



**County Council of  
Beaufort County**  
**County Council Meeting**

**Chairman**

Joseph F. Passiment, JR.

**Vice Chairman**

D. Paul Sommerville

**Council Members**

Michael E. Covert  
Gerald Dawson  
Brian E. Flewelling  
York Glover, SR.  
Chris Hervochon  
Alice G. Howard  
Mark Lawson  
Lawrence P. McElynn  
Stu Rodman

**County Administrator**

Ashley M. Jacobs

**Clerk to Council**

Sarah W. Brock

**Administration Building**

Robert Smalls Complex  
100 Ribaut Road

**Contact**

Post Office Drawer 1228  
Beaufort, South Carolina 29901-1228  
(843) 255-2180  
[www.beaufortcountysc.gov](http://www.beaufortcountysc.gov)

# County Council Agenda

**Monday, October 12, 2020 at 6:00 PM**

[This meeting is being held virtually in accordance with Beaufort County Resolution 2020-05]

**CITIZEN COMMENTS AND PUBLIC HEARING COMMENTS WILL BE ACCEPTED IN WRITING VIA EMAIL TO THE CLERK TO COUNCIL AT SBROCK@BCGOV.NET OR PO DRAWER 1228, BEAUFORT SC 29901.**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE AND INVOCATION
3. *PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT*
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES- AUGUST 17, 2020 AND AUGUST 24, 2020

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## PROCLAMATIONS

6. PRESENTATION OF A PROCLAMATION HONORING THE YOUNG MARINES FOR THEIR WORK DURING RED RIBBON WEEK – COUNCIL MEMBER MCELYNN
7. PRESENTATION OF A PROCLAMATION RECOGNIZING THE BEAUFORT COUNTY ALCOHOL AND DRUG ABUSE PREVENTION DEPARTMENT – COUNCIL MEMBER MCELYNN

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## CITIZEN COMMENTS

8. CITIZEN COMMENT (**Every member of the public who is recognized to speak shall limit comments to three minutes - Citizens may email [sbrock@bcgov.net](mailto:sbrock@bcgov.net)**)

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## COMMITTEE REPORTS

9. LIAISON AND COMMITTEE REPORTS

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## CONSENT AGENDA

10. CONSENT AGENDA (Page 3)

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## PUBLIC HEARINGS AND ACTION ITEMS

11. AN EMERGENCY ORDINANCE TO REQUIRE INDIVIDUALS TO WEAR FACE COVERINGS IN CERTAIN CIRCUMSTANCES AND LOCATIONS IN THE LIMITS OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE

- [12.](#) FIRST READING OF AN AMENDMENT TO THE 2020-2021 BEAUFORT COUNTY BUDGET ORDINANCE
- [13.](#) SECOND READING OF AN ORDINANCE OF THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA ("COUNCIL") ESTABLISHING AND ADOPTING A SCHOOL DEVELOPMENT IMPACT FEE ("IMPACT FEE") TO BE IMPOSED ON ALL NEW RESIDENTIAL DEVELOPMENT IN THE SOUTH BEAUFORT COUNTY SCHOOL SERVICE AREA PURSUANT TO ORDINANCE NO. 2020/ \_\_\_\_; TO ENSURE THAT SCHOOL FACILITY SYSTEM IMPROVEMENTS WILL BE AVAILABLE AND ADEQUATE TO ACCOMMODATE THE NEED EXPECTED TO BE GENERATED FROM THE SCHOOL CHILDREN IN NEW RESIDENTIAL DEVELOPMENTS IN THE SOUTH BEAUFORT COUNTY SCHOOL SERVICE AREA BASED ON THE SCHOOL DISTRICT'S LEVEL OF SERVICE STANDARDS AND CAPITAL IMPROVEMENTS PLAN, AND TO ASSIGN THE COSTS OF SUCH PUBLIC SCHOOL FACILITIES ON A PROPORTIONATE SHARE BASIS TO NEW RESIDENTIAL DEVELOPMENT IN THE SERVICE AREA; AND ESTABLISHMENT OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN BEAUFORT COUNTY AND THE BEAUFORT COUNTY SCHOOL DISTRICT, AND INDIVIDUAL INTERGOVERNMENTAL AGREEMENTS BETWEEN BEAUFORT COUNTY AND THE TOWNS OF BLUFFTON AND HILTON ISLAND AND THE CITY OF HARDEEVILLE TO ENSURE PROPER IMPLEMENTATION AND ADMINISTRATION OF THE SCHOOL DEVELOPMENT IMPACT FEE ORDINANCE
- [14.](#) PUBLIC HEARING AND SECOND READING OF AN ORDINANCE - TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): APPENDIX B TO REMOVE THE MAXIMUM LOT SIZE REQUIREMENT FOR MINOR RESIDENTIAL SUBDIVISIONS IN THE D3 GENERAL NEIGHBORHOOD (D3GN), THE D4 MIXED USE (D4MU); THE VILLAGE CENTER (D5VC), AND THE GATEWAY CORRIDOR (D5GC) DISTRICTS ON DAUFUSKIE ISLAND
- [15.](#) PUBLIC HEARING AND THIRD READING OF AN ORDINANCE AUTHORIZING THE ABANDONMENT OF AN EXISTING DRAINAGE EASEMENT AND THE ACCEPTANCE OF A RELOCATED DRAINAGE EASEMENT ON PROPERTY OWNED BY THE GRANTOR
- [16.](#) SECOND READING OF AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LEASE AGREEMENT WITH MOBILE COMMUNICATIONS AMERICA.
- [17.](#) PUBLIC HEARING AND THIRD READING OF AN ORDINANCE FOR A ZONING MAP AMENDMENT/REZONING REQUEST FOR 3 PARCELS (R600 021 000 0003 0000; R600 021 000 002A 0000; R600 021 000 003A 0000) ON GRAVES ROAD FROM T2 RURAL TO C3 NEIGHBORHOOD MIXED-USE; APPLICANT: JUDY GRAVES, KEVIN GRAVES, JAN MCKIM
- [18.](#) PUBLIC HEARING AND THIRD READING OF AN ORDINANCE TO AUTHORIZE \$575,000.00 FROM THE H-TAX FUND TO THE HISTORIC MITCHELVILLE FREEDOM PARK FOR PHASE I BUILD OUT OF THE MITCHELVILLE FREEDOM PARK MASTER PLAN
- [19.](#) PUBLIC HEARING AND THIRD READING OF AN ORDINANCE TO AUTHORIZE AND APPROVE A MULTI-COUNTY PARK AGREEMENT BY AND BETWEEN BEAUFORT COUNTY AND JASPER COUNTY RELATING TO THE TRASK EAST SOLAR, LLC, PROJECT
- [20.](#) PUBLIC HEARING AND THIRD READING OF AN ORDINANCE - ZONING MAP AMENDMENT/REZONING REQUEST FOR 18.3 ACRES (R100 024 000 032A 0000, R100 024 000 0276 0000, R100 024 000 030C 0000, AND R100 024 000 033A 0000) AT THE INTERSECTION OF BAY PINES ROAD AND LAUREL BAY ROAD FROM T2 RURAL AND S1 INDUSTRIAL TO C4-COMMUNITY CENTER MIXED-USE DISTRICT
- [21.](#) PUBLIC HEARING AND THIRD READING OF AN ORDINANCE DECLARING LOUD AND UNNECESSARY VEHICULAR NOISE A PUBLIC NUISANCE AND PROVIDING THAT VIOLATIONS ARE A MISDEMEANOR

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### CITIZEN COMMENT

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22. CITIZEN COMMENT (**Every member of the public who is recognized to speak shall limit comments to three minutes - Citizens may email sbrock@bcgov.net**)
23. ADJOURNMENT

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## CONSENT AGENDA

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### ITEMS ORIGINATING FROM THE COMMUNITY SERVICES COMMITTEE

- [1.](#) A RESOLUTION TO APPROPRIATE \$398,000 FROM THE COMMUNITY SERVICES GRANT PROGRAM FUNDS
- [2.](#) SECOND READING OF AN ORDINANCE ESTABLISHING THE BEAUFORT COUNTY DISTANCE LEARNING FUND AND OTHER MATTERS RELATED THERETO

### ITEMS ORIGINATING FROM THE FINANCE COMMITTEE

- [3.](#) SECOND READING OF AN ORDINANCE REGARDING ACCOMMODATIONS TAX/ HOSPITALITY TAX RESERVE FUND
- [4.](#) SECOND READING OF AN ORDINANCE TO AMEND ORDINANCE 2019/56 PENN CENTER RENOVATIONS

### ITEMS ORIGINATING FROM THE NATURAL RESOURCES COMMITTEE

- [5.](#) FORT FREMONT BATTERY NATIONAL REGISTER NOMINATION FORM AMENDMENT TO INCLUDE BATTERY FORNANCE
- [6.](#) RESOLUTION AMENDING RESOLUTION 2019/49 FOR PUBLIC ACCESS AND PASSIVE RECREATION PROJECTS – PHASE II

### ITEMS ORIGINATING FROM THE PUBLIC FACILITIES COMMITTEE

- [7.](#) SECOND READING OF AN ORDINANCE FOR THE BEAUFORT COUNTY AIRPORT (AWR) HANGAR GROUND LEASE AGREEMENT

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**END OF CONSENT AGENDA**

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**County Council of  
Beaufort County  
Special Called Meeting  
of County Council**

**Chairman**  
Joseph F. Passiment, JR.

**Vice Chairman**  
D. Paul Sommerville

**Council Members**  
Michael E. Covert  
Gerald Dawson  
Brian E. Flewelling  
York Glover, Sr.  
Chris Hervochon  
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**Special Called Meeting of County Council  
Minutes**

**Monday, August 17, 2020 at 5:00 PM**  
Virtual Meeting

**CALL TO ORDER**

Chairman Passiment called the meeting to order at 5:00 PM.

**PRESENT**

Chairman Passiment  
Council Member Hervochon  
Council Member Covert  
Council Member Dawson  
Council Member Rodman  
Council Member Glover  
Council Member Howard  
Council Member McElynn  
Council Member Flewelling  
Council Member Lawson

**ABSENT**

Council Member Sommerville

**FOIA**

Chairman Passiment noted that the Public Notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

**PLEDGE OF ALLEGIANCE**

Chairman Passiment led the Pledge of Allegiance.

**APPROVAL OF AGENDA**

**Motion:** It was moved by Council Member Flewelling, seconded by Council Member Dawson to approve the agenda. The vote: Unanimous without objection. The motion passed. 10:0

**ACTION ITEMS**

**CONSIDERATION OF TWO ORDINANCES EXTENDING THE STATE OF EMERGENCY IN BEAUFORT COUNTY**

- Extending from June 11, 2020 until August 10, 2020
- Extending from August 10, 2020 until October 9, 2020

**Discussion**

Council Member Covert asked if it was appropriate to retroactive the first Ordinance since the dates have already passed?

County Attorney, Kurt Taylor stated that it is appropriate to be in compliance and ratify any action taken within that time frame.

Council Member Covert stated that constituents are asking, with extending this Ordinance what does this do for Beaufort County.

Mr. Taylor responded that this allows Beaufort County to continue or meetings electronically and that the Resolution that was adopted states that it continues as long as the emergency continues. It also validates the mask ordinance.

Council Member Flewelling also stated that this also gives the County Administrator permission to use certain funds and see Council approval afterward.

Council Member Covert wanted to know if this ordinance has anything to do with the mask ordinance.

Mr. Taylor stated that the mask ordinance was adopted on its own and ends September 4, 2020.

Council Member Dawson asked if the pandemic situation is not over and the Council wants to keep the mask ordinance in place, would Council need to update it?

Mr. Taylor responded by saying that a special meeting will be needed to extend the mask ordinance.

**Motion:** It was moved by Council Member Dawson, seconded by Council Member Howard to approve the extension of the state of emergency ordinance for Beaufort County from June 11, 2020 through August 10, 2020. The Vote: Unanimous without objection. The motion passed 10:0.

**Motion:** It was moved by Council Member Flewelling, seconded by Council Member Glover to approve the extension of the state of emergency ordinance for Beaufort County from August 10, 2020 through October 9, 2020. The Vote: Unanimous without objection. The motion passed 10:0

### **CITIZEN COMMENTS**

Keith Holly- Like the state, meeting didn't start on time.

Cynthia O'Neil- Opposes Resolution.

### **ADJOURNMENT**

The meeting adjourned at 5:13pm.

Ratified by Committee:



**County Council of  
Beaufort County  
Special Called Meeting  
of County Council**

**Chairman**  
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**Vice Chairman**  
D. Paul Sommerville

**Council Members**  
Michael E. Covert  
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**Special Called Meeting of County Council  
Minutes**

**Monday, August 24, 2020 at 6:00 PM**  
Virtual Meeting

**CALL TO ORDER**

Chairman Passiment called the meeting to order at 6:00 PM.

**PRESENT**

Chairman Passiment  
Vice Chairman Sommerville  
Council Member Hervochon  
Council Member Covert  
Council Member Dawson  
Council Member Rodman  
Council Member Glover  
Council Member Howard  
Council Member McElynn  
Council Member Flewelling  
Council Member Lawson

**PLEDGE OF ALLEGIANCE**

Council Member Rodman led the Pledge of Allegiance.  
Moment of Silence for the passing of Beaufort County Employee Deja Jackson

**FOIA**

Chairman Passiment noted that the Public Notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

**APPROVAL OF AGENDA**

**Motion:** It was moved by Council Member Flewelling, seconded by Council Member Sommerville to approve the agenda. The vote: Unanimous without objection. The motion passed. 11:0

**EXECUTIVE SESSION**

**Motion:** It was moved by Vice Chairman Sommeville, seconded by Council Member Glover to go into Executive Session for receipt of legal advice relating to pending potential claims covered by the attorney-client privilege. S.C. Code Section 30-4-7 (a)(2). The Vote: Unanimous without objection. The motion passed. 11:0

No action coming from Executive Session.

## **CITIZEN COMMENTS**

Council Member Covert read Facebook Comments:

Ann Bubelous- Businesses and other establishments denying access due to not wearing a mask because of health reasons is a violation of the Disability Act and HIPPA. Ask to amend the wording to use “suggest” wearing a mask.

Iris- Request not to extend the mask ordinance.

Google document with comments was provided and shown on the screen live. The vast majority of the comments was to not extend the mask ordinance.

## **ACTION ITEMS**

### **Third reading of an Ordinance to impose a Beaufort County Uniform Law Enforcement Charge for the Town of Hilton Head Island.**

#### **Discussion:**

Council Member Flewelling stated that it is clear that Hilton Head is not living up to its obligation to provide reimbursement to the County for the implementation of Law Enforcement based on the engineering study by Tischler Bische. The citizens of Beaufort County are owed some money because they are subsidizing the cost of law enforcement for the citizens of Hilton Head. This needs to be done soon to implement the fee on the tax bill and it is important to approve it tonight.

Council Member Lawson wanted to point out that the Council is not doing this for revenge or for political reasons. The Town of Hilton Head made a business decision not to pay the fee that they have paid for years. They are legally and morally obligated to pay.

Council Member Rodman suggested that Council waits to see if there can be an agreement.

**Motion:** It was moved by Council Member Rodman, seconded by Council Member McElynn to postpone third and final reading until the September 4, 2020 meeting. The Votes: Yea: Council Member Rodman, Council Member McElynn. Voting Nay: Chairman Passiment, Vice Chair Sommerville, Council Member Covert, Council Member Glover, Council Member Hervochon, Council Member Howard, Council Member Lawson, Council Member Dawson, Council Member Flewelling. The motion failed. 2:9

Council Member Hervochon stated that you can't have a contract without consideration and this has been an Ordinance since 1983 to engage the County for police services with the Sheriff. It was \$4.4 Million for services, the County came back with a lower offer and Hilton Head said no. Hilton Head has already collected this money from their constituents and what they are doing with the money collects, we didn't get a great answer on that. The residents of Hilton Head need to understand that this money was already collected and this isn't something the County wanted to do.

**Main Motion:** It was moved by Council Member Hervochon, seconded by Council Member Flewelling to approve an Ordinance to impose a Beaufort County Uniform Law Enforcement Service Charge for the Town of Hilton Head Island. The Votes: Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Covert, Council Member Glover, Council Member Hervochon, Council Member Howard, Council Member Lawson, Council Member Dawson, Council Member Flewelling. Nay: Council Member Rodman, Council Member McElynn. The motion passed. 9:2.

### **Consideration of an Ordinance extending the effect of Emergency Ordinance 2020/03 requiring Face Coverings.**

#### **Discussion:**

Council Member Flewelling stated that wearing a mask should be left to each individual. People should be wearing face coverings, it is the polite thing to do and the right thing to do when social distancing can't be met but it is inappropriate for it to be mandated by the government.

Council Member Hervochon mentioned that before he was for this Ordinance. This has been a struggle and a really big and difficult decision and thing that the Council needs to look at the ethics of what they are doing and if it is working. He also stated that he has asked for data and based on the data that was available he has a hard time believing that it was working.

Council Member Glover stated that the data is not readily available nor consistent. The trend is coming down and the testing has stopped. He is holding fast on moving forward because the science behind it states that masking helps and Council is doing the right thing.

Council Member McElynn said that he has seen statistics were other jurisdictions have mask ordinances in place and have seen a decrease and other jurisdictions that don't have a mask ordinance has seen an increase.

Council Member Covert stated that the governments should not penalize the majority by protecting the vulnerable. Politicizing public health measures and implementing mandates violate individual liberty rights. People feel like they are having their individual rights taken away. The public and business owners have a right to think for themselves.

Council Member Rodman mentioned that this Ordinance applies when you go into a public building or where social distancing isn't available. It is reasonable to wear a mask in enclosed spaces.

Council Member Hervochon asked when is the demarcation or time line to take this off.

Chairman Passiment stated that no one knows yet, there is too much inconsistency. What the Council does want is uniformity in the county and the municipalities have a mask ordinance.

Council Member Lawson recommended is to shorten it from 60 days and go by meeting to meeting.

**Motion to amend:** It was moved by Council Member Lawson, seconded by Council Member Flewelling to amend and shorten the 60-day ordinance to extend until September 28, 2020 instead of October 23, 2020. The Vote: Yea: Council Member Rodman, Council Member Lawson, Council Member Flewelling. Nay: Chairman Passiment, Vice Chairman Sommerville, Council Member Covert, Council Member Glover, Council Member Hervochon, Council Member Howard, Council Member McElynn, Council Member Dawson. The motion failed. 3:8.

**Motion:** It was moved by Council Member McElynn, seconded by Council Member Howard to approve an Ordinance extending the effect of Emergency Ordinance 2020/03 Requiring Face Coverings. The Vote: Yea: Chairman Passiment, Vice Chairman Sommerville, Council Member Glover, Council Member Rodman, Council Member Howard, Council Member Lawson, Council Member McElynn, Council Member Dawson. Nay: Council Member Covert, Council Member Hervochon, Council Member Flewelling. The motion passed. 8:3.

## **ADJOURNMENT**

The meeting adjourned at 7:12 pm.

Ratified by Committee:

## ~ Proclamation ~

**Whereas**, communities across America have been plagued by the numerous problems associated with illicit drug use and those that traffic in them; and

**Whereas**, there is hope in winning the war on drugs, and that hope lies in education and drug demand reduction, coupled with the hard work and determination of organizations such as the Young Marines of the Marine Corps League

**Whereas**, one of the pillars of the Young Marine program is to lead positive, drug-free lifestyles and to educate and encourage others to do the same; and

**Whereas**, Young Marine units are mandated to teach a standardized curriculum that focuses on Gateway Drugs, but also stays current with drugs that affect our youth; and

**Whereas**, Young Marines participate year round in community projects and events that focus on reducing and eliminating drug abuse by our youth; and

**Whereas**, governments and community leaders know that citizen support is one of the most effective tools in the effort to reduce the use of illicit drugs in our communities; and

**Whereas**, the red ribbon has been chosen as a symbol commemorating the work of Enrique "Kiki" Camarena, a Drug Enforcement Administration agent who was murdered in the line of duty, and represents the belief that one person can make a difference; and

**Whereas**, the Red Ribbon Campaign was established by Congress in 1988 to encourage a drug-free lifestyle and involvement in drug prevention and reduction efforts; and

**Whereas**, October 23-31 has been designated National Red Ribbon Week, which encourages Americans to wear a red ribbon to show their support for a drug-free environment;

**Now, therefore, be it resolved**, that Beaufort County Council recognizes the Young Marines during Red Ribbon Week for their efforts in educating the youth all year long through various events and community projects.



Dated this 12<sup>th</sup> day of October 2020.

Joseph F Passiment, Chairman  
Beaufort County Council

## ~ Proclamation ~

**Whereas** alcohol and drug abuse affect individuals, families, and communities across the nation; and

**Whereas**, it is imperative that visible, unified efforts by community members be launched to prevent drug abuse; and

**Whereas**, there is hope in winning the war on drugs, and that hope lies in education and drug demand reduction, coupled with the hard work and determination of organizations such as the Beaufort County Alcohol and Drug Abuse's Prevention Department to foster a healthy, drug-free lifestyle; and

**Whereas**, governments and community leaders know that citizen support is one of the most effective tools in the effort to reduce the use of illicit drugs and other drug misuse in our communities; and

**Whereas**, the Red Ribbon has been chosen as a symbol commemorating the work of Enrique "Kiki" Camarena, a Drug Enforcement Administration agent who was murdered in the line of duty, and represents the belief that one person can make a difference; and

**Whereas**, Today, millions of people celebrate Red Ribbon Week by wearing red ribbons, participating in community antidrug events, and pledging to live drug-free lives; and

**Whereas**, October 23-31 has been designated National Red Ribbon Week, which encourages Americans to wear a Red Ribbon to show their support for a drug-free environment;

**Now, therefore, be it resolved**, that Beaufort County Council hereby proclaim October 23-31, 2020 and encourage citizens of Beaufort County to participate in drug prevention education activities, not only during Red Ribbon Week, but also throughout the year, making a visible statement that we are strongly committed to a drug-free lifestyle.

### Red Ribbon Week

Dated this 12<sup>th</sup> day of October 2020.

