman McNair), as Bond Counsel and Hilltop Securities as Financial Advisor, in connection with the issuance of the Bonds. The Administrator is authorized to execute such contracts, documents or engagement letters as may be necessary and appropriate to effectuate these engagements.

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

Enacted this ____ day of _____, 2019.

BEAUFORT COUNTY, SOUTH CAROLINA

Chair, County Council

(SEAL)

ATTEST:

Clerk, County Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

FORM OF BOND

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
GENERAL OBLIGATION BOND, SERIES 2019C

No. R-

<u>INTEREST</u>	<u>MATURITY</u>	<u>ORIGINAL</u>	
<u>RATE</u>	<u>DATE</u>	<u>ISSUE DATE</u>	<u>CUSIP</u>

REGISTERED HOLDER:

PRINCIPAL AMOUNT: DOLLARS

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 the registered holder specified above, or registered assigns, the principal amount specified above on the maturity date specified above, upon presentation and surrender of this Bond at the principal office of _____ in _____ (the "Paying Agent"), and to pay interest on such principal amount from the date hereof at the rate per annum specified above until this Bond matures. Interest on this Bond is payable _____ 1, 20____, and semiannually on _____ 1 and _____ 1 of each year thereafter, until this Bond matures, and shall be payable by check or draft mailed to the person in whose name this Bond is registered on the registration books of the County maintained by the registrar, presently _____ in _____ (the "Registrar"), at the close of business on the fifteenth (15th) day of the calendar month preceding each semiannual interest payment date. The principal of and interest on this Bond are 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; provided, however, that interest on this fully registered Bond shall be paid by check or draft as set forth above.

This Bond shall not be entitled to any benefit under the Ordinance (hereafter defined), nor become valid or obligatory for any purpose, until the certificate of authentication hereon shall have been duly executed by the Registrar.

For the payment hereof, both principal and interest, as they respectively mature and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the County are irrevocably pledged and 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, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as they respectively mature and to create such sinking fund as may be necessary therefor.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinance. One bond certificate with respect to each date on which the Bonds are stated to mature, registered in the name of the securities depository nominee, is being issued and required to be deposited with the securities depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the securities depository's participants, beneficial ownership of the Bonds in the principal amount of \$5,000 or any integral multiple thereof being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the securities depository and its participants pursuant to rules and procedures established by the securities depository and its participants. The County and the Registrar/Paying Agent will recognize the securities depository nominee, while the registered owner of this bond, as the owner of this bond for all purposes, including payments of principal of and redemption premium, if any, and interest on this bond, notices and voting. Transfer of principal and interest payments to participants of the securities depository will be the responsibility of the securities depository, and transfer of principal, redemption premium, if any, and interest payments to beneficial owners of the Bonds by participants of the securities depository will be the responsibility of such participants and other nominees of such beneficial owners. The County will not be responsible or liable for such transfers of payments or for maintaining, supervision or reviewing the records maintained by the securities depository, the securities depository nominee, its participants or persons acting through such participants. While the securities depository nominee is the owner of this bond, notwithstanding, the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this bond shall be made in accordance with existing arrangements between the Registrar/Paying Agent or its successors under the Ordinance and the securities depository.

This Bond is one of a series of Bonds of like date of original issue, tenor and effect, except as to number, denomination, date of maturity, redemption provisions, and rate of interest, aggregating _____ Dollars (\$ _____), issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including Article X of the Constitution of the State of South Carolina, 1895, as amended; Title 4, Chapter 15, Code of Laws of South Carolina 1976, as amended; Title 11, Chapter 27, Code of Laws of South Carolina 1976, as amended; and Ordinance No. _____ duly enacted by the County Council on _____, 2019.

[Redemption Provisions]

This Bond is transferable as provided in the Ordinance, only upon the books of the County kept for that purpose at the principal office of the Registrar by the registered holder in person or by his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered holder or her duly authorized attorney. Thereupon a new fully registered Bond or Bonds of the same aggregate principal amount, interest rate redemption provisions, if any, and maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance. The County, the Registrar and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

Under the laws of the State of South Carolina (the "State"), 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 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; and that provision has been made for the levy and collection of a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as the same shall respectively mature and to create such sinking fund as may be necessary therefor.