\_\_\_\_\_  
Joseph F. Passimenrt, Chairman  
Beaufort County Council



**EMERGENCY ORDINANCE 2020-03**

**AN EMERGENCY ORDINANCE TO REQUIRE INDIVIDUALS TO WEAR FACE COVERINGS IN CERTAIN CIRCUMSTANCES AND LOCATIONS IN THE LIMITS OF THE COUNTY OF BEAUFORT, SOUTH CAROLINA, AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE**

**WHEREAS**, it is well recognized the SARS-CoV-2, the virus that causes the disease COVID-19, presents a public health concern that requires extraordinary protective measures and vigilance; and,

**WHEREAS**, on March 13, 2020, the Governor of the State of South Carolina Henry McMaster declared a State of Emergency for the State of South Carolina as a result of the COVID-19 impacts; and,

**WHEREAS**, on March 16, 2020, Beaufort County Council (the “County”) adopted Emergency Ordinance 2020-01, declaring that a State of Emergency exists throughout the County as a result of impacts arising from the COVID-19 pandemic; and,

**WHEREAS**, as of today, the State of Emergency still exists in State of South Carolina and the County; and

**WHEREAS**, the Centers for Disease Control and Prevention (“CDC”) and South Carolina Department of Health and Environmental Control (“SCDHEC”) have advised the use of cloth or other types face coverings to slow the spread of COVID-19; and

**WHEREAS**, the CDC has determined that COVID-19 is spread mainly by person to person contact and that the best means of slowing the spread of the virus is through practicing social distancing and by minimizing personal contact with environments where the virus may be spread; and

**WHEREAS**, the South Carolina Department of Health and Environmental Control (“SCDHEC”) continues to urge all residents of the state to limit activities outside of the home and to practice social distancing at all times to limit the spread of this highly contagious and potentially deadly virus; and

**WHEREAS**, the Centers for Disease Control and Prevention has stated that COVID-19 symptoms may appear as many as fourteen (14) days after exposure and has confirmed that a significant number of people are asymptomatic and that avoiding exposure to these two groups is essential in the reduction of the spread of the virus; and

**WHEREAS**, notwithstanding the spread of COVID-19, businesses remain open and some of their employees must physically be present at the work site, requiring further measures to keep such employees safe an

**WHEREAS**, there are currently large numbers of people who patronize grocery stores, pharmacies, restaurants, retail establishments and other businesses open to the public within the unincorporated limits of the County; and

**WHEREAS**, in order to protect, preserve, and promote the general health, safety, welfare, and the peace and order of the community, the County has, and will continue, to take steps to try and protect the citizens, employers, and employees within the County from an increased risk of exposure to and transmission of COVID-19; and,

**WHEREAS**, the County Council finds it is necessary and in the best interest of the County and its citizens that an Emergency Ordinance requiring the wearing of cloth or other types of face coverings in certain circumstances be adopted by the County Council, and that it be put into immediate effect; and

**WHEREAS**, County Council may, by majority vote of those members present, adopt emergency ordinances as authorized and limited by S. C. Code Ann. §5-7-250(d) (Supp. 2019), during a State of Emergency;

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL FOR THE COUNTY OF BEAUFORT, SOUTH CAROLINA, IN MEETING DULY ASSEMBLED AND BY THE AUTHORITY OF THE SAME, AS FOLLOWS:**

1. For the purpose of this Ordinance, a “Face Covering” is a cloth or other type of masking device that covers the wearer’s nose and mouth.
2. All persons entering any Commercial or Public building open in the County with the exceptions noted below in Section 9 must wear a face covering and maintain social distancing where possible while inside the building.
3. All restaurants, retail establishments of every description, salons, grocery stores, and pharmacies in the limits of the County shall require their employees to wear a Face Covering at all times when employees are within the social distance of the general public, or when the employees must be in close proximity to one another, except as noted in Section 9. This requirement also applies to all persons providing or utilizing public or commercial transportation, including tours; and all businesses or employees while interacting with people in outdoor spaces, including, but not limited to, curbside pickup, delivery, and service calls. All such businesses must provide face coverings or materials for the making of such face coverings for their employees. Such coverings or materials may be made available staff-wide or individually upon employee request so long as the result is the organization-wide use of face coverings. Nothing shall prevent an employee from fashioning his or her own cloth face mask. If a worker or customer refuses to wear a cloth face covering for other than medical reasons, a business may decline entry or service to that individual.
4. The following individuals are exempt from this Ordinance: any person under the age of two or at the discretion of the parent, custodian or guardian, or who is unable to safely wear a Face Covering due to age or an underlying health condition, or who is unable to remove the Face Covering without the assistance of others; and any person traveling in a personal vehicle, or when a person is alone or is in the presence of only household members in an enclosed space, and people who are actively drinking or eating. This Ordinance does not relieve business establishments and restaurants from other social distancing requirements imposed by the Governor’s Executive Orders.
5. Education and voluntary compliance are the desired means of enforcement.
6. Repeated violations of this Ordinance at any business or establishment that is subject to this Ordinance are hereby declared a nuisance, and the County may seek a restraining order, preliminary injunction, permanent injunction or any other means authorized under the Laws of the State of South Carolina to abate the nuisance. The County may also seek suspension or revocation of the business license issued by the County to any business or establishment where repeated violations of the Ordinance occur, under the authority of Section 18-62 of the County Code of Ordinances. Each day of a continuing violation of this ordinance shall be considered a separate and distinct offense.

7. Business Owners and Operators shall have responsibility for informing patrons of the above requirements and shall post conspicuous signage at all entrances informing its patrons of the requirements of this Ordinance.
8. Should any provision, section, paragraph, sentence, or word of this Ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences, or words of this Ordinance as hereby adopted shall remain in full force and effect.
9. Exceptions: Child care facilities; schools; and Churches or gymnasiums where social distancing policies are in place; patrons that are actively consuming food and beverages inside a restaurant and/or bar; persons receiving medical treatment; persons actively swimming in an indoor swimming pool.
10. This Ordinance becomes effective following adoption by County Council, and will expire as of the sixty-first day following the date of enactment or the end of the State of Emergency in the County of Beaufort, whichever occurs first.

**MOVED, APPROVED, AND ADOPTED AS AN EMERGENCY ORDINANCE THIS 12th DAY OF OCTOBER 2020.**

\_\_\_\_\_  
Joseph Passiment, Council Chair

ATTEST:

By: \_\_\_\_\_  
Sarah Brock, Clerk to Council

Beaufort County  
 Review of mills for Purchase of Real Property

	Original Budgeted 4.8	Breakeven 5.1	Auditor Adjusted Debt mill 5.8
Revenues			
Projected tax revenues	\$ 10,006	\$ 10,632	\$ 12,091
Other revenues	202	202	202
Total revenues	<u>10,208</u>	<u>10,834</u>	<u>12,293</u>
Debt Service Payments	(10,813)	(10,813)	(10,813)
Net	(605)	21	1,480
Projected Fund Balance 06/30/2020	<u>2,674</u>	<u>2,674</u>	<u>2,674</u>
Projected Fund Balance 06/30/2021	<u><u>\$ 2,069</u></u>	<u><u>\$ 2,695</u></u>	<u><u>\$ 4,154</u></u>

\*Rounded to the nearest thousand

Beaufort County  
 Review of mills for Purchase of Real Property

	Original Budgeted 4.8	Breakeven 5.1	Auditor Adjusted Debt mill 5.8
Millage rates for 2020/2021			
County Operations	50.0	50.0	50.0
Higher Education	2.3	2.3	2.3
Purchase of Real Property Program	4.8	5.1	5.8
Indigent Care BJHCHS	0.4	0.4	0.4
Indigent Care BMS	0.4	0.4	0.4
Economic Development	0.2	0.2	0.2
County Capital	0.6	0.6	0.6
County Debt Service	5.5	5.5	5.5
<b>Total</b>	<b>64.2</b>	<b>64.5</b>	<b>65.2</b>



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
<i>Amendment to the 2020-2021 Beaufort County Budget Ordinance</i>
<b>MEETING NAME AND DATE:</b>
County Council Meeting October 12, 2020
<b>PRESENTER INFORMATION:</b>
<i>Hayes Williams Finance Director 30 Minutes</i>
<b>ITEM BACKGROUND:</b>
<i>Original Ordinance 2020/22 First Reading By Title Only: May 26, 2020/ Vote 11:0 Second Reading: June 8, 2020/ Vote 7:3 Public Hearings: June 8, 2020 and June 22, 2020 Third and Final Reading: June 22, 2020/ Vote 10:1</i>
<b>PROJECT / ITEM NARRATIVE:</b>
The original Ordinance 2020/22 had a mathematical error necessitating a correction in Section 2 Millage; Paragraph 1; Sentence 1, the 65.22 mills on the dollar was calculated on the original mills that were proposed that had two digits past the decimal point (hundredth). The County Auditor has billed 5.8 mills for the Purchase of Real Property which is 1 mill higher than the Original mill of 4.8. Included will be an analysis of the millage of 4.8, 5.1 and 5.8 mills for vote by Council.
<b>FISCAL IMPACT:</b>
<i>If the 5.1 mill scenario is approved, this will produce additional revenues of approximately \$626k. If the 5.8 mill scenario is approved, this will produce additional revenues of approximately \$2,085k.</i>
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Council needs to decide on an amended millage rate, and approve the Amended Ordinance
<b>OPTIONS FOR COUNCIL MOTION:</b>
<i>Motion to approve the amended Ordinance 2020/22.</i>

ORDINANCE No. 2020 / \_\_\_\_\_

AMENDING THE 2020-2021 BEAUFORT COUNTY BUDGET ORDINANCE

WHEREAS, on June \_\_\_\_, 2020 County Council adopted Ordinance No. 2020-22, adopting and establishing the countywide budget, to provide for the levy of tax for corporate Beaufort County for the fiscal year beginning July 1, 2020 and ending June 30, 2021, to make appropriations for said purposes, and to provide for budgetary control of the County’s fiscal affairs (the “Budget Ordinance”); and

WHEREAS, since that time it has been determined that a mathematical error was contained in the Budget Ordinance, necessitating a correction,

NOW, THEREFORE, be it ordained by Beaufort County Council, that Section 2, paragraph 2 sentence 1 of the Budget Ordinance be amended to read “The County Auditor is hereby authorized and directed to levy in Fiscal Year 2020-2021 a tax of 64.2 mills on the dollar of assessed value.” The millage on the dollar of assessed value are as follows:

County Operations	50.0
Higher Education	2.3
Purchase of Real Property Program	4.8
Indigent Care BJHCHS	0.4
Indigent Care BMS	0.4
Economic Development	0.2
County Capital	0.6
County Debt Service	5.5
<b>Total</b>	<u><u>64.2</u></u>

THE REMAINDER of the Budget Ordinance remains unchanged and is in full force and effect.

ORDERED in meeting duly assembled this 12th day of October, 2020

\_\_\_\_\_  
Joe Passiment, Chairman

\_\_\_\_\_  
Attest: Sarah W. Brock, Clerk to Council

2020 / 22

FY 2020-2021 BEAUFORT COUNTY BUDGET

To provide for the levy of tax for corporate Beaufort County for the fiscal year beginning July 1, 2020 and ending June 30, 2021, to make appropriations for said purposes, and to provide for budgetary control of the County's fiscal affairs.

BE IT ORDAINED BY COUNTY COUNCIL OF BEAUFORT COUNTY:

SECTION 1. TAX LEVY

The County Council of Beaufort County hereby appropriates the funds as detailed in the attached "Exhibit A" and the below Sections 3, 4, 5, 6, 7 and 8 of this Ordinance. Further, that the County Council of Beaufort County hereby establishes the millage rates as detailed in Sections 2 and 3 of this Ordinance. However, the County Council of Beaufort County reserves the right to modify these millage rates as may be deemed necessary and appropriate.

SECTION 2. MILLAGE

The County Auditor is hereby authorized and directed to levy in Fiscal Year 2020-2021 a tax of 65.22 mills on the dollar of assessed value of property within the County, in accordance with the laws of South Carolina. These taxes shall be collected by the County Treasurer, as provided by law, and distributed in accordance with the provisions of this Ordinance and subsequent appropriations hereafter passed by the County Council of Beaufort County.

County Operations	50.0
Higher Education	2.3
Purchase of Real Property Program	4.8
Indigent Care BJHCHS	0.4
Indigent Care BMH	0.4
Economic Development	0.2
County Capital	0.6
County Debt Service	5.5

SECTION 3. SPECIAL DISTRICT TAX LEVY

The County Auditor is hereby authorized and directed to levy, and the County Treasurer is hereby authorized and directed to collect and distribute the mills so levied, as provided by law, for the operations of the following special tax districts:

	<u>Revenues</u>	<u>Expenditures</u>	<u>Millage Rate</u>
Bluffton Fire District Operations	\$15,964,382	\$15,973,426	24.1
Bluffton Fire District Debt Service	\$ 991,000	\$ 991,000	1.6
Burton Fire District Operations	\$ 5,194,996	\$ 5,296,558	70.3
Burton Fire District Debt Service	\$ 385,268	\$ 385,268	5.1
Daufuskie Island Fire District Operations	\$ 1,211,046	\$ 1,247,134	62.0
Daufuskie Island Debt Service	\$ 0	\$ 0	0.0

Lady’s Island/St. Helena Is. Fire District Operation	\$ 6,499,820	\$ 6,480,400	40.1
Lady’s Island/St. Helena Is. Fire District Debt Service	\$ 310,337	\$ 310,337	2.0
Sheldon Fire District Operations	\$ 1,499,683	\$ 1,499,683	38.8
Sheldon Fire District Debt Service	\$ 142,778	\$ 142,778	3.7

Note: Any difference between revenue and expenditures will constitute a use of fund balance.

SECTION 4. COUNTY OPERATIONS APPROPRIATION

An amount of \$44,683,094.00 is appropriated to the Beaufort County General Fund to fund County Administration Operations, Elected Officials, and State Appropriations as provided on the attached “Exhibit A”:

Management of Elected Officials and State Appropriations’ individual accounts shall be the responsibility of the duly elected official for each office. At no time shall the elected official exceed the budget appropriation identified above without first receiving an approved supplemental appropriation by County Council.

The detailed Fiscal Year 2021 Beaufort County Operations budget provided in the attached “Exhibit A” containing line-item accounts by department and/or agency is hereby adopted as part of this Ordinance.

SECTION 5. COUNTY OPERATIONS REVENUES

The appropriation for County Operations will be funded from the following revenue sources:

- A. \$ 99,872,000 to be derived from tax collections;
- A.1 \$ 6,345,968 Ad Valorem Tax Collections (separately stated millage)
- B. \$ 8,882,160 to be derived from charges for services;
- C. \$ 9,058,838 to be derived from intergovernmental revenue sources;
- D. \$ 3,244,160 to be derived from fees for licenses and permits;
- E. \$ 1,545,000 to be derived from inter-fund transfers;
- F. \$ 729,500 to be derived from fines and forfeitures' collections;
- G. \$ 180,000 to be derived from miscellaneous revenue sources;
- H. \$ 442,805 to be derived from interest on investments;

Additional operations of various County departments are funded by Special Revenue sources. The detail of line-item accounts for these funds as shown on “Exhibit A” is hereby adopted as part of this Ordinance.

SECTION 6. PURCHASE OF DEVELOPMENT RIGHTS AND REAL PROPERTY PROGRAM

The revenue generated by a 4.8 mill levy is appropriated for the County’s Purchase of Development Rights and Real Property Program.

## SECTION 7. COUNTY DEBT SERVICE APPROPRIATION

The revenue generated by a 5.5 mill levy is appropriated to defray the principal and interest payments on all County bonds and on the lease-purchase agreement authorized to cover other Capital expenditures.

## SECTION 8. BUDGETARY ACCOUNT BREAKOUT

The foregoing County Operations appropriations have been detailed by the County Council into line-item accounts for each department and is attached as "Exhibit A." The Fire Districts, as described in Section 3 of this Ordinance, line-item budgets are attached hereto as Exhibit B, and are also part and parcel of this Ordinance.

## SECTION 9. OUTSTANDING BALANCE APPROPRIATION

The balance remaining in each fund at the close of the prior fiscal year, where a reserve is not required by State or Federal law, is hereby transferred to the Unreserved Fund Balance of that fund.

## SECTION 10. AUTHORIZATION TO TRANSFER FUNDS

In the following Section where reference is made to "County Administrator", it is explicit that this refers to those funds under the particular auspices of the County Administrator requiring his or her approval shown on the attached "Exhibit A" as "County Administration Operation."

Transfers of monies/budgets among operating accounts, capital accounts, funds, and programs must be authorized by the County Administrator or his designee, upon the written request of the Department Head. Any transfer in excess of \$50,000 for individual or cumulative expenditures during any current fiscal year is to be authorized by the County Council, or its designee.

Transfer of monies/budgets within operating accounts, capital accounts, funds, and programs must be authorized by the County Administrator or his designee, upon written request of the Department Head. The County Administrator, or his designee, may also transfer funds from any departmental account to their respective Contingency Accounts. All transfers among and within accounts in excess of \$50,000 for individual or cumulative expenditures during any current fiscal year are to be reported to County Council through the Finance Committee on a quarterly basis.

## SECTION 11. ALLOCATION OF FUNDS

The County Administrator is responsible for controlling the rate of expenditure of budgeted funds in order to assure that expenditures do not exceed funds on hand. To carry out this responsibility, the County Administrator is authorized to allocate budgeted funds.

## SECTION 12. MISCELLANEOUS RECEIPTS ABOVE-ANTICIPATED REVENUES

Revenues other than, and/or in excess of, those addressed in Sections 4, 5, 6 and 7 of this Ordinance, received by Beaufort County, and all other County agencies fiscally responsible to

Beaufort County, which are in excess of anticipated revenue as approved in the current budget, may be expended as directed by the revenue source, or for the express purposes for which the funds were generated without further approval of County Council. All such expenditures, in excess of \$10,000, shall be reported, in written form, to the County Council of Beaufort County on a quarterly basis. Such funds include sales of products, services, rents, contributions, donations, special events, insurance and similar recoveries.

#### SECTION 14. TRANSFERS VALIDATED

All duly authorized transfers of funds heretofore made from one account to another, or from one fund to another during Fiscal Year 2021, are hereby approved.

#### SECTION 15. AIRPORTS BUDGET (ENTERPRISE FUND)

The Hilton Head and Lady's Island airports operate as an enterprise fund (appropriations from the Beaufort County General Fund being unnecessary for the operations of the Airports). Beaufort County Code of Ordinance Chapter 6 establishes the Beaufort County Airports Board (BCAB), a purpose of which includes advising County Council on financial matters including the establishment of an annual budget. The BCAB met on June 18, 2020 and reviewed the proposed annual budget as proposed by the Airports Director, and recommended the following to County Council. An amount of \$631,740.00 for the operations of the Lady's Island Airport and an amount of \$4,061,469.00 for the operations of the Hilton Head Island Airport, as shown on the attached Exhibit B "Hilton Head Airport" and "Lady's Island Airport" is hereby approved.

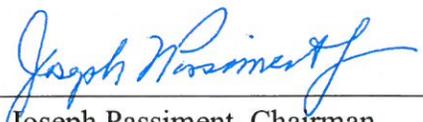
#### SECTION 16. STORMWATER MANAGEMENT UTILITY BUDGET (ENTERPRISE FUND)

Beaufort County Code of Ordinance Chapter 99 establishes the Beaufort County Stormwater Management Utility and specifically Sec. 99-116 establishes the Beaufort County Stormwater Management Utility Board (SWMUB). The SWMUB purpose includes advising and recommending to County Council appropriate funding levels for the provision of stormwater management services. The SWMUB met on March 11, 2020, reviewed the proposed annual budget, and recommended approval of the 2020-21 operations budget attached hereto for Stormwater Utility Management services and programs. An amount of \$7,126,994.00 for the operations of the Stormwater Management Utility services and programs as shown on the attached Exhibit C "Stormwater Management Utility Operations Budget for Fiscal Year 2020-21" is hereby approved.

#### SECTION 17. EFFECTIVE DATE

This Ordinance shall be effective July 1, 2020. Approved and adopted on third and final reading this 22<sup>nd</sup> day of June, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY:   
Joseph Passiment, Chairman

*Sarah W. Brock*

Sarah W. Brock, Clerk to Council

First Reading, By Title Only: May 26, 2020 / Vote 11:0

Second Reading: June 8, 2020 / Vote 7:3

Public Hearings: June 8, 2020 & June 22, 2020

Third and Final Reading: June 22, 2020/ Vote 10:1

ORDINANCE No. 2020 / \_\_\_\_\_

AMENDING THE 2020-2021 BEAUFORT COUNTY BUDGET ORDINANCE

WHEREAS, on June \_\_\_\_, 2020 County Council adopted Ordinance No. 2020-22, adopting and establishing the countywide budget, to provide for the levy of tax for corporate Beaufort County for the fiscal year beginning July 1, 2020 and ending June 30, 2021, to make appropriations for said purposes, and to provide for budgetary control of the County’s fiscal affairs (the “Budget Ordinance”); and

WHEREAS, since that time it has been determined that a mathematical error was contained in the Budget Ordinance, necessitating a correction,

NOW, THEREFORE, be it ordained by Beaufort County Council, that Section 2, paragraph 2 sentence 1 of the Budget Ordinance be amended to read “The County Auditor is hereby authorized and directed to levy in Fiscal Year 2020-2021 a tax of 64.5 mills on the dollar of assessed value.” The millage on the dollar of assessed value are as follows:

County Operations	50.0
Higher Education	2.3
Purchase of Real Property Program	5.1
Indigent Care BJHCHS	0.4
Indigent Care BMS	0.4
Economic Development	0.2
County Capital	0.6
County Debt Service	5.5
<b>Total</b>	<u><u>64.5</u></u>

THE REMAINDER of the Budget Ordinance remains unchanged and is in full force and effect.

ORDERED in meeting duly assembled this 12th day of October, 2020

\_\_\_\_\_  
Joe Passiment, Chairman

\_\_\_\_\_  
Attest: Sarah W. Brock, Clerk to Council

ORDINANCE No. 2020 / \_\_\_\_\_

AMENDING THE 2020-2021 BEAUFORT COUNTY BUDGET ORDINANCE

WHEREAS, on June \_\_\_\_, 2020 County Council adopted Ordinance No. 2020-22, adopting and establishing the countywide budget, to provide for the levy of tax for corporate Beaufort County for the fiscal year beginning July 1, 2020 and ending June 30, 2021, to make appropriations for said purposes, and to provide for budgetary control of the County’s fiscal affairs (the “Budget Ordinance”); and

WHEREAS, since that time it has been determined that a mathematical error was contained in the Budget Ordinance, necessitating a correction,

NOW, THEREFORE, be it ordained by Beaufort County Council, that Section 2, paragraph 2 sentence 1 of the Budget Ordinance be amended to read “The County Auditor is hereby authorized and directed to levy in Fiscal Year 2020-2021 a tax of 65.2 mills on the dollar of assessed value.” The millage on the dollar of assessed value are as follows:

County Operations	50.0
Higher Education	2.3
Purchase of Real Property Program	5.8
Indigent Care BJHCHS	0.4
Indigent Care BMS	0.4
Economic Development	0.2
County Capital	0.6
County Debt Service	5.5
<b>Total</b>	<u><u>65.2</u></u>

THE REMAINDER of the Budget Ordinance remains unchanged and is in full force and effect.

ORDERED in meeting duly assembled this 12th day of October, 2020

\_\_\_\_\_  
Joe Passiment, Chairman

\_\_\_\_\_  
Attest: Sarah W. Brock, Clerk to Council



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
<b>SECOND READING OF AN ORDINANCE OF THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA ("COUNCIL") ESTABLISHING AND ADOPTING A SCHOOL DEVELOPMENT IMPACT FEE ("IMPACT FEE") TO BE IMPOSED ON ALL NEW RESIDENTIAL DEVELOPMENT IN THE SOUTH BEAUFORT COUNTY SCHOOL SERVICE AREA PURSUANT TO ORDINANCE NO. 2020/____; TO ENSURE THAT SCHOOL FACILITY SYSTEM IMPROVEMENTS WILL BE AVAILABLE AND ADEQUATE TO ACCOMMODATE THE NEED EXPECTED TO BE GENERATED FROM THE SCHOOL CHILDREN IN NEW RESIDENTIAL DEVELOPMENTS IN THE SOUTH BEAUFORT COUNTY SCHOOL SERVICE AREA BASED ON THE SCHOOL DISTRICT'S LEVEL OF SERVICE STANDARDS AND CAPITAL IMPROVMENTS PLAN, AND TO ASSIGN THE COSTS OF SUCH PUBLIC SCHOOL FACILITIES ON A PROPORTIONATE SHARE BASIS TO NEW RESIDENTIAL DEVELOPMENT IN THE SERVICE AREA; AND ESTABLISHMENT OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN BEAUFORT COUNTY AND THE BEAUFORT COUNTY SCHOOL DISTRICT, AND INDIVIDUAL INTERGOVERNMENTAL AGREEMENTS BETWEEN BEAUFORT COUNTY AND THE TOWNS OF BLUFFTON AND HILTON ISLAND AND THE CITY OF HARDEEVILLE TO ENSURE PROPER IMPLEMENTATION AND ADMINISTRATION OF THE SCHOOL DEVELOPMENT IMPACT FEE ORDINANCE</b>
<b>MEETING NAME AND DATE:</b>
September 14, 2020 County Council Meeting
<b>PRESENTER INFORMATION:</b>
<i>Kurt Taylor, County Attorney and Eric Greenway, Planning and Zoning Director</i> <i>15-20 minutes</i>
<b>ITEM BACKGROUND:</b>
<i>Planning Commission 08/04/20 Motion to Approve failed by a vote of 4:4</i> <i>NRC 08/10/20 Motion to Approve by a vote of 7:3</i> <i>County Council 08/10/20 1<sup>st</sup> Reading by Title Only – Motion to Approve by a vote of 5:4</i>
<b>PROJECT / ITEM NARRATIVE:</b>
The Beaufort County School District retained Tischler Bise to prepare a Capital Improvement Plan and Development Impact Fee Study. Please refer to the School Study reports for these items as the points to consider are many for this proposed fee. The fee, as proposed, will only be imposed on new residential development in the South of the Broad River Service Area and will apply to each dwelling unit type on the following basis: \$9,535.00 per single family dwelling and \$4,508.00 per Multi-Family Dwelling Unit.
<b>FISCAL IMPACT:</b>
\$9,535.00 per single family dwelling and \$4,508.00 per Multi-Family Dwelling Unit.
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Staff recommends approval of the study as drafted, presented, and recommended by the Beaufort County School Board for the Service Area South of the Broad.

**OPTIONS FOR COUNCIL MOTION:**

*Motion to approve second reading of An Ordinance Of The County Council Of Beaufort County, South Carolina ("Council") Establishing And Adopting A School Development Impact Fee ("Impact Fee") To Be Imposed On All New Residential Development In The South Beaufort County School Service Area.*

*Motion to deny second reading of An Ordinance Of The County Council Of Beaufort County, South Carolina ("Council") Establishing And Adopting A School Development Impact Fee ("Impact Fee") To Be Imposed On All New Residential Development In The South Beaufort County School Service Area.*

**ORDINANCE 2020/ \_\_\_\_**

**AN ORDINANCE OF THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA ("COUNCIL") ESTABLISHING AND ADOPTING A SCHOOL DEVELOPMENT IMPACT FEE TO BE IMPOSED ON ALL NEW RESIDENTIAL DEVELOPMENT IN THE SOUTH BEAUFORT COUNTY SCHOOL SERVICE AREA; TO ENSURE THAT SCHOOL FACILITY SYSTEM IMPROVEMENTS WILL BE AVAILABLE AND ADEQUATE TO ACCOMMODATE THE NEED EXPECTED TO BE GENERATED FROM THE SCHOOL CHILDREN IN NEW RESIDENTIAL DEVELOPMENTS IN THE SOUTH BEAUFORT COUNTY SCHOOL SERVICE AREA BASED ON THE SCHOOL DISTRICT'S LEVEL OF SERVICE STANDARDS AND CAPITAL IMPROVMENTS PLAN AND TO ASSIGN THE COSTS OF SUCH PUBLIC SCHOOL FACILITIES ON A PROPORTIONATE SHARE BASIS TO NEW RESIDENTIAL DEVELOPMENT IN THE SERVICE AREA; AND ESTABLISHMENT OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN BEAUFORT COUNTY AND THE BEAUFORT COUNTY SCHOOL DISTRICT, AND INDIVIDUAL INTERGOVERNMENTAL AGREEMENTS BETWEEN BEAUFORT COUNTY AND THE TOWNS OF BLUFFTON AND HILTON ISLAND AND THE CITY OF HARDEEVILLE TO ENSURE PROPER IMPLEMENTATION AND ADMINISTRATION OF THE SCHOOL DEVELOPMENT IMPACT FEE ORDINANCE**

**WHEREAS**, Beaufort County ("County") and the municipalities south of the Broad River (the towns of Bluffton and Hilton Head Island and the City of Hardeeville) have experienced rapid population growth and development for the past 30 years, and projections indicate that growth will continue at a reasonable rate into the future; and

**WHEREAS**, the County and the municipalities south of the Broad River have experienced the impacts on public facilities resulting from this population growth and development; and

**WHEREAS**, Beaufort County is served by the Beaufort County Board of Education ("School Board"); and

**WHEREAS**, population and growth estimates for the Beaufort County School District over the next 10 years for the area south of the Broad River indicate there will be a need for additional classrooms and other school facilities due to population growth and development in that area; and

**WHEREAS**, the School Board has defined level of service standards for the area south of the Broad River, by school type (elementary, middle, and high school), minimum square feet for school buildings, land (by acres), and school buses (per student); and

**WHEREAS**, these level of service standards and the projected residential development and student generation rates identify these school system improvement needs over the next 10 years; and

**WHEREAS**, the cost of these school system improvement needs (school buildings, land, and school buses) is significant and expensive; and

**WHEREAS**, if bonds, backed only by property taxes, are used to finance these new school facility system improvements (school buildings, land, and school buses) needed to accommodate the demand generated by new residential development in the area in Beaufort County south of the Broad River, they would be largely paid for by second homeowners who do not have children who would use these services; and

**WHEREAS**, the County Council finds that it is fair and equitable for new residential development in Beaufort County south of the Broad River to fund the required new school facility improvements, in part, through a proportionate share school development impact fee; and

**WHEREAS**, because all new residential development (single-family and multifamily dwelling units) in the area south of the Broad River generates a demand for school facility system improvements based on the same student generation rate (elementary school – 0.106 students per single-family dwelling unit and 0.069 students per multifamily dwelling unit; middle school– 0.056 students per single-family dwelling unit and 0.023 students per multifamily dwelling unit; and high school– 0.074 students per single family dwelling unit and 0.026 students per multifamily dwelling unit), the school development impact fee shall be imposed uniformly within the area south of the Broad River on all new dwelling units (single-family and multifamily), as established by the student generation rates, regardless of size or density; and

**WHEREAS**, the school development impact fee shall be imposed uniformly on all new dwelling units within the area south of the Broad River, regardless of the location of the residential development; and

**WHEREAS**, because non-residential development does not directly generate school children, the school development impact fee shall not be imposed on such development; and

**WHEREAS**, the County Council after giving ample consideration to the provision and financing of new school facility system improvements south of the Broad River, and after consulting with the School Board, now hereby finds and declares that the establishment and adoption of the school development impact fee proposed on new residential development is proportionate and based on the School Board capital improvement plan for the area south of the Broad River to accommodate new residential development in that area, and current costs to provide the system improvements; and

**WHEREAS**, the County and the School Board is empowered to execute an intergovernmental agreement on the subject of school development impact fees; and

**WHEREAS**, the County and the towns of Bluffton and Hilton Head Island, and the City of Hardeeville are empowered to execute an intergovernmental agreement on the subject of school development impact fees; and

**WHEREAS**, because only the School Board is authorized to construct school facility system improvements, intergovernmental agreements shall provide for the transfer of school development impact fee revenues from the towns of Bluffton and Hilton Head Island and the City of Hardeeville to the County, which then will transfer the fees (including those collected in the unincorporated County by the County) to the School Board; and

**WHEREAS**, the intergovernmental agreements referred to above, this Ordinance, and the impact fee procedures as set forth in Section 82-21 *et seq.* ensure that the school development impact fees which are collected and transferred to the School Board are spent for the new school facility system improvements which are identified in the School Board capital improvement plan for the area south of the Broad River which are designed to serve the school age children of new residential development in that area; and

**WHEREAS**, the County Council deems it advisable to adopt this school development impact fee Ordinance, the impact fee procedures as set forth in Section 82-21 *et seq.* of the County Code and the intergovernmental agreements with the School Board and the towns of Bluffton and Hilton Head Island and the City of Hardeeville as hereinafter set forth;

**NOW, THEREFORE, BE IT ORDAINED** by the County Council of Beaufort County, South Carolina that:

**SECTION 1. TEXT AMENDMENT TO CHAPTER 82**

The Beaufort County Code of Ordinances, Chapter 82: Impact Fees is amended by adding Article VIII, School Development Impact Fees—Southern Beaufort County Service Area, as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

**SECTION 2. EFFECTIVE DATE.**

- (a) This Ordinance shall become effective on [redacted], 2020, provided, however, that the school development impact fee for new development within the South Beaufort County School Service Area established by this Ordinance shall only be effective upon the date that all municipalities in the service area have entered into the intergovernmental agreements with the County required by Section 82-213 of the County Code as amended by this Ordinance, and the County and School Board have entered into the intergovernmental agreement required by Section 82-213 of the County Code as amended by this Ordinance.
- (b) Applications for new residential development filed after the effective date as set forth in this section shall be subject to the school development impact fee established by this Ordinance.
- (c) Applications for new residential development filed between the date of adoption of this Ordinance and the effective date as set forth in this section shall not be subject to the school development impact fee established by this Ordinance.

**SECTION 3. LIBERAL CONSTRUCTION.**

The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes in the interest of furthering, promoting, and protecting the public health, safety, and welfare.

**SECTION 4. SEVERABILITY.**

- (a) If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion of this Ordinance shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions of this Ordinance nor impair or nullify the remainder of this Ordinance, which shall continue in full force and effect.
- (b) If the application of any provision of this Ordinance to any new development is declared to be invalid by a decision of any court of competent jurisdiction, the intent of County Council is that such decision shall be limited only to the specific new development expressly involved in the controversy, action or proceeding in which such decision of invalidity was rendered. Such decision shall not affect, impair or nullify this Ordinance as a whole or the application of any provision of this Ordinance to any other new development.

**ADOPTED** this \_\_\_ day of \_\_\_\_\_ 2020

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Joseph F. Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah Brock, Clerk to Council

**EXHIBIT A****ARTICLE VIII. SCHOOL FACILITIES—SOUTHERN BEAUFORT COUNTY SERVICE AREA****SECTION 82-200. ADOPTION AND IMPOSITION OF SCHOOL DEVELOPMENT IMPACT FEES.**

Pursuant to the impact fee procedures in Section 82-21 *et seq.*, and the intergovernmental agreements between the County and the Beaufort County Board of Education (“School Board”), and the County and the towns of Bluffton and Hilton Head Island and the City of Hardeeville, and other applicable provisions of the County Code, this school development impact fee shall be adopted and imposed on all new residential development (single-family and multifamily dwelling units) in the area of the County south of the Broad River, in accordance with the procedures and requirements of this article.

**SECTION 82-201. ESTABLISHMENT OF SOUTH BEAUFORT COUNTY SCHOOL SERVICE AREA.**

- (a) The school development impact fee shall be calculated and imposed within the South Beaufort County School Service Area, including unincorporated areas as well as those areas within all the municipalities in the service area (the towns of Bluffton and Hilton Head Island, and the City of Hardeeville), in accordance with intergovernmental agreements between the County and those municipalities.
- (b) The boundaries of the South Beaufort County School Service Area are all areas of the County south of the Broad River and are identified in Figure 82-201: South Beaufort County School Service Area.



- (b) The school development impact fee shall be imposed on all new residential development in the South Beaufort County School Service Area unless the residential development is exempted, or an exception or waiver is granted pursuant to Sec. 82-32(b), Development Not Subject to Development Impact Fees, or Sec. 82-33(b)(3)c. If an exception or waiver is granted, the development impact fees which otherwise would have been due shall be provided to the School Board using funds available for new residential growth needs from sources other than school development impact fees.
- (c) Residential development in the unincorporated County of the service area shall pay the fees prior to issuance of a building permit. Pursuant to the individual intergovernmental agreements between the County and the municipalities in the service area, residential development in the towns of Bluffton and Hilton Head Island, and the City of Hardeeville shall pay the fees prior to issuance of a building permit. A building permit for residential development shall not be issued in Bluffton, Hilton Head Island, or Hardeeville without confirmation, in writing, from the appropriate building official that the school development impact fees have been paid in accordance with this section.

**SECTION 82-204. DEVELOPMENT IMPACT FEE SCHEDULE.**

- (a) The following general procedure shall be followed upon receipt of an application for a building permit for new residential development:
  - 1) Identify the number and type of dwelling units (either single-family or multifamily) in the proposed new or expanded residential development; and
  - 2) Multiply the number of dwelling units by the school development impact fee in the table below, for the type of dwelling unit.

DWELLING UNIT TYPE	FEE
Single Family	\$9,535
Multifamily	\$4,508

- (b) The school development impact fee shall be adjusted annually to reflect the effects of inflation on the costs for school facility system improvements set forth in the school support study and CIP, beginning on December 1, 2021. In each following year by December 1, the school development impact fee amount set forth in Table 1: School Development Impact Fee Schedule, South Beaufort County School Service Area, shall be adjusted to account for inflationary increases in the costs of providing school facility system costs using the Construction Cost Index calculated by the Engineering News Record (ENR). For each such adjustment, the school facilities development impact fees currently in use for the service area pursuant to this subsection shall be multiplied by a fraction, the numerator of which is the ENR Construction Cost Index for the most recent month for which figures are available, and the denominator of which is the ENR Construction Cost Index for the period one year prior to the period reflected in the numerator.

**SECTION 82-205. INDIVIDUAL ASSESSMENT OF DEVELOPMENT IMPACT.**

- (a) In-lieu of calculating the school development impact fees by reference to the fee schedule in the table above, a fee payor may request that the amount of the required school development impact fees be determined by reference to an Individual Assessment of Development Impact for the proposed development.

- (b) If a fee payor requests the use of an Individual Assessment of Development Impact, the fee payor shall be responsible for retaining a qualified professional to prepare the Individual Assessment of Development Impact that complies with the requirements of this section, at the fee payor's expense.
- (c) Each Individual Assessment of Development Impact shall be based on the same level of service standards and system improvement costs for school facility system improvements used in the school support study and CIP, shall use the formula for calculating the development impact fee used in the school support study and CIP, and shall document the relevant methodologies and assumptions used. The burden shall be on the fee payor requesting the Individual Assessment of Development Impact to demonstrate by competent evidence that the data and assumptions used in the school support study and reflected in the fee schedule in Sec. 82-204 is less accurate than the results of the Individual Assessment of Development Impact.
- (d) The Individual Assessment of Development Impact may attempt to demonstrate that student generation rates or other factors more accurately reflect the impacts of the proposed development (no adjustments in the assumption of credits shall be made). Support for alternate student generation rates by land use category or other factors shall only be provided through local data and surveys.
- (e) Each Individual Assessment of Development Impact shall be submitted to the Director or a designee, and may be accepted, rejected, or accepted with modifications by the Director or a designee as the basis for calculating school development impact fees. If an Individual Assessment of Development Impact is accepted or accepted with modifications by the Director or a designee as a more accurate measure of the demand for school facility system improvements created by the proposed new development than the applicable fees in Sec. 82-204, then the development impact fees due under this article shall be calculated according to such assessment.

#### **SECTION 82-206. CREDITS.**

- (a) Any developer/fee payor which is obligated to pay a school development impact fee under this section may apply for credit against school development impact fees otherwise due up to, but not exceeding, the full obligation for the fees proposed to be paid pursuant to the provisions of this article for any construction or dedication of land for school facility system improvements that are accepted by the County Council and the School Board for systems improvements identified in the CIP.
- (b) *Valuation of Credits*
  - 1) Credit for land dedication for a school, at the fee payor's option, shall be valued at either (a) 100 percent of the most recent assessed value for such land as shown in the records of the County Assessor, or (b) the fair market value of the land established by a private appraiser acceptable to the County Council and School Board in an appraisal paid for by the fee payor.
  - 2) Credit for construction of a school building shall be valued by the County Council and School Board based on construction costs estimates submitted by the fee payor. The County Council, after consultation with the School Board, shall determine the amount of credit due based on the information submitted, or, if it determines the information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the County Council and School Board.
- (c) *When Credits Become Effective*

- 1) Credits for land dedication for schools shall become effective after the credit is approved by County Council and the School Board pursuant to this section and a Credit Agreement/Development Agreement is entered into, and (a) the land has been conveyed to the School Board in a form established by the School Board at no cost to the School Board, and (b) the dedication of land has been accepted by the School Board.
- 2) Credits for construction of school buildings shall become effective after the credit is approved by County Council and School Board pursuant to this section, a Credit Agreement/Development Agreement is entered into, and (a) all required construction has been completed and has been accepted by the School Board, (b) a suitable maintenance and warranty bond has been received and approved by the School Board, and (c) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable School Board requirements.
- 3) Credits for construction or dedication of land for school facility system improvements shall be transferable within the same development for school development impact fee purposes, but shall not be transferable outside the development or used as credit against fees for other public facilities. Credit may be transferred pursuant to these terms and conditions by any written instrument that clearly identifies which credits issued under this section are to be transferred. The instrument shall be signed by both the transferor and transferee, and the document shall be delivered to the County Council and School Board for registration.
- 4) The total amount of the credit shall not exceed the amount of the school development impact fees due and payable for the project.
- 5) The County and School Board may enter into a Capital Contribution Front-Ending Agreement with any developer/fee payor who proposes to construct school facility system improvements in the CIP, to the extent the fair market value of the construction of those school facility system improvements exceed the obligation to pay school development impact fees for which a credit is provided pursuant to this section. The Capital Contribution Front-Ending Agreement shall provide proportionate and fair share reimbursement linked to new growth and development's use of the school facility system improvements constructed.
- 6) If the offer for credit is approved, a Credit Agreement/Development Agreement shall be prepared and signed by the applicant and the County Council and School Board. The Credit Agreement/Development Agreement shall specifically outline the construction of school buildings or land dedication for schools, the time by which they shall be completed or dedicated, and any extensions thereof, and the value (in dollars) of the credit against the school development impact fees the fee payor shall receive for the construction of school buildings or the dedication of land.

**SECTION 82-207. TRUST ACCOUNT FOR SCHOOL DEVELOPMENT IMPACT FEES.**

The County and municipalities in the South Beaufort County School Service Area (the towns of Bluffton and Hilton Head Island and the City of Hardeeville), pursuant to an intergovernmental agreement with the County, hereby establish segregated School Development Impact Fee Trust Accounts. All school development impact fees collected by the County and the municipalities for school development impact fees shall be placed in their respective Trust Account. By November 1 of each year, the municipalities shall transfer the school development impact fees they collect to the County. Upon receipt, the County shall place the fees received from each municipality into its School Development Impact Fee Trust Account, identifying which fees came from which municipality. Prior to December 1 of each year, the

County shall transfer all school development impact fees received and collected to the School Board. The Trust Account shall be interest-bearing and all interest earned and accruing to the account shall become funds of the account, subject to the same limitations and restrictions on use and expenditure of funds that are applicable to school development impact fee funds.

**SECTION 82-208. EXPENDITURE OF FEES FOR SYSTEM IMPROVMENTS.**

School development impact fee funds transferred to the School Board by the County shall be used by the School Board in accordance with the County impact fee procedures in Section 82-21 *et seq.* solely and exclusively for school facility system improvements as set forth in the school support study and CIP. System improvements generally include the following: school buildings, land, and school buses for public elementary, middle, and high schools that are designed to expand school system capacity.

**SECTION 82-209. DEVELOPMENT AGREEMENT OPTION.**

- (a) A developer may pay the school facilities development impact fee as calculated pursuant to Section 82-204. Development Impact Fee Schedule, as the proposed development project's proportionate share of school facility system improvement costs and as full and complete payment of such obligations. In the alternative, the developer may enter into an agreement with the County or a participating municipality (as applicable) pursuant to the State Local Government Development Agreement Act, and provide for dedication of land or construction of school buildings or for payments in-lieu of school development impact fees for school facility system improvements.
- (b) A school development impact fee may not be imposed on a developer who has entered into a development agreement with the County who provides for the school facility system improvement needs of the developer's development project that is subject to the development agreement.
- (c) A development agreement for school facility system improvements in accordance with this section may only be entered into with the authorization and approval of both the County and the developer, or the participating municipality and the developer (as appropriate), and after consultation with the School Board.