IN WITNESS WHEREOF, BEAUFORT COUNTY, SOUTH CAROLINA, has caused this Bond to be signed with the manual or facsimile signature of the Chairman of the County Council, attested by the manual or facsimile signature of the Clerk to the County Council and the seal of the County impressed, imprinted, or reproduced hereon.

BEAUFORT COUNTY, SOUTH CAROLINA

Chair of County Council

(SEAL)

ATTEST:

Clerk of County Council

[FORM OF REGISTRAR'S CERTIFICATE OF AUTHENTICATION]

Date of Authentication:

This bond is one of the Bonds described in the within mentioned Ordinance of Beaufort County, South Carolina.

as Registrar

By: _____
Authorized Officer

The following abbreviations, when used in the inscription on the face of this Bond shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - As tenants in common

UNIF GIFT MIN. ACT

TEN ENT - As tenants by the
entireties

Custodian
(Cust.) (Minor)

JT TEN - As joint tenants
with right of
survivorship and
not as tenants in
common

under Uniform Gifts to Minors

(State)

Additional abbreviations may also be used though not in list above.

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Name and address of Transferee)

the within Bond and does hereby irrevocably constitute and appoint _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranteed:

(Authorizing Officer)

Signature(s) must be guaranteed
by an institution which is a
participant in the Securities
Transfer Agents Medallion
Program ("STAMP") or similar
program.

NOTICE: The signature to this agreement
this agreement must correspond with the
name of the registered holder as it appears
upon the face of the within Bond in every
particular, without alteration or enlargement
or any change whatever.

A copy of the final approving opinion to be rendered shall be attached to each Bond and preceding the same a certificate shall appear, which shall be signed on behalf of the County with a manual or facsimile signature of the Clerk to the County Council. The certificate shall be in substantially the following form:

[FORM OF CERTIFICATE]

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the complete final approving opinion (except for date and letterhead) of Burr & Forman LLP, Columbia, South Carolina, approving the issue of Bonds of which the within Bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for the Bonds and a copy of which is on file with the County Council of Beaufort County, South Carolina.

BEAUFORT COUNTY, SOUTH CAROLINA

By: _____
Clerk of County Council

FORM OF NOTICE OF PUBLIC HEARING

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"), County Administration Building, 100 Ribaut Road, Beaufort, South Carolina, at 6:30 p.m. on _____, 2019.

The purpose of the public hearing is to consider an Ordinance providing for the issuance and sale of General Obligation Bonds of Beaufort County, South Carolina, in the principal amount of not to exceed \$25,000,000 (the "Bonds"). The proceeds of the Bonds will be used for the following purposes: (i) funding projects approved in a referendum held in the County on November 6, 2018; (ii) paying costs of issuance of the Bonds; and (iii) such other lawful purposes as the County Council shall determine.

The full faith, credit, and taxing power of the County will be pledged for the payment of the principal of and interest on the Bonds and a tax, without limit, will be levied on and collected annually, in the same manner other County taxes are levied and collected, on all taxable property of the County sufficient to pay to principal of and interest on the Bonds as they respectively 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 Bonds.

COUNTY COUNCIL OF BEAUFORT COUNTY,
SOUTH CAROLINA

FORM OF NOTICE

NOTICE OF ADOPTION OF ORDINANCE

Notice is hereby given that on _____, 2019, the Beaufort County Council adopted an ordinance entitled: "ORDINANCE NO. _____ AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2019C, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, OF BEAUFORT COUNTY, SOUTH CAROLINA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$25,000,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR OR HER LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO." (the "Ordinance"). The Ordinance authorizes the issuance and sale of not to exceed \$25,000,000 General Obligation Bonds, Series 2019C (the "Bonds") of the County.

The proceeds of the Bonds will be used for the following purposes: (i) funding projects approved in a referendum held in the County on November 6, 2018; (ii) paying costs of issuance of the Bonds (hereinafter defined); 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 Beaufort County.