**SECTION 82-210. DEVELOPER RIGHTS.**

The developer, pursuant to the State Development Impact Fee Act and the county impact fee procedures set forth in Section 82-21 *et seq.*, shall have the following rights, any or all of which may be exercised only in accordance with the impact fee procedures as set forth in Section 82-21 *et seq.*

- (a) *Administrative Appeal.* The developer/applicant may file an administrative appeal with the County Administrator with respect to a County or municipal decision related to the imposition, calculation, collection, processing, or expenditure of a school development impact fee, at any time; provided, however, that such appeal must comply with the provisions and requirements of the County impact fee procedures set forth in Section 82-21 *et seq.* If the appeal follows payment of the development impact fee, it must be made within 30 days of the date of fee payment. The filing of an appeal will immediately halt the development approval process, unless the developer/applicant posts a bond or submits an irrevocable letter of credit for the full amount of the impact fees as calculated by the County or municipality to be due.
- (b) *Payment under Protest.* The developer/applicant may pay the County-calculated or municipality-calculated school development impact fees under protest, pursuant to the County impact fee

procedures as set forth in Section 82-21 *et seq.* Payment under protest does not preclude the developer/applicant from filing an administrative appeal, from requesting a refund, or from posting a bond or submitting an irrevocable letter of credit for the amount of the development impact fee due, all as set forth in the impact fee procedures as set forth in Section 82-21 *et seq.*

- (c) *Mediation.* The developer/applicant may request mediation by a qualified independent party, but only upon voluntary agreement by both the developer/applicant (fee payor) as well as the County (and, if applicable, municipality) and only to address a disagreement related to the school development impact fees, as calculated by the County or municipality, for the proposed development. Neither request for, nor participation in, mediation shall preclude the developer/applicant (fee payor) from pursuing other developer rights and/or remedies, as set forth in this article, the County impact fee procedures as set forth in Section 82-21 *et seq.*, or other remedies available by law.

#### **SECTION 82-211. COUNTY REMEDIES.**

- (a) The County, pursuant to the State Development Impact Fee Act and the County impact fee procedures as set forth in Section 82-21 *et seq.*, and the towns of Bluffton and Hilton Head Island and the City of Hardeeville, to the extent authorized pursuant to the intergovernmental agreements entered into with the County pursuant to this article, shall have all of the following remedies, which may be exercised individually or collectively, but only in accordance with the impact fee procedures as set forth in Section 82-21 *et seq.*:
- 1) *Interest and Penalties.* The County or municipality may, in its sole discretion, add reasonable interest and penalties for nonpayment or late payment to the amount of the calculated school development impact fees due, pursuant to the impact fee procedures as set forth in Section 82-21 *et seq.*
  - 2) *Withholding Building or Development Permit or Development Approval or Certificate of Occupancy.* The County or municipality may withhold a certificate of occupancy, a building or development permit, or development approval, as may be applicable, until full and complete payment has been made by the developer/applicant of the school development impact fees due.
  - 3) *Lien.* The County may impose a lien on the developer's property, pursuant to the impact fee procedures as set forth in Section 82-21 *et seq.*, for failure of the developer/applicant to timely pay the required school development impact fees in full.
- (b) The County or municipality may pursue any one or all of the remedies described in subsection (a) of this section at its discretion. The failure to pursue any remedy or remedies, at any time, shall not be deemed to be a waiver of County or municipal rights to pursue any remedy or remedies at such other time as may be deemed appropriate.

#### **SECTION 82-212. REFUND OF FEES**

- (a) A collected school development impact fee shall be refunded to the owner of record of property on which a school development impact fee has been paid if:
- 1) The school development impact fee revenues collected on the property have not been expended within three years of the date they were scheduled to be expended, pursuant to the school support study and CIP; or

- 2) A building permit or permit for installation of a manufactured home on the property is subsequently denied.
- (b) The amount, timing, and recipient of any refund required by this article of collected school development impact fees shall comply with the standards of Sec. 82-35.

**SECTION 82-213. INTERGOVERNMENTAL AGREEMENTS.**

Prior to imposition of a school development impact fee pursuant to this article, the County and the School Board shall enter into an intergovernmental agreement, and the County and the municipalities in the South Beaufort County School Service Area (the towns of Bluffton and Hilton Head Island and the City of Hardeeville) shall enter into intergovernmental agreements. These intergovernmental agreements shall:

- (a) Specify the reasonable share of funding of joint system improvements for school facility system improvements by each governmental unit; and
- (b) Provide for the collection of the school development impact fee by the municipality within its corporate limits and by the County within the unincorporated area; and
- (c) Provide for the timely transfer of school development impact fee revenues from the municipality to the County, and then the transfer of the fees collected by the participating municipalities and the County to the School Board; and
- (d) Provide for the timely expenditure of the school development impact fee revenues by the School Board, in accordance with the CIP.

**SECTION 82-214. TERMINATION OF THE SCHOOL DEVELOPMENT IMPACT FEES.**

The school development impact fees shall terminate upon the completion/conclusion of all of the school development impact fee-funded school facility system improvements as set forth in the CIP unless:

- (a) The School Board adopts a capital improvements plan for a subsequent time period for the South Beaufort County School Service Area; or
- (b) The County adopts an updated school development impact fee pursuant to the substantive and procedural requirements of the State Development Impact Fee Act.

**Sections 82-215—82-219. RESERVED.**

**ORDINANCE 2020/ \_\_\_\_**

**AN ORDINANCE OF THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA ("COUNCIL") ESTABLISHING AND ADOPTING A SCHOOL DEVELOPMENT IMPACT FEE TO BE IMPOSED ON ALL NEW RESIDENTIAL DEVELOPMENT IN THE SOUTH BEAUFORT COUNTY SCHOOL SERVICE AREA; TO ENSURE THAT SCHOOL FACILITY SYSTEM IMPROVEMENTS WILL BE AVAILABLE AND ADEQUATE TO ACCOMMODATE THE NEED EXPECTED TO BE GENERATED FROM THE SCHOOL CHILDREN IN NEW RESIDENTIAL DEVELOPMENTS IN THE SOUTH BEAUFORT COUNTY SCHOOL SERVICE AREA BASED ON THE SCHOOL DISTRICT'S LEVEL OF SERVICE STANDARDS AND CAPITAL IMPROVMENTS PLAN AND TO ASSIGN THE COSTS OF SUCH PUBLIC SCHOOL FACILITIES ON A PROPORTIONATE SHARE BASIS TO NEW RESIDENTIAL DEVELOPMENT IN THE SERVICE AREA; AND ESTABLISHMENT OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN BEAUFORT COUNTY AND THE BEAUFORT COUNTY SCHOOL DISTRICT, AND INDIVIDUAL INTERGOVERNMENTAL AGREEMENTS BETWEEN BEAUFORT COUNTY AND THE TOWNS OF BLUFFTON AND HILTON ISLAND AND THE CITY OF HARDEEVILLE TO ENSURE PROPER IMPLEMENTATION AND ADMINISTRATION OF THE SCHOOL DEVELOPMENT IMPACT FEE ORDINANCE**

**WHEREAS**, Beaufort County ("County") and the municipalities south of the Broad River (the towns of Bluffton and Hilton Head Island and the City of Hardeeville) have experienced rapid population growth and development for the past 30 years, and projections indicate that growth will continue at a reasonable rate into the future; and

**WHEREAS**, the County and the municipalities south of the Broad River have experienced the impacts on public facilities resulting from this population growth and development; and

**WHEREAS**, Beaufort County is served by the Beaufort County Board of Education ("School Board"); and

**WHEREAS**, population and growth estimates for the Beaufort County School District over the next 10 years for the area south of the Broad River indicate there will be a need for additional classrooms and other school facilities due to population growth and development in that area; and

**WHEREAS**, the School Board has defined level of service standards for the area south of the Broad River, by school type (elementary, middle, and high school), minimum square feet for school buildings, land (by acres), and school buses (per student); and

**WHEREAS**, these level of service standards and the projected residential development and student generation rates identify these school system improvement needs over the next 10 years; and

**WHEREAS**, the cost of these school system improvement needs (school buildings, land, and school buses) is significant and expensive; and

**WHEREAS**, if bonds, backed only by property taxes, are used to finance these new school facility system improvements (school buildings, land, and school buses) needed to accommodate the demand generated by new residential development in the area in Beaufort County south of the Broad River, they would be largely paid for by second homeowners who do not have children who would use these services; and

**WHEREAS**, the County Council finds that it is fair and equitable for new residential development in Beaufort County south of the Broad River to fund the required new school facility improvements, in part, through a proportionate share school development impact fee; and

**WHEREAS**, because all new residential development (single-family and multifamily dwelling units) in the area south of the Broad River generates a demand for school facility system improvements based on the same student generation rate (elementary school – 0.106 students per single-family dwelling unit and 0.069 students per multifamily dwelling unit; middle school– 0.056 students per single-family dwelling unit and 0.023 students per multifamily dwelling unit; and high school– 0.074 students per single family dwelling unit and 0.026 students per multifamily dwelling unit), the school development impact fee shall be imposed uniformly within the area south of the Broad River on all new dwelling units (single-family and multifamily), as established by the student generation rates, regardless of size or density; and

**WHEREAS**, the school development impact fee shall be imposed uniformly on all new dwelling units within the area south of the Broad River, regardless of the location of the residential development; and

**WHEREAS**, because non-residential development does not directly generate school children, the school development impact fee shall not be imposed on such development; and

**WHEREAS**, the County Council after giving ample consideration to the provision and financing of new school facility system improvements south of the Broad River, and after consulting with the School Board, now hereby finds and declares that the establishment and adoption of the school development impact fee proposed on new residential development is proportionate and based on the School Board capital improvement plan for the area south of the Broad River to accommodate new residential development in that area, and current costs to provide the system improvements; and

**WHEREAS**, the County and the School Board is empowered to execute an intergovernmental agreement on the subject of school development impact fees; and

**WHEREAS**, the County and the towns of Bluffton and Hilton Head Island, and the City of Hardeeville are empowered to execute an intergovernmental agreement on the subject of school development impact fees; and

**WHEREAS**, because only the School Board is authorized to construct school facility system improvements, intergovernmental agreements shall provide for the transfer of school development impact fee revenues from the towns of Bluffton and Hilton Head Island and the City of Hardeeville to the County, which then will transfer the fees (including those collected in the unincorporated County by the County) to the School Board; and

**WHEREAS**, the intergovernmental agreements referred to above, this Ordinance, and the impact fee procedures as set forth in Section 82-21 *et seq.* ensure that the school development impact fees which are collected and transferred to the School Board are spent for the new school facility system improvements which are identified in the School Board capital improvement plan for the area south of the Broad River which are designed to serve the school age children of new residential development in that area; and

**WHEREAS**, the County Council deems it advisable to adopt this school development impact fee Ordinance, the impact fee procedures as set forth in Section 82-21 *et seq.* of the County Code and the intergovernmental agreements with the School Board and the towns of Bluffton and Hilton Head Island and the City of Hardeeville as hereinafter set forth;

**NOW, THEREFORE, BE IT ORDAINED** by the County Council of Beaufort County, South Carolina that:

**SECTION 1. TEXT AMENDMENT TO CHAPTER 82**

The Beaufort County Code of Ordinances, Chapter 82: Impact Fees is amended by adding Article VIII, School Development Impact Fees—Southern Beaufort County Service Area, as set forth in Exhibit A, which is attached hereto and incorporated herein by reference.

**SECTION 2. EFFECTIVE DATE.**

- (a) This Ordinance shall become effective on       , 2020, provided, however, that the school development impact fee for new development within the South Beaufort County School Service Area established by this Ordinance shall only be effective upon the date that all municipalities in the service area have entered into the intergovernmental agreements with the County required by Section 82-213 of the County Code as amended by this Ordinance, and the County and School Board have entered into the intergovernmental agreement required by Section 82-213 of the County Code as amended by this Ordinance.
- (b) Applications for new residential development filed after the effective date as set forth in this section shall be subject to the school development impact fee established by this Ordinance.
- (c) Applications for new residential development filed between the date of adoption of this Ordinance and the effective date as set forth in this section shall not be subject to the school development impact fee established by this Ordinance.

**SECTION 3. LIBERAL CONSTRUCTION.**

The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes in the interest of furthering, promoting, and protecting the public health, safety, and welfare.

**SECTION 4. SEVERABILITY.**

- (a) If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or portion of this Ordinance shall be deemed to be a separate, distinct and independent provision and such holding shall not affect the validity of the remaining provisions of this Ordinance nor impair or nullify the remainder of this Ordinance, which shall continue in full force and effect.
- (b) If the application of any provision of this Ordinance to any new development is declared to be invalid by a decision of any court of competent jurisdiction, the intent of County Council is that such decision shall be limited only to the specific new development expressly involved in the controversy, action or proceeding in which such decision of invalidity was rendered. Such decision shall not affect, impair or nullify this Ordinance as a whole or the application of any provision of this Ordinance to any other new development.

**ADOPTED** this \_\_\_ day of \_\_\_\_\_ 2020

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Joseph F. Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah Brock, Clerk to Council

**EXHIBIT A****ARTICLE VIII. SCHOOL FACILITIES—SOUTHERN BEAUFORT COUNTY SERVICE AREA****SECTION 82-200. ADOPTION AND IMPOSITION OF SCHOOL DEVELOPMENT IMPACT FEES.**

Pursuant to the impact fee procedures in Section 82-21 *et seq.*, and the intergovernmental agreements between the County and the Beaufort County Board of Education (“School Board”), and the County and the towns of Bluffton and Hilton Head Island and the City of Hardeeville, and other applicable provisions of the County Code, this school development impact fee shall be adopted and imposed on all new residential development (single-family and multifamily dwelling units) in the area of the County south of the Broad River, in accordance with the procedures and requirements of this article.

**SECTION 82-201. ESTABLISHMENT OF SOUTH BEAUFORT COUNTY SCHOOL SERVICE AREA.**

- (a) The school development impact fee shall be calculated and imposed within the South Beaufort County School Service Area, including unincorporated areas as well as those areas within all the municipalities in the service area (the towns of Bluffton and Hilton Head Island, and the City of Hardeeville), in accordance with intergovernmental agreements between the County and those municipalities.
- (b) The boundaries of the South Beaufort County School Service Area are all areas of the County south of the Broad River and are identified in Figure 82-201: South Beaufort County School Service Area.

**FIGURE 82-201: SOUTH BEAUFORT COUNTY SCHOOL SERVICE AREA**



**SECTION 82-202. INCORPORATION OF SUPPORT STUDY**

The County and the municipalities in the South Beaufort County School Service Area (the towns of Bluffton, Hilton Head Island and the City of Hardeeville) rely on the level of service standards, land use assumptions, methodologies, service units, system improvement costs, formula, and analyses for school development impact fees, and the capital improvement plan (CIP) for school facility system improvements set out in *School Impact Fee Study and Capital Improvement Plan* prepared by TischlerBise, dated July 27, 2020 (hereinafter “school support study and CIP”). The school support study and CIP are incorporated herein by reference. The school support study and CIP set forth reasonable level of service standards, land use assumptions, methodologies, service units, system improvement costs, and formulas for determining the impacts of new development on the South Beaufort County School Service Area’s school facility system improvement needs.

**SECTION 82-203. IMPOSITION OF SCHOOL DEVELOPMENT IMPACT FEES**

- (a) Pursuant to this article and the appropriate intergovernmental agreements between the County and the School Board, and the County and all the municipalities in the South Beaufort County School Service Area (Bluffton, Hilton Head, and Hardeeville), and in accordance with the impact fee procedures as set forth in Section 82-21 *et seq.*, the State Development Impact Fee Act, and the school support study and the CIP, school development impact fees shall be imposed in the South Beaufort County School Service Area.

- (b) The school development impact fee shall be imposed on all new residential development in the South Beaufort County School Service Area unless the residential development is exempted, or an exception or waiver is granted pursuant to Sec. 82-32(b), Development Not Subject to Development Impact Fees, or Sec. 82-33(b)(3)c. If an exception or waiver is granted, the development impact fees which otherwise would have been due shall be provided to the School Board using funds available for new residential growth needs from sources other than school development impact fees.
- (c) Residential development in the unincorporated County of the service area shall pay the fees prior to issuance of a building permit. Pursuant to the individual intergovernmental agreements between the County and the municipalities in the service area, residential development in the towns of Bluffton and Hilton Head Island, and the City of Hardeeville shall pay the fees prior to issuance of a building permit. A building permit for residential development shall not be issued in Bluffton, Hilton Head Island, or Hardeeville without confirmation, in writing, from the appropriate building official that the school development impact fees have been paid in accordance with this section.

**SECTION 82-204. DEVELOPMENT IMPACT FEE SCHEDULE.**

- (a) The following general procedure shall be followed upon receipt of an application for a building permit for new residential development:
  - 1) Identify the number and type of dwelling units (either single-family or multifamily) in the proposed new or expanded residential development; and
  - 2) Multiply the number of dwelling units by the school development impact fee in the table below, for the type of dwelling unit.

DWELLING UNIT TYPE	FEE
Single Family	\$9,535
Multifamily	\$4,508

- (b) The school development impact fee shall be adjusted annually to reflect the effects of inflation on the costs for school facility system improvements set forth in the school support study and CIP, beginning on December 1, 2021. In each following year by December 1, the school development impact fee amount set forth in Table 1: School Development Impact Fee Schedule, South Beaufort County School Service Area, shall be adjusted to account for inflationary increases in the costs of providing school facility system costs using the Construction Cost Index calculated by the Engineering News Record (ENR). For each such adjustment, the school facilities development impact fees currently in use for the service area pursuant to this subsection shall be multiplied by a fraction, the numerator of which is the ENR Construction Cost Index for the most recent month for which figures are available, and the denominator of which is the ENR Construction Cost Index for the period one year prior to the period reflected in the numerator.

**SECTION 82-205. INDIVIDUAL ASSESSMENT OF DEVELOPMENT IMPACT.**

- (a) In-lieu of calculating the school development impact fees by reference to the fee schedule in the table above, a fee payor may request that the amount of the required school development impact fees be determined by reference to an Individual Assessment of Development Impact for the proposed development.

- (b) If a fee payor requests the use of an Individual Assessment of Development Impact, the fee payor shall be responsible for retaining a qualified professional to prepare the Individual Assessment of Development Impact that complies with the requirements of this section, at the fee payor's expense.
- (c) Each Individual Assessment of Development Impact shall be based on the same level of service standards and system improvement costs for school facility system improvements used in the school support study and CIP, shall use the formula for calculating the development impact fee used in the school support study and CIP, and shall document the relevant methodologies and assumptions used. The burden shall be on the fee payor requesting the Individual Assessment of Development Impact to demonstrate by competent evidence that the data and assumptions used in the school support study and reflected in the fee schedule in Sec. 82-204 is less accurate than the results of the Individual Assessment of Development Impact.
- (d) The Individual Assessment of Development Impact may attempt to demonstrate that student generation rates or other factors more accurately reflect the impacts of the proposed development (no adjustments in the assumption of credits shall be made). Support for alternate student generation rates by land use category or other factors shall only be provided through local data and surveys.
- (e) Each Individual Assessment of Development Impact shall be submitted to the Director or a designee, and may be accepted, rejected, or accepted with modifications by the Director or a designee as the basis for calculating school development impact fees. If an Individual Assessment of Development Impact is accepted or accepted with modifications by the Director or a designee as a more accurate measure of the demand for school facility system improvements created by the proposed new development than the applicable fees in Sec. 82-204, then the development impact fees due under this article shall be calculated according to such assessment.

#### **SECTION 82-206. CREDITS.**

- (a) Any developer/fee payor which is obligated to pay a school development impact fee under this section may apply for credit against school development impact fees otherwise due up to, but not exceeding, the full obligation for the fees proposed to be paid pursuant to the provisions of this article for any construction or dedication of land for school facility system improvements that are accepted by the County Council and the School Board for systems improvements identified in the CIP.
- (b) *Valuation of Credits*
  - 1) Credit for land dedication for a school, at the fee payor's option, shall be valued at either (a) 100 percent of the most recent assessed value for such land as shown in the records of the County Assessor, or (b) the fair market value of the land established by a private appraiser acceptable to the County Council and School Board in an appraisal paid for by the fee payor.
  - 2) Credit for construction of a school building shall be valued by the County Council and School Board based on construction costs estimates submitted by the fee payor. The County Council, after consultation with the School Board, shall determine the amount of credit due based on the information submitted, or, if it determines the information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the County Council and School Board.
- (c) *When Credits Become Effective*

- 1) Credits for land dedication for schools shall become effective after the credit is approved by County Council and the School Board pursuant to this section and a Credit Agreement/Development Agreement is entered into, and (a) the land has been conveyed to the School Board in a form established by the School Board at no cost to the School Board, and (b) the dedication of land has been accepted by the School Board.
- 2) Credits for construction of school buildings shall become effective after the credit is approved by County Council and School Board pursuant to this section, a Credit Agreement/Development Agreement is entered into, and (a) all required construction has been completed and has been accepted by the School Board, (b) a suitable maintenance and warranty bond has been received and approved by the School Board, and (c) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable School Board requirements.
- 3) Credits for construction or dedication of land for school facility system improvements shall be transferable within the same development for school development impact fee purposes, but shall not be transferable outside the development or used as credit against fees for other public facilities. Credit may be transferred pursuant to these terms and conditions by any written instrument that clearly identifies which credits issued under this section are to be transferred. The instrument shall be signed by both the transferor and transferee, and the document shall be delivered to the County Council and School Board for registration.
- 4) The total amount of the credit shall not exceed the amount of the school development impact fees due and payable for the project.
- 5) The County and School Board may enter into a Capital Contribution Front-Ending Agreement with any developer/fee payor who proposes to construct school facility system improvements in the CIP, to the extent the fair market value of the construction of those school facility system improvements exceed the obligation to pay school development impact fees for which a credit is provided pursuant to this section. The Capital Contribution Front-Ending Agreement shall provide proportionate and fair share reimbursement linked to new growth and development's use of the school facility system improvements constructed.
- 6) If the offer for credit is approved, a Credit Agreement/Development Agreement shall be prepared and signed by the applicant and the County Council and School Board. The Credit Agreement/Development Agreement shall specifically outline the construction of school buildings or land dedication for schools, the time by which they shall be completed or dedicated, and any extensions thereof, and the value (in dollars) of the credit against the school development impact fees the fee payor shall receive for the construction of school buildings or the dedication of land.

**SECTION 82-207. TRUST ACCOUNT FOR SCHOOL DEVELOPMENT IMPACT FEES.**

The County and municipalities in the South Beaufort County School Service Area (the towns of Bluffton and Hilton Head Island and the City of Hardeeville), pursuant to an intergovernmental agreement with the County, hereby establish segregated School Development Impact Fee Trust Accounts. All school development impact fees collected by the County and the municipalities for school development impact fees shall be placed in their respective Trust Account. By November 1 of each year, the municipalities shall transfer the school development impact fees they collect to the County. Upon receipt, the County shall place the fees received from each municipality into its School Development Impact Fee Trust Account, identifying which fees came from which municipality. Prior to December 1 of each year, the

County shall transfer all school development impact fees received and collected to the School Board. The Trust Account shall be interest-bearing and all interest earned and accruing to the account shall become funds of the account, subject to the same limitations and restrictions on use and expenditure of funds that are applicable to school development impact fee funds.

**SECTION 82-208. EXPENDITURE OF FEES FOR SYSTEM IMPROVEMENTS.**

School development impact fee funds transferred to the School Board by the County shall be used by the School Board in accordance with the County impact fee procedures in Section 82-21 *et seq.* solely and exclusively for school facility system improvements as set forth in the school support study and CIP. System improvements generally include the following: school buildings, land, and school buses for public elementary, middle, and high schools that are designed to expand school system capacity.

**SECTION 82-209. DEVELOPMENT AGREEMENT OPTION.**

- (a) A developer may pay the school facilities development impact fee as calculated pursuant to Section 82-204. Development Impact Fee Schedule, as the proposed development project's proportionate share of school facility system improvement costs and as full and complete payment of such obligations. In the alternative, the developer may enter into an agreement with the County or a participating municipality (as applicable) pursuant to the State Local Government Development Agreement Act, and provide for dedication of land or construction of school buildings or for payments in-lieu of school development impact fees for school facility system improvements.
- (b) A school development impact fee may not be imposed on a developer who has entered into a development agreement with the County who provides for the school facility system improvement needs of the developer's development project that is subject to the development agreement.
- (c) A development agreement for school facility system improvements in accordance with this section may only be entered into with the authorization and approval of both the County and the developer, or the participating municipality and the developer (as appropriate), and after consultation with the School Board.

**SECTION 82-210. DEVELOPER RIGHTS.**

The developer, pursuant to the State Development Impact Fee Act and the county impact fee procedures set forth in Section 82-21 *et seq.*, shall have the following rights, any or all of which may be exercised only in accordance with the impact fee procedures as set forth in Section 82-21 *et seq.*

- (a) *Administrative Appeal.* The developer/applicant may file an administrative appeal with the County Administrator with respect to a County or municipal decision related to the imposition, calculation, collection, processing, or expenditure of a school development impact fee, at any time; provided, however, that such appeal must comply with the provisions and requirements of the County impact fee procedures set forth in Section 82-21 *et seq.* If the appeal follows payment of the development impact fee, it must be made within 30 days of the date of fee payment. The filing of an appeal will immediately halt the development approval process, unless the developer/applicant posts a bond or submits an irrevocable letter of credit for the full amount of the impact fees as calculated by the County or municipality to be due.
- (b) *Payment under Protest.* The developer/applicant may pay the County-calculated or municipality-calculated school development impact fees under protest, pursuant to the County impact fee

procedures as set forth in Section 82-21 *et seq.* Payment under protest does not preclude the developer/applicant from filing an administrative appeal, from requesting a refund, or from posting a bond or submitting an irrevocable letter of credit for the amount of the development impact fee due, all as set forth in the impact fee procedures as set forth in Section 82-21 *et seq.*

- (c) *Mediation.* The developer/applicant may request mediation by a qualified independent party, but only upon voluntary agreement by both the developer/applicant (fee payor) as well as the County (and, if applicable, municipality) and only to address a disagreement related to the school development impact fees, as calculated by the County or municipality, for the proposed development. Neither request for, nor participation in, mediation shall preclude the developer/applicant (fee payor) from pursuing other developer rights and/or remedies, as set forth in this article, the County impact fee procedures as set forth in Section 82-21 *et seq.*, or other remedies available by law.

### **SECTION 82-211. COUNTY REMEDIES.**

- (a) The County, pursuant to the State Development Impact Fee Act and the County impact fee procedures as set forth in Section 82-21 *et seq.*, and the towns of Bluffton and Hilton Head Island and the City of Hardeeville, to the extent authorized pursuant to the intergovernmental agreements entered into with the County pursuant to this article, shall have all of the following remedies, which may be exercised individually or collectively, but only in accordance with the impact fee procedures as set forth in Section 82-21 *et seq.*:
- 1) *Interest and Penalties.* The County or municipality may, in its sole discretion, add reasonable interest and penalties for nonpayment or late payment to the amount of the calculated school development impact fees due, pursuant to the impact fee procedures as set forth in Section 82-21 *et seq.*
  - 2) *Withholding Building or Development Permit or Development Approval or Certificate of Occupancy.* The County or municipality may withhold a certificate of occupancy, a building or development permit, or development approval, as may be applicable, until full and complete payment has been made by the developer/applicant of the school development impact fees due.
  - 3) *Lien.* The County may impose a lien on the developer's property, pursuant to the impact fee procedures as set forth in Section 82-21 *et seq.*, for failure of the developer/applicant to timely pay the required school development impact fees in full.
- (b) The County or municipality may pursue any one or all of the remedies described in subsection (a) of this section at its discretion. The failure to pursue any remedy or remedies, at any time, shall not be deemed to be a waiver of County or municipal rights to pursue any remedy or remedies at such other time as may be deemed appropriate.

### **SECTION 82-212. REFUND OF FEES**

- (a) A collected school development impact fee shall be refunded to the owner of record of property on which a school development impact fee has been paid if:
- 1) The school development impact fee revenues collected on the property have not been expended within three years of the date they were scheduled to be expended, pursuant to the school support study and CIP; or

- 2) A building permit or permit for installation of a manufactured home on the property is subsequently denied.
- (b) The amount, timing, and recipient of any refund required by this article of collected school development impact fees shall comply with the standards of Sec. 82-35.

**SECTION 82-213. INTERGOVERNMENTAL AGREEMENTS.**

Prior to imposition of a school development impact fee pursuant to this article, the County and the School Board shall enter into an intergovernmental agreement, and the County and the municipalities in the South Beaufort County School Service Area (the towns of Bluffton and Hilton Head Island and the City of Hardeeville) shall enter into intergovernmental agreements. These intergovernmental agreements shall:

- (a) Specify the reasonable share of funding of joint system improvements for school facility system improvements by each governmental unit; and
- (b) Provide for the collection of the school development impact fee by the municipality within its corporate limits and by the County within the unincorporated area; and
- (c) Provide for the timely transfer of school development impact fee revenues from the municipality to the County, and then the transfer of the fees collected by the participating municipalities and the County to the School Board; and
- (d) Provide for the timely expenditure of the school development impact fee revenues by the School Board, in accordance with the CIP.

**SECTION 82-214. TERMINATION OF THE SCHOOL DEVELOPMENT IMPACT FEES.**

The school development impact fees shall terminate upon the completion/conclusion of all of the school development impact fee-funded school facility system improvements as set forth in the CIP unless:

- (a) The School Board adopts a capital improvements plan for a subsequent time period for the South Beaufort County School Service Area; or
- (b) The County adopts an updated school development impact fee pursuant to the substantive and procedural requirements of the State Development Impact Fee Act.

**Sections 82-215—82-219. RESERVED.**



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
<i>Ordinance - Text Amendment to the Community Development Code (CDC): Appendix B to remove the maximum lot size requirement for minor residential subdivisions in the D3 General Neighborhood (D3GN), the D4 Mixed Use (D4MU); the Village Center (D5VC), and the Gateway Corridor (D5GC) districts on Daufuskie Island</i>
<b>MEETING NAME AND DATE:</b>
<i>Beaufort County Council Meeting – September 14, 2020</i>
<b>PRESENTER INFORMATION:</b>
<i>Eric Greenway, AICP, Community Development Director (5 minutes)</i>
<b>ITEM BACKGROUND:</b>
<i>Planning Commission voted 7 for and 1 against to recommend the amendment at their July 6, 2020 meeting. Natural Resources Committee voted unanimously to recommend to County Council at their August 31, 2020 meeting.</i>
<b>PROJECT / ITEM NARRATIVE:</b>
<i>Planning staff is recommending to keep the maximum lot size requirement, but only make it applicable to major subdivisions (5 or more lots). This would remove the burden for small subdivisions while insuring that larger developments that will have an impact on the character of the area, will develop at the intended density.</i>
<b>FISCAL IMPACT:</b>
<i>None</i>
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
<i>Staff recommends approval</i>
<b>OPTIONS FOR COUNCIL MOTION:</b>
<i>Motion to approve a Text Amendment to the Community Development Code (CDC): Appendix B to remove the maximum lot size requirement for minor residential subdivisions in the D3 General Neighborhood (D3GN), the D4 Mixed Use (D4MU); the Village Center (D5VC), and the Gateway Corridor (D5GC) districts on Daufuskie Island;</i>  <i>Or</i>  <i>Motion to deny a Text Amendment to the Community Development Code (CDC): Appendix B to remove the maximum lot size requirement for minor residential subdivisions in the D3 General Neighborhood (D3GN), the D4 Mixed Use (D4MU); the Village Center (D5VC), and the Gateway Corridor (D5GC) districts on Daufuskie Island;</i>

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**ORDINANCE 2020/ \_\_\_\_**

**AN ORDINANCE AUTHORIZING THE ABANDONMENT OF AN EXISTING DRAINAGE EASEMENT AND THE ACCEPTANCE OF A RELOCATED DRAINAGE EASEMENT ON PROPERTY OWNED BY THE SAME GRANTOR**

**WHEREAS**, Beaufort County currently owns a drainage easement over lot 11 in Sheldon Farms with a street address of 34 Huspah Court North and identified as TMS R700 019 000 0147 0000; the property is presently owned by Fletcher Martin Valentine and Kathryn Rumble Valentine; and

**WHEREAS**, a drainage easement on the property was recorded with Beaufort County Register of Deeds in Book 2725/ Pages 714-716 on May 22, 2008; and

**WHEREAS**, Beaufort County Stormwater staff has determined that the easement location does not correspond with the location of the existing drainage ditch; and

**WHEREAS** the parties desire to correct the record so that the recorded easement properly and accurately reflects the location of the drainage ditch; this will require the parties to abandon the easement as recorded in Deed Book 2725/ Pages 714-716 and relocate the easement as set forth in the easement agreement which is attached hereto as Exhibit "A"; and

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

**NOW, THEREFORE, BE IT ORDAINED** by Beaufort County Council as follows:

The County Administrator is hereby authorized to execute any and all documents necessary to abandon the drainage easement over lot 11 in Sheldon Farms with a street address of 34 Huspah Court North and identified as TMS R700 019 000 0147 0000 owned by Fletcher Martin Valentine and Kathryn Rumble Valentine in exchange for a corrected easement as shown in Exhibit "A" which is attached hereto.

DONE this \_\_\_\_ day of \_\_\_\_\_ 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Joseph Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council

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

Exhibit "A"  
Grant of Easement Agreement for Relocated Drainage  
Easement at 34 Huspah Court North

# Exhibit "A"

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

**GRANT OF EASEMENT  
AGREEMENT**

**THIS GRANT OF EASEMENT AGREEMENT** (the "Agreement") is made and entered into as of \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date"), by and between , **FLETCHER MARTIN VALENTINE & KATHRYN RUMBLE VALENTINE** ("Grantor") and **Beaufort County** ("Grantee") and hereinafter referred to collectively as the "Parties".

**WHEREAS**, the Grantor is the current owner of fee simple title to the real property known as **R700 019 000 0147 0000** and situated at 34 HUSPAH CT N, IN BEAUFORT COUNTY, SC and incorporated herein by reference (the "Property"); and

**WHEREAS**, the Grantee and Grantor desire to improve the stormwater drainage system to the benefit of the Property and the surrounding Beaufort County property owner's land, and to comply with its federally required MS4 permit; and

**WHEREAS**, the Parties desire to establish a perpetual non-exclusive easement for the purposes of the construction, operation, maintenance, and/or reconstruction of a stormwater drainage system.

**NOW, THEREFORE**, for and in consideration of One Dollar (\$1.00) or the benefit of the portion of improved drainage on Grantor's land and elsewhere, the Parties do hereby agree as follows:

1. Grant of Easement. Grantor grants and conveys to Grantee, its successors and assigns, for the benefit and use of Grantee and its employees, agents, lessees, licensees and invitees, a non-exclusive, perpetual, transmissible, appendant easement in, over, and upon the Property which runs with the land and is further described as provided in this Agreement.
2. Stormwater Drainage Easement Area. The stormwater drainage easement area (hereinafter "the Easement") is 10 feet at a point where the northeast property line abuts Huspah Court North running in a northern direction to the northwestern property line at which point the easement width increases to 30 feet running along the northern property line in a southeastern direction to the marsh and is further described as provided in Exhibit A.
3. Use of Easement Terms.
  - a. The Easement includes the right of ingress and egress at any time over and upon the Property, for the purpose of constructing, improving, or maintaining the stormwater drainage system as described in this Agreement.
  - b. Grantor hereby grants to Grantee the Easement for the purpose of:
    - i. Constructing, installing, maintaining, and/or the reconstruction of (collectively hereinafter the "Work") a stormwater drainage system, including but not limited to, a ditch, berm, pipe, basin, and other best management practices necessary to improve the stormwater drainage system; and
    - ii. Excavating, widening, deepening, straightening, laying pipe, and other best management practices necessary in connection with improving the stormwater drainage system; and
    - iii. Clearing and removing all brush and trees to a width necessary to improve the

stormwater drainage system

- c. If the Grantor desires to salvage levees, fences, culverts, or bridges that interfere with the work of the stormwater drainage system, he will have the opportunity to do so prior to the Grantee commencing work.
  - d. If the Grantor desires to salvage merchantable timber from the area to be cleared, he will do so prior to the time the contractor begins work. It is understood that the Grantee will provide notice to Grantor at least (10) days in advance of construction.
  - e. Grantor shall not disrupt the operations of the Grantee during its use of the Easement. Grantor shall not place or permit any structures, including but not limited to, buildings, fences, signs, bridges, or other obstructions that would prevent use of the Easement by the Grantee.
  - f. Grantee will not use or permit the use of the Easement, or any other rights arising pursuant this Agreement, in any manner that conflicts with this Agreement.
  - g. Grantor shall indemnify and hold harmless Grantee and its employees, agents, lessees and invitees from and against any claim, cost, loss or damage arising out of, or resulting from, use of the Easement by Grantor or their agents, lessees, licensees and invitees; provided however, Grantor will not have any obligation to indemnify Grantee to the extent the loss, cost, or damage arises out of, or results from the negligence or willful misconduct of Grantee.
4. Maintenance. The Grantee shall maintain the Easement, at no additional cost to the Grantor, in accordance to Beaufort County Storm Water Management standards.
  5. Covenants Running with the Land. All rights, privileges, benefits and burdens created herein are covenants and agreements running with the land, and bind and inure to the benefit and burden of Grantor, Grantee and their respective successors and assigns, so long as it is used for the purpose of improving and maintaining the stormwater drainage system.
  6. Successors and Assigns. Except as otherwise provided herein, this Agreement shall extend to and bind the Parties and each of their respective heirs, personal representatives, successors and assigns.
  7. Authority. Each individual and entity executing this Agreement hereby represents and warrants that he, she or it has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement to the terms hereof.
  8. Counterparts. This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

WITNESSES:

Grantor's Signature

(2) \_\_\_\_\_  
(Signature of Witness #1)

(1) \_\_\_\_\_  
FLETCHER MARTIN VALENTINE

(3) \_\_\_\_\_  
(Signature of Witness #2 – the Notary Public)

(1) \_\_\_\_\_  
KATHRYN RUMBLE VALENTINE

STATE OF \_\_\_\_\_ )  
COUNTY \_\_\_\_\_ )

**ACKNOWLEDGMENT**

I, the undersigned Notary Public, do hereby certify that FLETCHER MARTIN VALENTINE & KATHRYN RUMBLE VALENTINE personally appeared before me this day and, in the presence of the two witnesses named above, acknowledged the due execution of the foregoing instrument.

Sworn to and Subscribed before me  
on this \_\_\_\_\_ Day of \_\_\_\_\_, 20\_\_.

(4) \_\_\_\_\_  
Notary Public for \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

County Use Only  
Location: Beaufort County  
Township: Sheldon  
Tax Map No. 19 Parcel No. 147



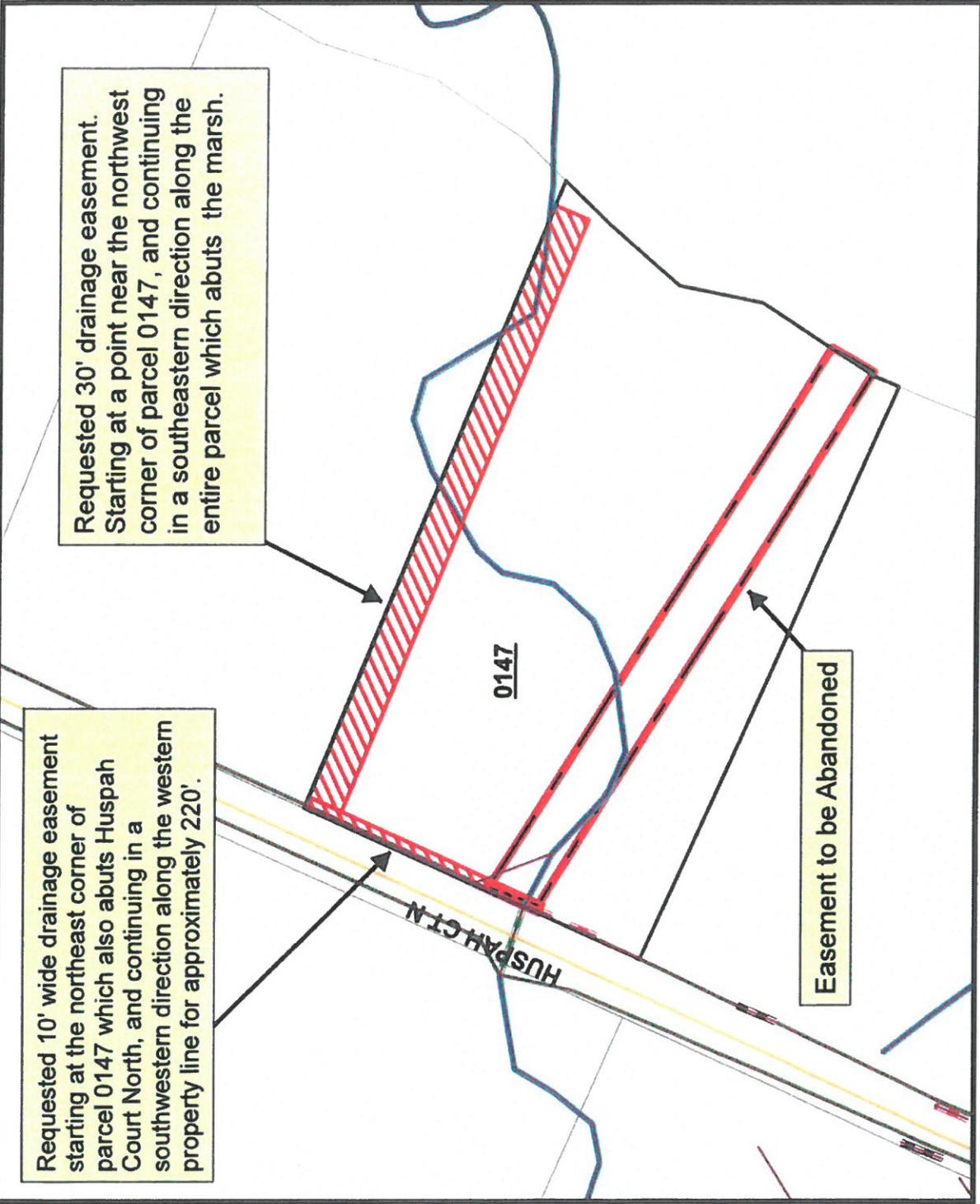
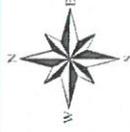
(Exhibit "A")  
R700 -019  
Huspah Court North

Activity: Drainage  
Easement Request

Township:  
Sheldon

**Legend**

- River
- Creek/Stream
- River/Creek/Marsh BANK
- Channel Pipe
- Roadside
- Roadside Pipe
- Road Pipe
- Crossline Pipe
- Driveway Pipe
- Lateral
- Lateral Pipe
- Access Pipe
- Bleeder Pipe
- Channel (fka Outfall)
- Easements
- Ditch to be Constructed
- Requested Esmt
- Affected Parcels
- Parcels



1 inch = 126 feet

Prepared By: Beaufort Co. Stormwater Management Utility  
Print Date: 4/3/2020  
File - C:\stormwater\drainage\R700-19\_HuspahCourtNorth

**ORDINANCE 2020/ \_\_\_\_**

**AN ORDINANCE AUTHORIZING THE ABANDONMENT OF AN EXISTING DRAINAGE EASEMENT AND THE ACCEPTANCE OF A RELOCATED DRAINAGE EASEMENT ON PROPERTY OWNED BY THE SAME GRANTOR**

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

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DONE this \_\_\_\_ day of \_\_\_\_\_ 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Joseph Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council

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



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## BEAUFORT COUNTY COUNCIL

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### Agenda Item Summary

#### Item Title:

Request Authorization for the County Administrator to enter into lease (real property) agreement Motorola Communications America.

#### Council Committee:

Public Facilities Committee

#### Meeting Date:

August 17, 2020

#### Committee Presenter (Name and Title):

Mark Roseneau, Director, Facility Management

#### Issues for Consideration:

No issues.

#### Points to Consider:

MCA shares the space with the Sheriffs Department Services Section. Located in the Public Works compound and better known as the Motorola Shop, they install and repair two-way radio systems for all law enforcement agencies, as well EMS and Fire vehicles. IT devices, vehicle emergency lighting and other components are installed and serviced at this location.

#### Funding & Liability Factors:

One year lease, County to receive \$1,752 per month.

#### Council Options:

Approve or reject the lease agreement.

#### Recommendation:

County Council approve authorization of the lease agreement.



specifically provided for herein. The Rent payable under this Lease shall be paid to Landlord without any claim on the part of Tenant for diminution, set-off or abatement and nothing shall suspend, abate or reduce any rent to be paid hereunder.

3.4 *Security Deposit.* No security deposit is required. Landlord expressly acknowledges its duty to mitigate any damages resulting from default on the part of Tenant.

**IV. UTILITIES.** Tenant shall be responsible for paying one hundred percent (100%) of all utility expenses associated with the Leased Premises during the Initial Term and any Renewal Term. Tenant warrants and agrees to establish accounts in its name with the providing/billing entity or authority and pay for all water, gas, power, electric current, garbage collection and removal, sewer charges, and all other utilities and utility charges and fees charged to the Premises during the term of this Lease and all extensions hereof.