COUNTY COUNCIL OF BEAUFORT COUNTY,
SOUTH CAROLINA

FORM OF NOTICE OF SALE

OFFICIAL NOTICE OF SALE

\$ _____ GENERAL OBLIGATION BONDS, SERIES 2019C,
OF BEAUFORT COUNTY, SOUTH CAROLINA

Time of Sale: NOTICE IS HEREBY GIVEN that bids will be received on behalf of Beaufort County, South Carolina (the "County"), until 11:00 a.m, South Carolina time, on _____, _____, 2019, at which time said proposals will be publicly opened for the purchase of \$ _____ General Obligation Bonds, Series 2019C, of the County (the "Bonds").

Electronic Bids: Electronic proposals must be submitted through i-Deal's Parity Electronic Bid Submission System ("Parity"). No electronic bids from any other providers of electronic bidding services will be accepted. Information about the electronic bidding services of Parity may be obtained from i-Deal, 1359 Broadway, 2nd Floor, New York, New York 10018, Customer Support, telephone (212) 849-5021.

Book-Entry-Only Bonds: The Bonds will be issued in fully-registered form. One Bond representing each maturity will be issued to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), as registered owner of the Bonds and each such Bond will be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof not to exceed the principal amount of Bonds maturing each year; Purchasers will not receive physical delivery of certificates representing their interest in the Bonds purchased. The winning bidder, as a condition to delivery of the Bonds, will be required to deposit the Bond certificates representing each maturity with DTC.

The Bonds will be issued in fully-registered form registered as to principal and interest; will be dated _____, 2019; will be in denominations of \$5,000 or any integral multiple thereof not to exceed the principal amount of Bonds maturing in each year; and will mature serially in successive annual installments on _____ in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Principal Amount*</u>	<u>Year</u>	<u>Principal Amount*</u>
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*Preliminary, subject to adjustment.

Adjustment of Maturity Schedule. The County reserves the right, in its sole discretion, either to decrease or increase the principal amount of the Bonds maturing in any year (all calculations to be rounded to the near \$5,000), provided that any such decrease or increase shall not exceed 10% of the Bonds. Such adjustment(s), if any, shall be made within twenty-four (24) hours of the award of the Bonds. In order to calculate the yield on the Bonds for federal tax law purposes and as a condition precedent to the award of the Bonds, bidders must disclose to the County in connection with their respective bids the price (or yield to maturity) at which each maturity of the Bonds will be reoffered to the public.

In the event of any adjustment of the maturity schedule for the Bonds as described herein, no rebidding or recalculation of the proposals submitted will be required or permitted. Nevertheless, the award of the Bonds will be made to the bidder whose proposal produces the lowest true interest cost solely on the basis of the Bonds offered, without taking into account any adjustment in the amount of the Bonds pursuant to this paragraph.

[Redemption Provisions]

Registrar/Paying Agent: Regions Bank will serve as Registrar/Paying Agent for the Bonds.

Bid Requirements: Bidders shall specify the rate or rates of interest per annum which the Bonds are to bear, to be expressed in multiples of 1/20 or 1/8 of 1% and the interest rate specified for any maturity shall not be lower than the interest rate specified for any previous maturity. Bidders are not limited as to the number of rates of interest named, but the rate of interest on each separate maturity must be the same single rate for all Bonds of that maturity from their date to such maturity date. A bid for less than all the Bonds, a bid at a price less than par or a bid which includes a premium in excess of 10% of the par amount of the Bonds will not be considered. In addition to the bid price, the successful bidder must pay accrued interest from the date of the Bonds to the date of full payment of the purchase price.

Award of Bid. The Bonds will be awarded to the bidder or bidders offering to purchase the Bonds at the lowest true interest cost (TIC) to the County. The TIC will be the nominal interest rate which, when compounded semiannually and used to discount all debt service payments on the Bonds (computed at the interest rates specified in the bid and on the basis of a 360-day year of twelve 30-day months) to the dated date of the Bonds, results in an amount equal to the price bid for the Bonds. In the case of a tie bid, the winning bid will be awarded by lot. 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 the date of the sale.

Security: The full faith, credit, and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. 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 County sufficient to pay the principal and interest of the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

Good Faith Deposit: No good faith deposit is required.