**V. CONDITION, USE, MAINTENANCE AND REPAIRS OF PREMISES**

5.1 *Acceptance and Condition of the Premises.* The Parties mutually agree that Tenant shall take possession of the Premises on the Commencement Date. Tenant stipulates that he or she has examined the premises, including the grounds and all buildings and improvements, and that they are, at the time of this Agreement, in good order, repair, and in a safe, clean and tenantable condition. Landlord has made no representation in connection with the Premises and shall not be liable for any latent defects therein; provided, however, that if such latent defects render the Premises uninhabitable for the purposes of this Lease, Tenant may at its option, and upon written notice to Landlord, terminate this Lease.

5.2 *Use of Premises.* Tenant shall use the Premises for the sole purpose of operating Government Vehicle communication/emergency equipment repair/modification/replacement as outlined in the services contract (“Permitted Use”). Any change in the use of the Premises may only be undertaken with the written consent of the Landlord. Tenant shall not use the Premises for any illegal purpose, nor violate any statute, regulation, rule or order of any governmental body in its use thereof, nor create or allow to exist any nuisances, nor do any act in or about the Premises or bring anything upon the Premises which will increase the premium for insurance on the Premises.

5.3 *Maintenance.* Tenant, at its sole cost and expense, shall handle or contract for the maintenance of the parking areas, landscaping, grounds and planting care for the Premises, and shall generally maintain the Premises in a neat and orderly condition.

5.4 *Repairs of Premises.* Tenant shall at its own expense keep the Premises in good repair. The Tenant shall provide the cost of repairs/maintenance up to \$2,500. Any such repairs shall be performed by a reputable, licensed and insured contractor. Documentation shall include the scope of work and paid invoices. Tenant shall not perform any additional work in excess of \$2,500 upon the Premises without prior written consent of the Landlord. The Premises shall be maintained in a clean and orderly manner. In the event of any damage of the Premises which is the direct result of Tenant, Tenant shall, immediately upon receiving demand from Landlord, correct the damage.

5.5 *Tenant Improvements, Alterations, and Restorations.*

5.5.1 *Improvements.* Tenant shall not make or permit to be made any structural alterations, modifications, additions, decorations or improvements to the Premises, nor shall Tenant

Landlord Initials \_\_\_\_\_ Tenant Initials \_\_\_\_\_

make or permit any other work whatsoever that would directly or indirectly involve the penetration or removal (whether permanent or temporary) of, or require access through, in, under, or above any floor, wall or ceiling, or surface or covering thereof in the Premises.

5.5.2 *Cost of Improvements.* Any improvements as approved by the Landlord, shall be made at Tenant’s sole cost and expense, including the expense of complying with all present and future Legal Requirements, and any other work required to be performed in other areas within or outside the Premises.

5.5.3 *Compliance.* All such Tenant’s Work shall be performed diligently and in a first class workmanlike manner and in accordance with plans and specifications approved by Landlord, and shall comply with all Legal Requirements. Any of Tenant’s improvements or other alterations, including, without limitation, moveable partitions that are affixed to the Building (but excluding moveable, free standing partitions) and all carpeting, shall at once become part of the Premises and the property of Landlord.

5.6 *Right of Inspection.* Landlord shall have the unfettered right at all reasonable times during the Initial Term or any Renewal Term to enter the Premises for any reason whatsoever. Landlord agrees, when able, to provide Tenant with reasonable notice of said entry upon the Premises. No notice will be required in emergency situations or for access or entry upon the Premises.

**VI. DESTRUCTION OR DAMAGE**

6.1 If the Premises shall be damaged or destroyed during the term of this Lease by any casualty insured under Landlord's standard fire and casualty insurance, Landlord shall, except as otherwise provided in this Lease and subject to any delay or inability from causes beyond its control, repair and/or rebuild the same substantially to what had been the condition thereof immediately prior to such damage or destruction.

6.2 If the Premises or the Building shall be damaged or destroyed to the extent of fifty percent (50%) or more of the insurable value thereof, or if such casualty shall not have been insured against by Landlord's standard fire and casualty policies, then Landlord or Tenant may terminate this Lease or elect to repair such damage or rebuild the Premises. Within thirty (30) calendar days after any such casualty, Landlord shall notify Tenant whether Landlord intends to repair or rebuild the Premises, and Tenant shall notify Landlord whether Tenant intends to terminate this Lease. If Landlord elects to repair or rebuild the Premises, Landlord shall perform such repair or rebuilding as provided in Subsection (a) above, and rent shall be abated proportionately as provided in Subsection (f) below. If Landlord elects not to repair or rebuild, the Lease shall terminate without further notice and all further obligations of both parties hereunder shall cease (other than those which shall theretofore have accrued), effective as of the date on which Tenant ceases doing business on the Premises.

6.3 If Landlord elects to repair the Premises and Tenant does not elect to terminate the Lease, and if Landlord's repairs are not substantially completed within one hundred twenty (120) calendar days following the date of the casualty, then Tenant, upon not less than thirty (30) calendar days written notice to Landlord, may terminate this Lease if Landlord has not substantially completed such repairs within the time period (which shall not be less than 30 calendar days) set forth in such notice. Substantial completion, as used herein, shall mean that the Premises are restored to the condition that they may be occupied and utilized for their intended purpose, notwithstanding that

Landlord Initials \_\_\_\_\_ Tenant Initials \_\_\_\_\_

there may be additional "punch list" or other non-essential items to be completed, which neither affect not impact Tenant's use and enjoyment of the Premises. Nevertheless, Landlord shall diligently pursue the completion of all remaining work in a timely manner.

6.4 During any period of reconstruction or repair of the Premises, provided Tenant has not elected to terminate this Lease, Tenant may at its sole option continue the operation of Tenant's business in the Premises to the extent reasonably practicable from the standpoint of good business practice. Tenant shall not interfere with the repair or restoration activities of Landlord or its contractors, and will adapt and modify its business activities as deemed necessary by Landlord to allow such repair or restoration activities to continue expeditiously.

6.5 During any period in which, by reason of any damage or destruction not resulting from the negligence of Tenant, Tenants employees, agents, or invitees, Tenant is unable to occupy all or a portion of the Premises, Tenant's rent shall be appropriately abated for that part of the Premises rendered unusable for the conduct of Tenants business. Such abatement shall continue for the period commencing with such destruction or damage and ending with the substantial completion by Landlord of Landlord's repairs and/or rebuilding of the Premises, as described in this Lease.

**VII. ASSIGNMENT AND SUBLETTING**

The Tenant shall not, without the Landlord's prior written consent: (i) mortgage, pledge, encumber, or otherwise transfer (whether voluntarily, by operation of law, or otherwise) this lease or any interest hereunder; (ii) allow any lien to attach to Tenant's interest in the Premises or this Lease; (iii) permit the use or occupancy of the Premises or any part thereof by anyone for a purpose other than as set forth herein; (iv) assign or convey this Lease or any interest herein; or (v) sublet the Premises or any part thereof; and any attempt to consummate any of the foregoing without Landlord's consent shall be void. Any assignment or subletting of this Lease must be approved in writing by Landlord, which approval shall not be unreasonably withheld. Assignment of the Lease will not relieve the Tenant or the Guarantors of their respective obligations under this Lease and Guaranty Agreement unless otherwise agreed by Landlord in writing.

**VIII. TERMINATION.** This Lease shall end on the Termination Date stated in Section 2.1. This Lease may be terminated by Landlord prior to the Termination Date upon providing a sixty (60) day notice from Landlord to Tenant and/or upon the occurrence of any default event as set forth in Section 8.

8.1 *Surrender of Property.* At the termination of this Lease, Tenant agrees to quit and deliver the Premises peaceably and quietly to Landlord, or its attorney, or other duly authorized agent, at the expiration or other termination of this Lease. The Tenant shall surrender the Premises in as good state and condition as delivered to Tenant at the commencement of this Lease, reasonable use and wear thereof expected.

8.2 *Hold Over.* If, without objection by Landlord, Tenant holds possession of the Premises after expiration of the term of this Lease, Tenant shall become a Tenant from month to month upon the terms herein specified, but at a monthly rent amount equivalent to 150% of the gross rent being paid (starting sixty (60) calendar days after the expiration of the term of this Lease) at the end of the term of this Lease, and all fees, assessments, costs and other items must continue to be paid pursuant to all the provisions set forth herein. Such month to month rent and other amounts shall be payable in advance on or before the fifteenth (15<sup>th</sup>) calendar day of each month.

Landlord Initials \_\_\_\_\_ Tenant Initials \_\_\_\_\_

**IX. DEFAULT**

9.1 *Default by Tenant.* The occurrence of any of the following shall constitute an event of default:

- (a) The rent of any other sum of money payable under this Lease, whether to Landlord or otherwise, is not paid within ten (10) days of the due date.
- (b) Tenant's interest in the Lease of the Premises shall be subjected to any attachment, levy, or sale pursuant to any order or decree entered against Tenant in any legal proceeding and such order or decree shall not be vacated within thirty (30) days of entry thereof; unless with respect to any attachment, levy or sale, which cannot be vacated within thirty (30) days, Tenant in good faith shall have commenced and thereafter shall continue to diligently pursue the vacation of such order or decree by lawful means.
- (c) Tenant breaches or fails to comply with any term, provision, condition, or covenant of this Lease, other than the payment of rent, or with any of the rules and regulations now or hereafter established from time to time by the Landlord to govern the operation of the building and such breach or failure to comply is not cured within ten (10) days after written notice of such breach or failure to comply is given to Tenant.

9.2 *Remedies of Landlord.* Upon the occurrence of an event of default by Tenant other than a failure of Tenant to timely pay a sum that is due and payable, Landlord shall notify Tenant in writing of the event of default, and Tenant shall, within twenty (20) days of receipt of such written notice cure such event of default. Where the Tenant fails to cure such event of default within twenty (20) days of receipt of the above-referenced written notice, Landlord shall have the option to do and perform any one or more of the following in addition to, and not in limitation of, any other remedy or right permitted by law or in equity or by this Lease. In electing to do any one or more of the following courses of conduct, the Landlord must reasonably undertake its best efforts to properly mitigate any damages caused or sustained by Landlord due to the occurrence of an event of default by the Tenant. The options and courses of conduct which may be undertaken by the Landlord in an event of default by the Tenant are as follows:

- (a) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Premises and correct or repair any condition which shall constitute a failure on Tenant's part to keep, observe, perform, satisfy, or abide by any term, condition, covenant, agreement or obligation of this Lease or of the rules and regulations adopted by the Landlord or of any notice given Tenant by Landlord pursuant to the terms of this Lease, and Tenant shall fully reimburse and compensate Landlord on demand for all reasonable expenses.
- (b) Landlord, with or without terminating this Lease may immediately or at any time thereafter demand in writing that Tenant immediately vacate the Premises whereupon Tenant shall immediately vacate the Premises and, immediately remove therefrom all personal property belonging to Tenant, whereupon Landlord shall have the right to immediately re-enter and take possession of the Premises. Any such demand, re-entry and taking of possession of the Premises by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord. In the event the Landlord re-enters and takes possession of the Premises as provided above and the Tenant has failed upon request by Landlord to immediately remove

Landlord Initials \_\_\_\_\_ Tenant Initials \_\_\_\_\_

from the Premises all property belonging to or placed upon the Premises by the Tenant, the Landlord shall have the right to have such property of the Tenant removed from the Premises and reasonably be placed within a secure storage facility for a period of time not to exceed thirty (30) days, and all costs of handling, moving and storing such property of the Tenant shall be paid by the Tenant. Notwithstanding any of the foregoing, Landlord shall be required to comply with applicable South Carolina law regarding reentry and possession of the Premises.

- (c) Landlord may immediately or at any time thereafter terminate this Lease, and this Lease shall be deemed to have been terminated upon receipt by Tenant of written notice of such termination; upon such termination Landlord shall recover from Tenant all damages Landlord may suffer by reason of such termination including, without limitation, all arrearages in rentals, costs, charges, additional rentals, and reimbursements, the cost (including court costs and attorneys' fees) of recovering possession of the Premises, and, in addition thereto, Landlord at its election shall have and recover from Tenant either: (1) an amount equal to the excess, if any, of the total amount of all rents and other charges to be paid by Tenant for the remainder of the term of this Lease over the then reasonable rental value of the Premises for the remainder of the Term of this Lease, or (2) the rents and other charges which Landlord would be entitled to receive from Tenant if the Lease were not terminated. Such election shall be made by Landlord by serving written notice upon Tenant of its choice of the alternatives within thirty (30) days of the notice of termination. Notwithstanding anything hereunder to the contrary, Landlord must use its reasonable best efforts to re-let the Premises and abate Landlord's damages.
- 9.3 *No Waiver.* No course of dealing between Landlord and Tenant or any failure or delay on the part of Landlord in exercising any rights of Landlord under any provisions of this Lease shall operate as a waiver of any rights of Landlord, nor shall any waiver of a default on one occasion operate as a waiver of any subsequent default or any other default. No express waiver shall affect any condition, covenant, rule or regulation other than the one specified in such waiver and that one only for the time and in the manner specifically stated.
- 9.4 *No Election of Remedies.* The exercise by Landlord of any right or remedy shall not prevent the subsequent exercise by Landlord of other rights and remedies. All remedies provided for in this Lease are cumulative and may, at the election of Landlord, be exercised alternatively, successively, or in any other manner, and all remedies provided for in this Lease are in addition to any other rights provided for or allowed by law or in equity.
- 9.5 *Insolvency or Bankruptcy.* The appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment by Tenant for the benefit of creditors, or any action taken or suffered by Tenant, or any action against Tenant, under any insolvency, bankruptcy, or reorganization, shall at Landlord's option constitute an event of default under this Lease. Upon the happening of any such event of default or at any time thereafter, this Lease shall terminate five (5) days after written notice of termination from Landlord to Tenant. In no event shall this Lease be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency, or reorganization proceedings.
- 9.6 *Abandonment.* Tenant shall not be considered to have abandoned or vacated the Premises as long as Tenant continues to pay rent and fulfill all other obligations of this Lease, regardless of whether Tenant is actually continuously occupying the space or not, unless Tenant gives notice of

Landlord Initials \_\_\_\_\_ Tenant Initials \_\_\_\_\_

termination if and as allowed by this Lease. If Landlord's right of entry is exercised following abandonment of the Leased Premises by Tenant, then Landlord may consider any personal property belonging to Tenant and left on the Leased Premises to have been abandoned, in which case Landlord may dispose of all such personal property in any manner Landlord shall deem proper and is hereby relieved of all liability for doing so.

**X. SALE OF PREMISES.** In the event the Landlord hereunder, or any successor owner of the Premises, shall sell or convey the Premises, all liabilities and obligations on the part of the Landlord, or such successor owner, under this Lease accruing thereafter shall remain, and shall become the obligations of the successor owner of the Premises.

**XI. COMPLIANCE WITH LAWS.** Tenant shall comply, at its own expense, with all statutes, regulations, rules, ordinances and orders of any governmental body, department, or agency thereof which apply to or result from Tenant's use of the Premises.

**XII. INSURANCE LIABILITY AND INDEMNIFICATION**

12.1 *Insurance Liability.* Landlord has obtained Premise Liability Insurance, which does not cover Tenant's possessions or Tenant's negligence. Tenant must obtain a Renter's Insurance Policy, in an amount of no less than \$1,000,000 in commercial general liability, or other appropriate policies to cover damage or loss resulting from Tenant's negligence. Tenant shall name Landlord as an additional party in any and all insurance policies, and shall provide Landlord with a copy of all policies.

12.1.1 Tenant shall provide proof that payment for the insurance policy has been made initially and thereafter and that the policy has been renewed at least fifteen (15) calendar days prior to the anniversary of the initial year of this lease. Landlord may contact Tenant's insurer(s) or insurer(s)' agent(s) directly at any time regarding Tenant's coverage, coverage amounts, or other such relevant and reasonable issues related to this Lease.

12.2 *Indemnity.* Tenant hereby agrees to indemnify and hold harmless Landlord against and from any and all claims for property damage, or for personal injury, arising out of or in any way arising out of Tenant's use of the Leased Premises or from any activity, work, or thing done, permitted or suffered by Tenant in or about the Leased Premises.

12.3 *Liens.* If any mechanic's or other lien is filed against the Premises for work claimed to have been for or materials furnished thereto, such lien shall be discharged by Tenant within Ten (10) days thereafter, at Tenant's expense by full payment thereof by filing a bond required by law. Tenant's failure to do so shall constitute a material default hereunder.

**XIII. MISCELLANEOUS PROVISIONS**

13.1 *Notices.* Any notice, communication, request, approval or consent which may be given or is required to be given under the terms of this Agreement shall be in writing and shall be transmitted (1) via hand delivery or express overnight delivery service to the Seller or the Purchaser, (2) via facsimile with the original to follow via hand delivery or overnight delivery service, or (3) via e-mail, provided that the sending party can show proof of delivery, as the case may be, at the addresses/numbers set forth below:

Landlord Initials \_\_\_\_\_ Tenant Initials \_\_\_\_\_

AS TO LANDLORD: Beaufort County  
Attn: Beaufort County Administration  
Post Office Box 1228  
Beaufort, SC 29901

Copy To: Beaufort County  
Attn: Beaufort County Attorney  
Post Office Box 1228  
Beaufort, SC 29901

AS TO TENANT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 13.2 *Entire Agreement.* This Lease constitutes as the sole and entire agreement of Landlord and Tenant and no prior or contemporaneous oral or written representations or agreements between the parties affecting the Premises shall have any legal effect.
- 13.3 *Counterparts.* This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.
- 13.4 *Severability.* If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, then such provision shall be deemed to be written, construed and enforced as so limited.
- 13.5 *Amendment.* This Agreement cannot be amended orally or by a single party. No amendment or change to this Agreement shall be valid unless in writing and signed by both Parties to this Agreement.
- 13.6 *Captions.* The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.
- 13.7 *Successors and Assigns.* The provisions of this Lease shall inure to the benefit of and be binding upon Landlord and Tenant, and their respective successors, heirs, legal representatives, and assigns.
- 13.8 *Applicable Law.* The laws of the State of South Carolina shall govern the interpretation, validity, performance and enforcement of this Lease; and, of any personal guarantees given in connection with this Lease.
- 13.9 *Authority.* Each individual and entity executing this Agreement hereby represents and warrants that he, she or it has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement to the terms hereof.
- 13.10 *Force Majeure.* Except for timely Rent payment, Landlord or Tenant shall not be in default hereunder when performance of any term or condition is prevented by a cause beyond its control.

Landlord Initials \_\_\_\_\_ Tenant Initials \_\_\_\_\_

13.11 *Time is of the Essence.* Time is of the essence of this Lease.

13.12 *Quiet Enjoyment.* Landlord hereby covenants, warrants and agrees that so long as Tenant is performing all of the covenants and agreements herein stipulated to be performed on the Tenant's part, Tenant shall at all times during the lease term have the peaceable quiet and enjoyment and possession of the Premises without any manner of hindrance from Landlord or any person or persons lawfully claiming the Premises, or any part thereof.

**IN WITNESS WHEREOF**, and in acknowledgement that the parties hereto have read and understood each and every provision hereof, the Parties have caused this Agreement to be executed on the date first written above.

**LANDLORD:**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
**Ashley M. Jacobs**  
*Beaufort County Administrator*

\_\_\_\_\_  
Witness

**TENANT:**

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
Witness

Landlord Initials \_\_\_\_\_ Tenant Initials \_\_\_\_\_

**ORDINANCE NO. 2020/ \_\_\_\_**

**AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LEASE AGREEMENT WITH MOBILE COMMUNICATIONS AMERICA**

**WHEREAS**, Beaufort County (“County”) is the owner of the building located at 140 and 144 Shanklin Road, Burton that is generally known as the Mobile Communication America repair shop (“Property”).

**WHEREAS**, County operates the Property through the Beaufort County Sheriff’s Office (“BCSO”) IT Support Section; and

**WHEREAS**, Mobile Communications America desires to lease the Property for the purpose of providing their services through the BCSO IT support Section; and

**WHEREAS**, the County Administrator has negotiated a lease with Mobile Communications America for the use of the agreed upon portions of the Property; and

**WHEREAS**, in accordance with Beaufort County Code of Ordinances Section 2-514, it is necessary for County Council to provide approval to the County Administrator to lease property owned by the County; and

**WHEREAS**, Beaufort County Council finds it is in the best interest of the County to lease the Property to Mobile Communication America.

**NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL**, duly assembled, that the County Administrator is hereby authorized to negotiate and execute a lease agreement with Mobile Communications America for the use of the Property.

ADOPTED IN MEETING DULY ASSEMBLED this \_\_\_\_ day of \_\_\_\_\_ 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council

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



<b>ITEM TITLE:</b>
Ordinance for a Zoning Map Amendment/Rezoning Request for 3 parcels (R600 021 000 0003 0000; R600 021 000 002A 0000; R600 021 000 003A 0000) on Graves Road from T2 Rural to C3 Neighborhood Mixed-Use; Applicant: Judy Graves, Kevin Graves, Jan McKim
<b>MEETING NAME AND DATE:</b>
County Council Meeting for September 14, 2020
<b>PRESENTER INFORMATION:</b>
Eric Greenway Director, Planning and Zoning (5 min.)
<b>ITEM BACKGROUND:</b>
<i>On July 6, 2020, the Planning Commission voted to recommend denial of the request on a 5:3 vote.</i>
<i>On August 31, 2020, the NRC voted to recommend approval of the request on a 6:4 vote.</i>
<b>PROJECT / ITEM NARRATIVE:</b>
<b>C. EXISTING ZONING:</b> All three parcels are currently zoned T2 Rural, which permits residential development at a density of one dwelling unit per 3 acres in addition to agricultural uses and limited retail.
<b>D. PROPOSED ZONING:</b> The Neighborhood Mixed Use (C3) zoning district provides for moderate density residential development, averaging under three units per acre. Densities by use range from 2.6 dwelling units per acre for single family detached and attached, to 12 units per acre for multi-family with a maximum of 80 units. It also allows for limited office/service uses and gas stations.
<b>FISCAL IMPACT:</b>
N/A
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Staff recommends approval
<b>OPTIONS FOR COUNCIL MOTION:</b>
Motion to approve the Zoning Map Amendment/Rezoning Request for 3 parcels (R600 021 000 0003 0000; R600 021 000 002A 0000; R600 021 000 003A 0000) on Graves Road from T2 Rural to C3 Neighborhood Mixed-Use; Applicant: Judy Graves, Kevin Graves, Jan McKim
Motion to deny Zoning Map Amendment/Rezoning Request for 3 parcels (R600 021 000 0003 0000; R600 021 000 002A 0000; R600 021 000 003A 0000) on Graves Road from T2 Rural to C3 Neighborhood Mixed-Use; Applicant: Judy Graves, Kevin Graves, Jan McKim



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## BEAUFORT COUNTY COUNCIL

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### Agenda Item Summary

**Item Title:**

Ordinance to authorize \$575,000 to The Historic Mitchelville Freedom Park for Phase I Build Out of the Mitchelville Freedom Park Master Plan

**Council Committee:**

Finance

**Meeting Date:**

August 17, 2020

**Committee Presenter (Name and Title):**

Ahmad Ward, Executive Director of The Historic Mitchelville Freedom Park

**Issues for Consideration:**

The Historic Mitchelville Freedom Park Executive Director is requesting County Council to approve \$575,000 from the H-Tax funds towards the Phase I Build Out, and is requesting to be waived from the County's H-Tax application process.

**Points to Consider:**

The Historic Mitchelville Freedom Park (HMFP) is located on and fully owned by the Town of Hilton Head Island and managed by the HMFP Executive Director. The County and Town co-own ~5 acres of Rural and Critical Land along Beach City Road adjacent to HMFP. On March 26, 2018, County Council adopted Resolution 2018/5 authorizing up to \$575,000 towards Phase I improvements for the Mitchelville Freedom Park. Resolution 2018/5 is unclear but does mention three potential funding sources - Rural and Critical, A-Tax, or H-Tax. Staff review of the three funding sources indicate H-Tax would be the most appropriate, however this request is being submitted outside of the County approved H-Tax application process.

**Funding & Liability Factors:**

\$575,000 from H-Tax fund

**Council Options:**

1) Approve the recommendation, 2) Approve a revised recommendation, 3) Do not approve the recommendation

**Recommendation:**

County Council to waive the H-Tax application process and approve \$575,000 from the H-Tax fund to be allocated to The Historic Mitchelville Freedom Park for the Phase I Build Out of the Master Plan.

**ORDINANCE 2020 / \_\_\_**

**AN ORDINANCE AUTHORIZING \$575,000 FROM H-TAX FUNDS TO THE HISTORIC MITCHELVILLE FREEDOM PARK FOR PHASE I IMPROVEMENTS OF THE MASTER PLAN**

**WHEREAS**, On March 26, 2018, Beaufort County adopted Resolution 2018/5 pledging up to \$575,000 for the Mitchelville Preservation Project (now known as The Historic Mitchelville Freedom Park (HMFP)) after the approval of a Master Plan for initial Phase I activities including activities such as archaeology, land surveying and environmental services, roads, parking, pathway system, signage, site improvements or buildings on Mitchelville Freedom Park; and

**WHEREAS**, On March 1, 2020, the HMFP Master Plan was completed by HMFP and their consultant, which included a preliminary cost estimate of \$4,106,985 for Phase I site, building and interpretive improvements; and

**WHEREAS**, the Beaufort County financial commitment will allow HMFP to demonstrate existing matching funds and provide HMFP with leverage for obtaining potential grants and donors; and

**WHEREAS**, Beaufort County Council believes that assistance to the HMFP for successfully implementing the Mitchelville Freedom Park Phase I improvements is in the best interests of its citizens and visitors of Beaufort County, by providing a historically significant destination place and to preserve and educate citizens and visitors about the extraordinary history of Mitchelville.

**NOW, THEREFORE, BE IT ORDAINED** that Beaufort County Council hereby commits \$575,000 in H-TAX funding for The Historic Mitchelville Freedom Park Phase I improvements according to the Master Plan design and cost estimate attached and referenced herein.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Joseph F. Passiment, Jr., Chairman

ATTEST:

\_\_\_\_\_  
Sarah Brock, Clerk to Council

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

- A** Interpretive Houses (Ghosted Structures)
- B** Interpretive Garden/Rear Yard
- C** Church and Archaic Interpretive Area
- D** Military Map Road Alignment
- E** Classroom, Lab, and Offices (~4,000 SF)
- F** Maintenance Building (~2,000 SF)
- G** Maintenance/Lab Parking (7 spaces)
- H** Main Parking Lot (54 spaces, 18 overflow)
- I** Interpretive Trail
- J** General Store Interpretation (Ghosed)
- K** Path to Beach



HISTORIC MITCHELVILLE **FREEDOM PARK**  
 POTENTIAL PHASE ONE BUILD -OUT



## Exhibit 1

## Interpretive Costs

<b>Preliminary Cost Estimate - Concept Level -12.06.19</b>				
<b>Historic Mitchelville Freedom Park</b>				
<b>Hilton Head, SC</b>				
<i>Item</i>	<i>Unit</i>	<i>Unit Price</i>	<i>Quantity</i>	<i>Total Cost</i>
				<b>Totals Phase 1</b>
<b>Interpretive Elements Phase 1</b>				<b>\$1,090,000.00</b>
Ghosted Facade Panels	EA	\$25,000.00	6	\$150,000.00
WiFi	AL	\$350,000.00	1	\$350,000.00
Augmented Reality Program	AL	\$100,000.00	1	\$100,000.00
Augmented Reality Windows/Stations	EA	\$5,000.00	6	\$30,000.00
Interpretive Panels (Bateau Panels)	EA	\$10,000.00	6	\$60,000.00
Freestanding Temporary Pavilion Panels	AL	\$250,000.00	1	\$250,000.00
Archeology "Core" Samples	EA	\$50,000.00	3	\$150,000.00
<b>Interpretive Elements Phase 1 - Design Fees</b>				<b>\$140,500.00</b>
Ghosted Facade Panels Design	LS	\$30,000.00	1	\$30,000.00
Augmented Reality Windows/Stations Design	LS	\$6,000.00	1	\$6,000.00
Interpretive Panels (Bateau Panels) Design	LS	\$12,000.00	1	\$12,000.00
Freestanding Temporary Pavilion Panels Design	LS	\$62,500.00	1	\$62,500.00
Archeology "Core" Samples Design	LS	\$30,000.00	1	\$30,000.00
				<b>Totals Phase 2</b>
<b>Interpretive Elements Phase 2</b>				<b>\$3,446,000.00</b>
Boardwalk Waysides	EA	\$3,500.00	6	\$21,000.00
Visitor Center Interpretive Exhibits	SF	\$500.00	6,000	\$3,000,000.00
Interpretive Exhibits - House Interiors	SF	\$250.00	1,700	\$425,000.00
<b>Interpretive Elements Phase 2 - Design Fees</b>				<b>\$691,000.00</b>
Boardwalk Waysides	LS	\$4,200.00	1	\$6,000.00
Visitor Center Interpretive Exhibit Design	LS	\$600,000.00	1	\$600,000.00
Interpretive Exhibits - House Interiors	LS	\$85,000.00	1	\$85,000.00
				<b>Phase 1 Subtotal</b>
				<b>\$1,230,500.00</b>
				<b>Phase 2 Subtotal</b>
				<b>\$4,137,000.00</b>
				<b>Grand Subtotal</b>
				<b>\$5,367,500.00</b>
Unforeseen Contingency Conceptual Level @ 25%				\$1,341,875.00
				<b>GRAND TOTAL</b>
				<b>\$6,709,375.00</b>

Site and Building Costs

<b>Preliminary Cost Estimate - Concept Level - 12-6-19</b>				
<b>Historic Mitchelville Freedom Park</b>				
<b>Hilton Head, SC</b>				
<i>Item</i>	<i>Unit</i>	<i>Unit Price</i>	<i>Quantity</i>	<i>Total Cost</i>
				<b>Totals Phase 1</b>
<b>Site Preparation</b>				<b>\$165,025.00</b>
Clearing and Site Prep	SF	\$0.80	105,500	\$84,400.00
Grading	AL	\$10,000.00	1	\$10,000.00
Erosion and Sediment Control	LS	\$7,500.00	1	\$7,500.00
Tree Protection	LS			
Site Security - Fencing, etc.	LS	\$63,125.00	1	\$63,125.00
<b>Interpretive Houses</b>				<b>\$405,000.00</b>
House Ghosting	SF	\$50.00	8,100	\$405,000.00
<b>Interpretive Garden/Rear Yard</b>				<b>\$7,800.00</b>
Sod	SF	\$1.00	2,800	\$2,800.00
Plants	LS	\$5,000.00	1	\$5,000.00
<b>Church and Archaic Interpretive Area</b>				<b>\$26,250.00</b>
Seatwall	LS	\$7,500.00	1	\$7,500.00
Perious Pavers	SF	\$15.00	600	\$9,000.00
Footprint Paving	LF	\$12.00	100	\$1,200.00
Stabilized Screenings	SF	\$6.00	1,425	\$8,550.00
<b>Military Map Road Alignment</b>				<b>\$9,360.00</b>
Concrete Paving	SF	\$6.00	1,250	\$7,500.00
Flush Curb	LF	\$12.00	155	\$1,860.00
<b>Classrooms, Lab, and Offices</b>				<b>\$1,080,000.00</b>
Building	SF	\$250.00	4,000	\$1,000,000.00
FF&E	SF	\$20.00	4,000	\$80,000.00
<b>Maintenance Building</b>				<b>\$300,000.00</b>
Building	SF	\$150.00	2,000	\$300,000.00
<b>Maintenance/ Lab Parking</b>				<b>\$41,750.00</b>
Perious Pavers	SF	\$15.00	1,330	\$19,950.00
Parking Lot Lighting	EA	\$2,800.00	2	\$5,600.00
Concrete Paving (Drive)	SF	\$6.00	2,700	\$16,200.00
<b>Primary Parking Lot</b>				<b>\$365,800.00</b>
Monument Signs	EA	\$5,500.00	2	\$11,000.00
Perious Pavers	SF	\$15.00	8,900	\$133,500.00
Grasspave	SF	\$10.00	3,000	\$30,000.00
Concrete Paving (Drive)	SF	\$6.00	23,050	\$138,300.00
Bollard Lights	EA	\$1,500.00	15	\$22,500.00
Parking Lot Light Fixture	EA	\$2,800.00	10	\$28,000.00
Wayfinding Signage	AL	\$2,500.00	1	\$2,500.00
<b>Interpretive Trail</b>				<b>\$144,000.00</b>
Stabilized Screenings	SF	\$6.00	24,000	\$144,000.00
<b>General Store Interpretation</b>				<b>\$50,000.00</b>
Ghost Structure	SF	\$50.00	1,000	\$50,000.00
<b>Path to the Beach</b>				<b>\$19,500.00</b>
Stabilized Screenings	SF	\$6.00	2,000	\$12,000.00
ADA Access Mat	SF	\$7.50	1,000	\$7,500.00



<b>Visitor Center Accessible Parking &amp; Service Area</b>					<b>\$57,500.00</b>
Perious Pavers	SF	\$15.00	2,400	\$36,000.00	
Signage	LS	\$1,500.00	1	\$1,500.00	
Parking Lot Lighting	EA	\$2,800.00	2	\$5,600.00	
Concrete Drive Lane	SF	\$6.00	2,400	\$14,400.00	
<b>Woodland Knoll Shelter</b>					<b>\$35,100.00</b>
Building	SF	\$50.00	600	\$30,000.00	
Picnic Tables	EA	\$850.00	6	\$5,100.00	
<b>Utilities</b>					<b>\$385,000.00</b>
Sanitary Sewer	LS	\$145,000.00	1	\$145,000.00	
Stormwater	LS	\$60,000.00	1	\$60,000.00	
Water	LS	\$60,000.00	1	\$60,000.00	
Site Electrical (for lighting and bldgs)	LS	\$120,000.00	1	\$120,000.00	
<b>Phase 1 Subtotal</b>					<b>\$2,876,485.00</b>
<b>Phase 2 Subtotal</b>					<b>\$8,125,220.00</b>
<b>Grand Subtotal</b>					<b>\$11,001,705.00</b>
Unforeseen Contingency Conceptual Level @ 25%					\$2,750,426.25
Permitting/Fees @ 5%					\$687,606.56
Landscape Architecture, Engineering, and Architectural Fees @ 12%					\$1,650,255.75
Archaeology Phase 1					\$15,000.00
Archaeology Phase 2					\$25,000.00
<b>GRAND TOTAL</b>					<b>\$16,129,993.56</b>
* Assume Inflation Rate of 3.33% per year past 2019					
SF Square Feet					
AL Allowance					
LS Lump Sum					
EA Each					

**RESOLUTION NO. 2018 / 5**

**A RESOLUTION PLEDGING UP TO AN ADDITIONAL \$575,000 AND AUTHORIZING THE COUNTY ADMINISTRATOR TO PROVIDE UP TO \$50,000 OF MATCHING FUNDS FOR THE MITCHELVILLE PRESERVATION PROJECT AFTER THE APPROVAL OF A MASTER PLAN FOR INITIAL PHASE 1 ACTIVITIES INCLUDING ACTIVITIES SUCH AS ARCHAEOLOGY, LAND SURVEYING AND ENVIRONMENTAL SERVICES, ROADS, PARKING, PATHWAY SYSTEM, SIGNAGE, SITE IMPROVEMENTS OR BUILDINGS ON THE SITE**

**WHEREAS**, the Mitchelville Preservation Project (MPP) seeks public funds for assistance with the construction of the Mitchelville Preservation Project; and

**WHEREAS**, County Council has approved the expenditure of \$250,000.00 of Rural and Critical Lands funds for the development of a Master Plan for the Mitchelville Preservation Project site; and

**WHEREAS**, the MPP is a 501(c) non-profit organization whose mission is to replicate, preserve and sustain a historically significant site and to educate the public about the sacrifice, resilience and perseverance of the freedmen of Mitchelville, which, in 1862, was the first self-governed town of freed slaves in America; and

**WHEREAS**, MPP in cooperation with the Town of Hilton Head Island, Beaufort County and other partners, endeavors to establish an active public park in the historic Mitchelville area to be known as "Historic Mitchelville Freedom Park"; and

**WHEREAS**, it is expected that after the Master Plan for the project is approved, the next stage of creating the park will include approximately \$1,150,000.00 for Phase 1 components including, but not limited to, archaeology, land surveying, environmental services, roads, parking, pathways, signage, site improvements, and initial structures on site; and

**WHEREAS**, a local commitment beyond the financial support for a Master Plan will allow MPP to demonstrate existing matching funds and provide MPP with leverage for obtaining potential grants and donors; and

**WHEREAS**, Beaufort County Council believes that assistance to the MPP for successfully implementing the Historic Mitchelville Freedom Park is in the best interests of its citizens and visitors of Beaufort County, by providing a historically significant destination place and to preserve and educate citizens and visitors about the extraordinary history of Mitchelville.

**NOW, THEREFORE, BE IT RESOLVED** that Beaufort County Council hereby commits up to an additional \$575,000.00 in funding for the Historic Mitchelville Freedom Park Phase 1 improvements after final approval of the Master Plan for the Mitchelville Preservation Project. The \$575,000.00 hereby committed is in addition to the \$250,000.00 of Rural and Critical

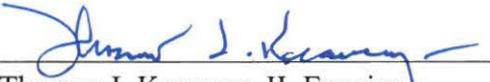
Lands funds previously approved for the development of a Master Plan. Furthermore, the County Administrator is authorized to allocate from the General Fund up to \$50,000 (from the \$575,000.00 herein pledged) for use as matching funds to Mitchelville Preservation Project, specifically for Historic Mithcelville Freedom Park. The \$50,000.00 hereby allocated from the General Fund shall be reimbursed by one of the following fund accounts: Rural and Critical Lands, Accommodations Tax or Hospitality Tax.

DONE this 26<sup>th</sup> day of March, 2018.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY:   
D. Paul Sommerville, Chairman

APPROVED AS TO FORM:

  
Thomas J. Keaveny, II, Esquire  
Beaufort County Attorney

ATTEST:  
  
Ashley M. Bennett, Clerk to Council

- A** Interpretive Houses (Ghosed Structures)
- B** Interpretive Garden/Rear Yard
- C** Church and Archaic Interpretive Area
- D** Military Map Road Alignment
- E** Classroom, Lab, and Offices (~4,000 SF)
- F** Maintenance Building (~2,000 SF)
- G** Maintenance/Lab Parking (7 spaces)
- H** Main Parking Lot (54 spaces, 18 overflow)
- I** Interpretive Trail
- J** General Store Interpretation (Ghosed)
- K** Path to Beach



HISTORIC MITCHELVILLE **FREEDOM PARK**  
POTENTIAL PHASE ONE BUILD -OUT



## Exhibit 1

## Interpretive Costs

<b>Preliminary Cost Estimate - Concept Level -12.06.19</b>				
<b>Historic Mitchelville Freedom Park</b>				
<b>Hilton Head, SC</b>				
<i>Item</i>	<i>Unit</i>	<i>Unit Price</i>	<i>Quantity</i>	<i>Total Cost</i>
				<b>Totals Phase 1</b>
<b>Interpretive Elements Phase 1</b>				<b>\$1,090,000.00</b>
Ghosted Facade Panels	EA	\$25,000.00	6	\$150,000.00
WiFi	AL	\$350,000.00	1	\$350,000.00
Augmented Reality Program	AL	\$100,000.00	1	\$100,000.00
Augmented Reality Windows/Stations	EA	\$5,000.00	6	\$30,000.00
Interpretive Panels (Bateau Panels)	EA	\$10,000.00	6	\$60,000.00
Freestanding Temporary Pavilion Panels	AL	\$250,000.00	1	\$250,000.00
Archeology "Core" Samples	EA	\$50,000.00	3	\$150,000.00
<b>Interpretive Elements Phase 1 - Design Fees</b>				<b>\$140,500.00</b>
Ghosted Facade Panels Design	LS	\$30,000.00	1	\$30,000.00
Augmented Reality Windows/Stations Design	LS	\$6,000.00	1	\$6,000.00
Interpretive Panels (Bateau Panels) Design	LS	\$12,000.00	1	\$12,000.00
Freestanding Temporary Pavilion Panels Design	LS	\$62,500.00	1	\$62,500.00
Archeology "Core" Samples Design	LS	\$30,000.00	1	\$30,000.00
				<b>Totals Phase 2</b>
<b>Interpretive Elements Phase 2</b>				<b>\$3,446,000.00</b>
Boardwalk Waysides	EA	\$3,500.00	6	\$21,000.00
Visitor Center Interpretive Exhibits	SF	\$500.00	6,000	\$3,000,000.00
Interpretive Exhibits - House Interiors	SF	\$250.00	1,700	\$425,000.00
<b>Interpretive Elements Phase 2 - Design Fees</b>				<b>\$691,000.00</b>
Boardwalk Waysides	LS	\$4,200.00	1	\$6,000.00
Visitor Center Interpretive Exhibit Design	LS	\$600,000.00	1	\$600,000.00
Interpretive Exhibits - House Interiors	LS	\$85,000.00	1	\$85,000.00
				<b>Phase 1 Subtotal</b>
				<b>\$1,230,500.00</b>
				<b>Phase 2 Subtotal</b>
				<b>\$4,137,000.00</b>
				<b>Grand Subtotal</b>
				<b>\$5,367,500.00</b>
Unforeseen Contingency Conceptual Level @ 25%				\$1,341,875.00
				<b>GRAND TOTAL</b>
				<b>\$6,709,375.00</b>

Site and Building Costs

<b>Preliminary Cost Estimate - Concept Level - 12-6-19</b>				
<b>Historic Mitchelville Freedom Park</b>				
<b>Hilton Head, SC</b>				
<i>Item</i>	<i>Unit</i>	<i>Unit Price</i>	<i>Quantity</i>	<i>Total Cost</i>
				<b>Totals Phase 1</b>
<b>Site Preparation</b>				<b>\$165,025.00</b>
Clearing and Site Prep	SF	\$0.80	105,500	\$84,400.00
Grading	AL	\$10,000.00	1	\$10,000.00
Erosion and Sediment Control	LS	\$7,500.00	1	\$7,500.00
Tree Protection	LS			
Site Security - Fencing, etc.	LS	\$63,125.00	1	\$63,125.00
<b>Interpretive Houses</b>				<b>\$405,000.00</b>
House Ghosting	SF	\$50.00	8,100	\$405,000.00
<b>Interpretive Garden/Rear Yard</b>				<b>\$7,800.00</b>
Sod	SF	\$1.00	2,800	\$2,800.00
Plants	LS	\$5,000.00	1	\$5,000.00
<b>Church and Archaic Interpretive Area</b>				<b>\$26,250.00</b>
Seatwall	LS	\$7,500.00	1	\$7,500.00
Perivous Pavers	SF	\$15.00	600	\$9,000.00
Footprint Paving	LF	\$12.00	100	\$1,200.00
Stabilized Screenings	SF	\$6.00	1,425	\$8,550.00
<b>Military Map Road Alignment</b>				<b>\$9,360.00</b>
Concrete Paving	SF	\$6.00	1,250	\$7,500.00
Flush Curb	LF	\$12.00	155	\$1,860.00
<b>Classrooms, Lab, and Offices</b>				<b>\$1,080,000.00</b>
Building	SF	\$250.00	4,000	\$1,000,000.00
FF&E	SF	\$20.00	4,000	\$80,000.00
<b>Maintenance Building</b>				<b>\$300,000.00</b>
Building	SF	\$150.00	2,000	\$300,000.00
<b>Maintenance/ Lab Parking</b>				<b>\$41,750.00</b>
Perivous Pavers	SF	\$15.00	1,330	\$19,950.00
Parking Lot Lighting	EA	\$2,800.00	2	\$5,600.00
Concrete Paving (Drive)	SF	\$6.00	2,700	\$16,200.00
<b>Primary Parking Lot</b>				<b>\$365,800.00</b>
Monument Signs	EA	\$5,500.00	2	\$11,000.00
Perivous Pavers	SF	\$15.00	8,900	\$133,500.00
Grasspave	SF	\$10.00	3,000	\$30,000.00
Concrete Paving (Drive)	SF	\$6.00	23,050	\$138,300.00
Bollard Lights	EA	\$1,500.00	15	\$22,500.00
Parking Lot Light Fixture	EA	\$2,800.00	10	\$28,000.00
Wayfinding Signage	AL	\$2,500.00	1	\$2,500.00
<b>Interpretive Trail</b>				<b>\$144,000.00</b>
Stabilized Screenings	SF	\$6.00	24,000	\$144,000.00
<b>General Store Interpretation</b>				<b>\$50,000.00</b>
Ghost Structure	SF	\$50.00	1,000	\$50,000.00
<b>Path to the Beach</b>				<b>\$19,500.00</b>
Stabilized Screenings	SF	\$6.00	2,000	\$12,000.00
ADA Access Mat	SF	\$7.50	1,000	\$7,500.00