Official Statement: Upon the award of the Bonds, the County will prepare an official statement (the "Official Statement") in substantially the same form as the preliminary official statement subject to minor additions, deletions and revisions as required to complete the Official Statement. Within seven (7) business days after the award of the Bonds, the County will deliver the Official Statement to the successful bidder in sufficient quantity to comply with Rule G-32 of the Municipal Securities Rulemaking Board. The successful bidder agrees to supply to the County all necessary pricing information and any Underwriter identification necessary to complete the Official Statement within 24 hours after the award of the Bonds.

Continuing Disclosure: In order to assist the bidders in complying with Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission, the County will undertake, pursuant to an ordinance and a Continuing Disclosure Certificate to provide certain annual financial information and notices of the occurrence of certain events, if material. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement.

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

Issue Price Certificate: [TO BE PROVIDED]

Delivery: The Bonds will be delivered on or about _____, 2019, in New York, New York, at the expense of the County. The balance of the purchase price then due, including the amount of accrued interest, must be paid in federal funds or other immediately available funds.

CUSIP Numbers: It is anticipated that CUSIP identification numbers will be set forth on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of its proposal. The CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of and shall be paid for by the successful bidder.

Additional Information: The Preliminary Official Statement of the County with respect to the Bonds will be furnished to any person interested in bidding for the Bonds upon request to Burr & Forman LLP, Attention: Francenia B. Heizer, telephone (803) 799-9800, e-mail: fheizer@burr.com. The Preliminary Official Statement shall be reviewed by bidders prior to submitting a bid. Bidders may not rely on this Notice of Sale as to the complete information concerning the Bonds. Persons seeking information should communicate with the County's Financial Advisor, Chad Cowan, Vice President, Hilltop Securities, 5925 Carnegie Boulevard, Suite 380, Charlotte, North Carolina 28209, telephone (704) 654-3451, e-mail: jeff.minch@hilltopsecurities.com.

BEAUFORT COUNTY, SOUTH CAROLINA

FORM OF CONTINUING DISCLOSURE CERTIFICATE**CONTINUING DISCLOSURE CERTIFICATE**

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by Beaufort County, South Carolina (the “County”) in connection with the issuance of \$_____ General Obligation Bonds, Series 2019C, Beaufort County, South Carolina (the “Bonds”). The Bonds are being issued pursuant to an ordinance adopted by the County Council of the County (the “Ordinance”). The County covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the County for the benefit of the holders of the Bonds and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below).

SECTION 2. Definitions. The following capitalized terms shall have the following meanings:

“**Annual Report**” shall mean any Annual Report provided by the County pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“**Dissemination Agent**” shall mean the County or any successor Dissemination Agent designated in writing by the County and which has filed with the County a written acceptance of such designation.

“**Financial Obligation**” is defined by the Rule as and for purposes of this Disclosure Certificate shall mean (1) a debt obligation, (2) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (3) a guarantee of either of the foregoing; provided, however, that a “Financial Obligation” shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

“**Listed Events**” shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

“**National Repository**” shall mean for purposes of the Rule, the Electronic Municipal Market Access (EMMA) system created by the Municipal Securities Rulemaking Board.

“**Participating Underwriter**” shall mean _____ and any other original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“**Repository**” shall mean each National Repository and each State Depository, if any.

“**Rule**” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“**State Depository**” shall mean any public or private repository or entity designated by the State of South Carolina as a state depository for the purpose of the Rule. As of the date of this Certificate, there is no State Depository.

SECTION 3. Provision of Annual Reports.

(a) The County shall, or shall cause the Dissemination Agent to provide, not later than February 1 of each year, commencing in 2020, to the Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than fifteen (15) business days prior to such date the County shall provide the Annual Report to the Dissemination Agent, if other than the County; provided, that if the audited financial statements required pursuant to Section 4 hereof to be included in the Annual Report are not available for inclusion in the Annual Report as of such date, unaudited financial statements of the County may be included in such Annual Report in lieu thereof, and the County shall replace such unaudited financial statements with audited financial statements within fifteen (15) days after such audited financial statements become available for distribution. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the County may be submitted separately from the balance of the Annual Report.

(b) If the County is unable to provide to the Repository an Annual Report by the date required in subsection (a), the County shall send a notice to the Municipal Securities Rulemaking Board and State Depository, if any, in substantially the form attached hereto as Exhibit A.

(c) The Dissemination Agent shall:

(1) determine each year prior to the date for providing the Annual Report the name and address of the Repository; and

(2) if the Dissemination Agent is other than the County, file a report with the County and (if the Dissemination Agent is not the Registrar) the Registrar certifying whether the Annual Report has been provided pursuant to this Disclosure Certificate, and, if provided, stating the date it was provided, and listing the Repository to which it was provided.

SECTION 4. Content of Annual Reports. The County's Annual Report shall contain or incorporate by reference the most recent audited financial statements, which shall be prepared in conformity with generally accepted accounting principles (or, if not in such conformity, to be accompanied by a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information) applicable to governmental entities such as the County, and shall, in addition, contain or incorporate by reference the following information for the most recently completed fiscal year:

- (a) County population;
- (b) Total state appropriations subject to withholding under Article X, Sec. 15, South Carolina Constitution;
- (c) Outstanding Indebtedness of the County;
- (d) Annual and Estimated Market Value Summary of taxable property in County;
- (e) Tax rates for County;
- (f) Tax collections for County; and
- (g) Five largest taxpayers (including fee-in-lieu-of-tax) for County.

Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues with respect to which the County is an "obligated person" (as defined by the Rule), which have been filed with the Repository or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The County shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the County shall give, or cause to be given, notice of the occurrence of any of the following events (the “Listed Events”):

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders;
- (8) Bond calls;
- (9) Tender offers;
- (10) Defeasances;
- (11) Release, substitution, or sale of property securing repayment of the securities;
- (12) Rating changes;
- (13) Bankruptcy, insolvency, receivership or similar event of the County;
- (14) The consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (15) Appointment of a successor or additional trustee or the change of name of a trustee;
- (16) Incurrence of a Financial Obligation of the County; or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the County, any of which affect security holders; and
- (17) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the County, any of which reflect financial difficulties.

(b) Whenever the County obtains knowledge of the occurrence of a Listed Event described in subsections (a)(2), (7), (8), (11), (14), (15) or (16) above, the County shall as soon as possible determine if such event would be material under applicable federal securities laws. If the County determines that knowledge of the occurrence of such event would be material under applicable federal securities laws, the County shall promptly, and no later than ten business days after the occurrence of the event, file a notice of such occurrence with the Repository.

(c) Whenever the County obtains knowledge of the occurrence of a Listed Event described in subsections (a)(1), (3), (4), (5), (6), (9), (10), (12), (13) or (17) above, the County shall promptly, and no later than ten business days after the occurrence of the event, file a notice of such occurrence with the Repository.

(d) Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8), (9), and (10) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds. For the purposes of the event identified in (a)(13) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or

similar officer for the County in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the County, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the County.

SECTION 6. Termination of Reporting Obligation. The County's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of the Bonds.

SECTION 7. Dissemination Agent. The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be the County.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the County may amend this Disclosure Certificate and any provision of this Disclosure Certificate may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the County, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

SECTION 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Certificate, the County shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the County or the Dissemination Agent to comply with any provision of this Disclosure Certificate, any beneficial owner may take such actions as may be necessary and appropriate, including seeking injunctive relief or specific performance by court order, to cause the County, or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Ordinance, and the sole remedy under this Disclosure Certificate in the event of any failure of the County or the Dissemination Agent to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of Dissemination Agent. The provisions of this Section 11 shall apply if the School Districts is not the Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the County agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of their powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful

misconduct. The obligations of the County under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the County, the Dissemination Agent, the Participating Underwriters, and holders from time to time of the Bonds and shall create no rights in any other person or entity.

SECTION 13. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

BEAUFORT COUNTY, SOUTH CAROLINA

By: _____
County Administrator

Dated: _____, 2019

NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Beaufort County, South Carolina

Name of Issue: \$_____ General Obligation Bonds, Series 2019C,
Beaufort County, South Carolina

Date of Issuance: _____, 2019

NOTICE IS HEREBY GIVEN that Beaufort County, South Carolina (the “County”) has not provided an Annual Report with respect to the above-named Bonds as required by Sections 3 and 4 of the Continuing Disclosure Certificate executed and delivered by the County as Dissemination Agent. The County has notified us in writing that the Annual Report will be filed by _____.

Dated: _____

BEAUFORT COUNTY, SOUTH CAROLINA



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

AN ORDINANCE TO USE BEAUFORT COUNTY SERVICE AREA ROAD IMPACT FEES FOR THE US 278 SAFETY IMPROVEMENTS PROJECT ACROSS JENKINS ISLAND

Council Committee:

Finance Committee

Meeting Date:

September 23, 2019

Committee Presenter (Name and Title):

Issues for Consideration:

Points to Consider:

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve

2019/___

AN ORDINANCE TO APPROPRIATE \$2,506,069.00 FROM THE SOUTH BEAUFORT COUNTY SERVICE AREA ROAD IMPACT FEES FOR THE US 278 SAFETY IMPROVEMENTS PROJECT ACROSS JENKINS ISLAND WITH \$2,295,688.00 COMING FROM THE HILTON HEAD ISLAND/DAUFUSKIE ISLAND ROAD IMPACT FEES FUND AND \$210,381.00 COMING FROM THE BLUFFTON IMPACT FEES FUND.

WHEREAS, the South Carolina Code of Laws, §4-9-130, requires public notice and an ordinance to make appropriations of County funds; and

WHEREAS, Beaufort County Council's Rules and Procedures also require public notice and an ordinance for appropriations of County funds; and

WHEREAS, in recent years, there has been a developing safety concern related to the intersection of Windmill Harbor's neighborhood entrance at US Highway 278 and County staff has been engaged in efforts to address the safety concerns; and

WHEREAS, preliminary design for the Jenkins Island safety improvements was submitted and comments received from SCDOT and the Town of Hilton Head Island; and

WHEREAS, the County received three bids for the Jenkins Island safety improvements and the lowest bid for the project, with an 8% contingency, is a total of \$9,687,431.00, and

WHEREAS, the project is within the bounds of the overall US 278 Corridor Project which is expected to begin construction in 2022 or 2023, however it is not known to what extent the Jenkins Island safety improvements will be incorporated into the US 278 Corridor Project;

WHEREAS, Ordinance 2016/32 provided for \$51,000,000.00 in general obligations for the purposes of: (i) defraying the costs of the County Rural and Critical Land Preservation Program, stormwater utility projects, and public safety capital projects; (ii) paying costs of issuance of the Bonds; and (iii) such other lawful purposes as the County Council shall determine; and

WHEREAS, County Council has previously appropriated up to \$7,400,000.00 to the Jenkins Island roadway improvements as one of the public safety capital projects to be funded from the 2017 General Obligations Bond funds; and

WHEREAS, the current available balance in the 2017 General Obligations Bond fund is \$7,181,363.00; and

WHEREAS, the Public Facilities Committee met in a joint committee meeting with the Finance Committee on August 19, 2019 to consider the award of a contract to the lowest bidder, Quality Enterprises; and

WHEREAS, the Public Facilities Committee recommended approval of the award of the contract to Quality Enterprises as recommended by County staff subject to the funding ordinances being approved by Council; and

WHEREAS, County staff recommends \$7,181,363.00 of the project be funded from the 2017 General Obligations Bond fund, and \$2,506,069.00 be funded from the South Beaufort County Impact Fees with \$2,295,688.03 coming from the Hilton Head Island/Daufuskie Island Road Impact Fees fund, and \$210,380.60 coming from the Bluffton Impact Fees fund; and

WHEREAS, County Council finds that it is in the best interest of public safety, health and welfare that the Jenkins Island safety improvements be funded and scheduled for construction pursuant to the award of the contract to Quality Enterprises.

NOW, THEREFORE, BE IT ORDAINED, by Beaufort County Council, duly assembled, that an amount of \$2,506,069.00 is hereby appropriated from the South Beaufort County Service Area Road Impact Fee fund, with \$2,295,688.03 coming from the Hilton Head Island/Daufuskie Island Road Impact Fees fund, and \$210,380.60 coming from the Bluffton Impact Fees fund to be directed to the cost of the Jenkins Island safety improvements project.

DONE this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____

Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council.

Chronology

- Third and final reading occurred
- Public hearing occurred
- Second reading occurred
- First reading approval occurred
- Committee discussion and ...

DRAFT