<b>Visitor Center Accessible Parking &amp; Service Area</b>					<b>\$57,500.00</b>
Perious Pavers	SF	\$15.00	2,400	\$36,000.00	
Signage	LS	\$1,500.00	1	\$1,500.00	
Parking Lot Lighting	EA	\$2,800.00	2	\$5,600.00	
Concrete Drive Lane	SF	\$6.00	2,400	\$14,400.00	
<b>Woodland Knoll Shelter</b>					<b>\$35,100.00</b>
Building	SF	\$50.00	600	\$30,000.00	
Picnic Tables	EA	\$850.00	6	\$5,100.00	
<b>Utilities</b>					<b>\$385,000.00</b>
Sanitary Sewer	LS	\$145,000.00	1	\$145,000.00	
Stormwater	LS	\$60,000.00	1	\$60,000.00	
Water	LS	\$60,000.00	1	\$60,000.00	
Site Electrical (for lighting and bldgs)	LS	\$120,000.00	1	\$120,000.00	
<b>Phase 1 Subtotal</b>					<b>\$2,876,485.00</b>
<b>Phase 2 Subtotal</b>					<b>\$8,125,220.00</b>
<b>Grand Subtotal</b>					<b>\$11,001,705.00</b>
Unforeseen Contingency Conceptual Level @ 25%					\$2,750,426.25
Permitting/Fees @ 5%					\$687,606.56
Landscape Architecture, Engineering, and Architectural Fees @ 12%					\$1,650,255.75
Archaeology Phase 1					\$15,000.00
Archaeology Phase 2					\$25,000.00
<b>GRAND TOTAL</b>					<b>\$16,129,993.56</b>
* Assume Inflation Rate of 3.33% per year past 2019					
SF Square Feet					
AL Allowance					
LS Lump Sum					
EA Each					

**BEAUFORT COUNTY, SOUTH CAROLINA**  
**LOCAL HOSPITALITY TAX**  
**Fiscal year 2020 as of June 30, 2020**  
*Preliminary and Unaudited*

**Revenues**

Local Hospitality Tax	\$ 2,339,845
Interest	
Total Revenues	2,339,845

**Expenditures**

Personnel	40,782
Purchased Services	16,383
Supplies	344
Santa Elena parking lot lease (County Courthouse, 1501 Bay Street Ordinance 2018/19)	49,900
Spanish Moss Trails and Wimbee Creek Fishing Pier Inspections	21,667
Open Land Trust (Capers Creek Access Purchase Ordinance 2020/10)	25,000
Heyward House Museum and Welcome Center Improvements (Ordinance 2020/10)	10,000
Campbell Chapel Community Development (Ordinance 2020/10)	140,000
Friends of Hunting Island Virtual Lighthouse (Ordinance 2020/10)	65,000
Port Royal Sound Foundation Multi Purpose Pavilion (Ordinance 2020/10)	500,000
Beaufort County Spanish Moss Trail Planning (Ordinance 2020/10)	10
Total Expenditures	869,086

Excess of revenue over expenditures	1,470,759
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**Other Financing Sources (Uses)**

Transfer to General Fund (Note 1)	(1,500,000)
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Net Change in Fund Balance	(29,241)
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<b>Fund Balance, Beginning</b>	<b>2,351,748</b>
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<b>Fund Balance, Ending</b>	<b>\$ 2,322,507</b>
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**Encumbrances**

Factory Creek Boat Ramp, Whitehall (Ordinances 2017/33 and 2018/43)	(77,759)
Beaufort County CC Haigh Landing Improvements (Ordinance 2020/10)	(196,000)
Beaufort County Spanish Moss Trail Planning (Ordinance 2020/10)	(159,990)
<b>Projected Fund Balance after Encumbrances</b>	<b>\$ 1,888,758</b>

Note 1: The general fund provides for law enforcement and other public safety services in which police protection of tourist facilities is one of the purposes of the local hospitality tax.



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## BEAUFORT COUNTY COUNCIL

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### Agenda Item Summary

**Item Title:**

Multi-County Industrial Park (MCIP) Agreement, Trask East Solar Property

**Council Committee:**

Finance Committee

**Meeting Date:**

August 17, 2020

**Committee Presenter (Name and Title):**

John O'Toole, Executive Director of Beaufort County Economic Development Corporation

**Issues for Consideration:**

We have been in contact (since 4/17/2018) with a Charleston based firm that is considering investing \$19.5 million into a solar project in Beaufort County. They have identified a tract of land adjacent to the Marine Corps Air Station (MCAS) - Beaufort for this development. Currently this project is approved for a FILOT agreement between the company, Trask East Solar LLC and the County. In order for this project to enjoy the FILOT benefits it needs to be included in an MCIP. This proposal is working its way through Jasper County's processes.

**Points to Consider:**

A contingency of this fee agreement between Trask East Solar, LLC and Beaufort County is that Beaufort County places the property involved in the project under a Multi County Industrial Park designation. This MCIP Agreement would be between Beaufort County and Jasper County and would allow for the SSRC detailed in the fee agreement to be in effect.

**Funding & Liability Factors:**

Allocation of revenue would be 99% to Beaufort County and 1% to Jasper County in the Beaufort County portion of the park and 99% to Jasper County and 1% to Beaufort County in the Jasper County portion of the park. This project would fall within the Beaufort County portion of the park.

**Council Options:**

Recommend MCIP agreement between Beaufort County and Jasper County to full County Council.

**Recommendation:**

The BCEDC recommends moving forward with the MCIP.

**ORDINANCE NO. 2020/\_\_\_**

**AN ORDINANCE TO AUTHORIZE AND APPROVE A MULTI-COUNTY PARK AGREEMENT BY AND BETWEEN BEAUFORT COUNTY AND JASPER COUNTY RELATING TO THE TRASK EAST SOLAR, LLC, PROJECT; TO REQUIRE THE PAYMENT OF A FEE IN LIEU OF AD VALOREM TAXES BY BUSINESSES AND INDUSTRIES LOCATED IN THE PARK; TO APPLY ZONING AND OTHER LAWS IN THE PARK; TO PROVIDE FOR LAW ENFORCEMENT JURISDICTION IN THE PARK; AND TO PROVIDE FOR THE DISTRIBUTION OF PARK REVENUES WITHIN BEAUFORT COUNTY.**

Be it ordained by the Council of Beaufort County, South Carolina:

**Section 1. Findings and Determinations; Purpose.**

(a) The Council finds and determines that:

(1) the County is authorized by art. VIII, section 13(D) of the South Carolina Constitution and by Sections 4-1-170, -172 and -175 of the Code of Laws of South Carolina 1976, as amended, to jointly develop, in conjunction with contiguous counties, industrial and business parks (“multi-county parks”);

(2) Trask East Solar, LLC, acting for itself, one or more affiliates or other project sponsors (collectively, the “Company”), has indicated its intention to locate a facility in Beaufort County, conditioned in part on the placement of the Company property into a multi-county park; and

(3) the use of multi-county parks is important in attracting and encouraging the investment and retention of capital and the retention and creation of jobs in the County.

(b) It is the purpose of this ordinance to authorize and approve a multi-county park agreement with Jasper County for the Company property located in Beaufort County (the “Park”).

**Section 2. Approval of Park Agreement; Authority of Officials.**

(a) The Council Chair is authorized, empowered and directed, in the name of and on behalf of Beaufort County, to execute, acknowledge, and deliver a Multi-County Park Agreement between Beaufort County, South Carolina and Jasper County, South Carolina (Trask East Solar, LLC, Property) (the “Park Agreement”). The Clerk to Council is authorized to attest the execution of the Park Agreement by the Council Chair. The form of the Park Agreement is attached to this ordinance as Exhibit A and all terms, provisions and conditions of the Park Agreement are incorporated into this ordinance as if the Park Agreement were set out in this ordinance in its entirety. By adoption of this ordinance, Council approves the Park Agreement and all of its terms, provisions and conditions. The Park Agreement is to be in substantially the form as attached to this ordinance and hereby approved, or with such changes therein as the Council Chair determines, upon advice of counsel, necessary and that do not materially change the matters contained in the form of the Park Agreement.

(b) Prior to the execution of the Park Agreement as provided in subsection (a) of this

Section 2, the Council Chair is authorized and directed to remove any property from the schedule of properties proposed to be included in the Park if at such time the property is located inside the boundaries of a municipality and the municipality has not consented to the creation of the Park as required by Section 4-1-170(C) of the Code of Laws of South Carolina 1976, as amended, unless the property was previously included in another multi-county park.

(c) Notwithstanding the provisions of subsection (a) of this Section 2, the Council Chair is authorized to execute the Park Agreement only upon the public announcement, including revelation of the company name, by the Company of its intentions to locate and develop the project on the property described in the Park Agreement.

### **Section 3. Payment of Fee in Lieu of Tax.**

The businesses and industries located in the Park must pay a fee in lieu of *ad valorem* taxes as provided for in the Park Agreement. With respect to properties located in the Beaufort County portion of the Park, the fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Beaufort County and the portion of fee in lieu of *ad valorem* taxes allocated pursuant to the Park Agreement to Jasper County shall be thereafter paid by the Treasurer of Beaufort County to the Treasurer of Jasper County within forty-five (45) business days of receipt for distribution in accordance with the Park Agreement. With respect to properties located in the Jasper County portion of the Park, the fee paid in lieu of *ad valorem* taxes shall be paid to the Treasurer of Jasper County and the portion of the fee in lieu of *ad valorem* taxes allocated pursuant to the Park Agreement to Beaufort County shall thereafter be paid by the Treasurer of Jasper County to the Treasurer of Beaufort County within forty-five (45) business days of receipt for distribution in accordance with the Park Agreement. The provisions of Section 12-2-90, Code of Laws of South Carolina 1976, as amended, or any successor statutes or provisions, apply to the collection and enforcement of the fee in lieu of *ad valorem* taxes.

### **Section 4. Applicable Ordinances and Regulations.**

Any applicable ordinances and regulations of Beaufort County concerning zoning, health and safety, and building code requirements shall apply to the Park properties in Beaufort County unless the properties are within the boundaries of a municipality in which case the municipality's applicable ordinances and regulations shall apply. Any applicable ordinances and regulations of Jasper County concerning zoning, health and safety, and building code requirements shall apply to the Park properties in Jasper County unless the properties are within the boundaries of a municipality in which case the municipality's applicable ordinances and regulations shall apply.

### **Section 5. Law Enforcement Jurisdiction.**

Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Beaufort County is vested with the Sheriff's Department of Beaufort County. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Jasper County is vested with the Sheriff's Department of Jasper County. If any of the Park properties located in either Beaufort County or Jasper County are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement

jurisdiction is vested with the law enforcement officials of the municipality.

**Section 6.     **Distribution of Revenue.****

(a) Revenues generated from industries or businesses located in the Beaufort County portion of the Park to be retained by Beaufort County shall be distributed within Beaufort County in accordance with this subsection:

(1) First, unless Beaufort County elects to pay or credit the same from only those revenues which Beaufort County would otherwise be entitled to receive as provided under item (3) below, to pay annual debt service on any special source revenue bonds issued by Beaufort County pursuant to, or to be utilized as a credit in the manner provided in Section 4-1-175, Code of Laws of South Carolina 1976, as amended;

(2) Second, at the option of Beaufort County, to reimburse Beaufort County for any expenses incurred by it in the administration, development, operation, maintenance and promotion of the Park or the industries and businesses located therein or for other economic development purposes of Beaufort County; and

(3) Third, to those taxing entities in which the property is located, in the same manner and proportion that the millage levied for the taxing entities would be distributed if the property were taxable for that year.

(b) Notwithstanding any other provision of this section:

(1) all taxing entities which overlap the applicable properties within the Park shall receive at least some portion of the revenues generated from such properties; and

(2) all revenues receivable by a taxing entity in a fiscal year shall be allocated to operations and maintenance and to debt service as determined by the governing body of the taxing entity.

(c) Revenues generated from industries or businesses located in the Jasper County portion of the Park shall be retained by Beaufort County.

**Section 7.     **Conflicting Provisions.****

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Beaufort County Code or other Beaufort County orders, resolutions and ordinances, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 8.     **Severability.****

If any section of this ordinance is, for any reason, determined to be void or invalid by a court of competent jurisdiction, it shall not affect the validity of any other section of this ordinance which is not itself void or invalid.

**Section 9.     **Effective Date.****

This ordinance is effective upon third reading.

SIGNATURES FOLLOW ON NEXT PAGE.

DONE this \_\_ day of \_\_\_\_\_ 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Joseph Passiment, Chair

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council

Third and Final Reading: \_\_\_\_\_, 2020/ Vote \_\_\_  
Public Hearing: \_\_\_\_\_, 2020  
Second Reading: \_\_\_\_\_, 2020/ Vote \_\_\_  
First Reading: \_\_\_\_\_, 2020/ Vote \_\_\_

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**Exhibit A to Ordinance No. 2020/ \_\_\_\_**

**Multi-County Park Agreement  
(Trask East Solar, LLC, Property)  
between  
Beaufort County, South Carolina and Jasper County, South Carolina**

See attached.

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**MULTI-COUNTY PARK AGREEMENT  
(Trask East Solar, LLC, Property)**

**between**

**BEAUFORT COUNTY, SOUTH CAROLINA**

**and**

**JASPER COUNTY, SOUTH CAROLINA**

**Dated as of \_\_\_\_\_, 2020**

**Multi-County Park Agreement  
(Trask East Solar, LLC, Property)**

This MULTI-COUNTY PARK AGREEMENT (TRASK EAST SOLAR, LLC, PROPERTY) is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2020, by and between BEAUFORT COUNTY, SOUTH CAROLINA (“Beaufort County”) and JASPER COUNTY, SOUTH CAROLINA (“Jasper County”) (collectively, Beaufort County and Jasper County are the “Parties”), each a body politic and corporate, a political subdivision of the State of South Carolina (“Park Agreement”).

In consideration of the mutual agreements, representations and benefits contained in this Park Agreement and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Beaufort County and Jasper County agree as follows:

1. Effective Date. This Park Agreement is effective at 12:00 a.m. (midnight), December 31, 2020 (the “Effective Date”).

2. Authorization. Article VIII, section 13(D) of the South Carolina Constitution and Sections 4-1-170, -172, and -175 of the Code of Laws of South Carolina 1976, as amended (the “MCP Law”), authorizes contiguous counties to jointly develop industrial and business parks within the geographical boundaries of one or more of the participating counties. Beaufort County authorized and approved this Park Agreement by passage of Ordinance No. 2020/\_\_\_ and Jasper County authorized and approved this Park Agreement by passage of Ordinance No. \_\_\_-\_\_\_.

3. Purpose. The purpose of this Park Agreement is to (i) provide for the establishment of a multi-county park in accordance with the MCP Law consisting of the Trask East Solar, LLC, property located in Beaufort County, and (ii) encourage the investment of capital and the creation of jobs in Beaufort County and Jasper County.

4. Agreement to Develop Park. The Parties agree to jointly develop an industrial and business park in accordance with the MCP Law and the terms and conditions of this Park Agreement (the “Park”).

5. The Park. (A) *Location*. The Park consists of the Trask East Solar, LLC, property located in Beaufort County, as further identified in Exhibit A (Beaufort County) to this Park Agreement, and property located in Jasper County, as further identified in Exhibit B (Jasper County), to this Park Agreement. The Park may consist of non-contiguous properties within each county. The Parties acknowledge that on the Effective Date, the Park does not contain any property located in Jasper County.

(B) *Addition and Removal of Property*.

(1) *County Action*. Property may be added to or removed from the Park by ordinance of the county in which the subject property is located, provided that the host county shall provide notice to the non-host county as well as revised exhibits pursuant to subsection (2) below.

(2) *Revised Exhibits*. If property is added to or removed from the Park, this Park Agreement is deemed amended and a revised Exhibit A (Beaufort County) or Exhibit B (Jasper County), as applicable, shall be prepared by the county in which the added or removed property is located. The revised exhibit must contain a description or other identification of the properties included in the Park, after the addition or removal. A copy of the revised exhibit shall be provided to the Administrator, Clerk to Council, Assessor, Auditor and Treasurer of Beaufort County and Jasper County.

(3) Public Hearings and Notice. Prior to the adoption by either county of an ordinance authorizing the removal of property from the Park, the county council in the county in which the property to be removed is located, shall hold a public hearing. The county that will conduct the public hearing must give notice of the public hearing by publication in a newspaper of general circulation in the county in which the public hearing will be held at least once and not less than fifteen (15) days prior to the public hearing. Notice of the public hearing shall also be served in the manner of service of process at least fifteen (15) days prior to the public hearing upon the owner of the real property and, if applicable and known, the lessee of any real property which would be removed from the Park.

6. Fee in Lieu of Taxes. Pursuant to article VIII, section 13(D), of the South Carolina Constitution, all property located in the Park is exempt from all *ad valorem* taxation. The owners or lessees of any property situated in the Park shall pay in accordance with this Park Agreement and the MCP Law an amount equivalent to the *ad valorem* property taxes or other in-lieu-of payments that would have been due and payable but for the location of the property within the Park (“Fee in Lieu of Taxes” or “FILOT”).

7. Allocation of Expenses. Beaufort County and Jasper County shall bear the expenses for the development, operation, maintenance and promotion of the Park and the cost of providing public services, in the following proportions:

If property is in the Beaufort County portion of the Park:

(1)	Beaufort County	100%
(2)	Jasper County	0%

If property is in the Jasper County portion of the Park:

(1)	Beaufort County	0%
(2)	Jasper County	100%

8. Allocation of Revenues. Beaufort County and Jasper County shall receive an allocation of revenue generated by the Park through payment of Fee in Lieu of Taxes (net of any special source revenue bond payments or special source revenue credits) in the following proportions:

If property is in the Beaufort County portion of the Park:

(1)	Beaufort County	99%
(2)	Jasper County	1%

If property is in the Jasper County portion of the Park:

(1)	Beaufort County	1%
(2)	Jasper County	99%

9. Revenue Allocation Within Each County.

(A) Host County. Revenues generated by the Park through the payment of Fee in Lieu of Taxes shall be distributed to Beaufort County and to Jasper County, as applicable, according to the proportions established by Paragraph 8 of this Park Agreement. With respect to revenues allocable to Beaufort County or Jasper County by way of FILOT generated within the respective county (the “Host County”), such revenue shall be distributed within the Host County in the manner provided by ordinance of the council of the Host County; provided, that (i) all taxing districts which overlap the applicable revenue-

generating portion of the Park shall receive at least some portion of the revenues generated from such portion, and (ii) with respect to amounts received in any fiscal year by a taxing entity, the governing body of the taxing entity shall allocate the revenues received between operations and debt service of the taxing entity. Each Host County is specifically authorized to use a portion of the revenue for economic development purposes as permitted by law and as established by ordinance of the council of the Host County.

(B) *Non-Host County*. Revenues allocable to Beaufort County by way of FILOT generated within Jasper County shall be distributed solely to Beaufort County. Revenues allocated to Jasper County by way of FILOT generated within Beaufort County shall be distributed solely to Jasper County.

10. Fees In Lieu of Taxes Pursuant to Title 4 and Title 12 Code of Laws of South Carolina. The Parties agree that the entry by Beaufort County into any one or more fee in lieu of tax agreements pursuant to Title 4 or Title 12 of the Code of Laws of South Carolina 1976, as amended (“Negotiated Fee-in-Lieu of Tax Agreements”), with respect to property located within the Beaufort County portion of the Park and the terms of those agreements shall be at the sole discretion of Beaufort County. The Parties further agree that entry by Jasper County into any one or more Negotiated Fee-in-Lieu of Tax Agreements with respect to property located within the Jasper County portion of the Park and the terms of those agreements shall be at the sole discretion of Jasper County.

11. Assessed Valuation. For the purpose of calculating the bonded indebtedness limitation and for the purpose of computing the index of taxpaying ability pursuant to Section 59-20-20(3) of the Code of Laws of South Carolina 1976, as amended, allocation of the assessed value of property within the Park to Beaufort County and Jasper County and to each of the taxing entities within the participating counties shall be identical to the allocation of revenue received and retained by each of the counties and by each of the taxing entities within the participating counties, pursuant to Paragraphs 8 and 9 of this Park Agreement.

12. Applicable Regulations. Any applicable ordinances and regulations of Jasper County concerning zoning, health and safety, and building code requirements shall apply to the Park properties in Jasper County unless the properties are within the boundaries of a municipality in which case the municipality’s applicable ordinances and regulations shall apply. Any applicable ordinances and regulations of Beaufort County concerning zoning, health and safety, and building code requirements shall apply to the Park properties in Beaufort County unless the properties are within the boundaries of a municipality in which case the municipality’s applicable ordinances and regulations shall apply.

13. Law Enforcement Jurisdiction. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Jasper County is vested with the Sheriff’s Department of Jasper County. Jurisdiction to make arrests and exercise all authority and power within the boundaries of the Park properties in Beaufort County is vested with the Sheriff’s Department of Beaufort County. If any of the Park properties located in either Jasper County or Beaufort County are within the boundaries of a municipality, then jurisdiction to make arrests and exercise law enforcement jurisdiction is vested with the law enforcement officials of the municipality.

14. Severability. If any provision or any part of a provision of this Park Agreement is held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable the remainder of that provision or any other provision or part of a provision of this Park Agreement.

15. Amendments. The provisions of this Park Agreement may be modified or amended only in a writing signed by the Parties.

16. Headings and Catch Lines. The headings of the paragraphs and subparagraphs of this Park Agreement are inserted for convenience only and do not constitute a part of this Park Agreement.

17. Governing Law. This Park Agreement, and all documents executed in connection with it, shall be construed in accordance with and governed by the laws of the State of South Carolina.

18. Counterparts. This Park Agreement may be executed in any number of counterparts, and all of the counterparts taken together constitute one and the same instrument.

19. Binding Agreement. This Park Agreement is binding upon and shall inure to the benefit of the respective Parties.

20. Merger. This Park Agreement, and all documents executed in connection with it, express the entire understanding and all agreements of the Parties with each other, and neither Beaufort County nor Jasper County has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Park Agreement.

21. Waiver. Either party may waive compliance by the other party with any term or condition of this Park Agreement only in a writing signed by the waiving party. The failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall not operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.

22. Termination.

(A) *Duration and Renewal.* This Park Agreement commences on the Effective Date and ends on the later of December 31, 2051 or one year following the termination date of the Fee in Lieu of *Ad Valorem* Tax Agreement between Beaufort County, South Carolina and Trask East Solar, LLC, dated as of \_\_\_\_\_, 2020.

(B) *Mutual Termination.* Notwithstanding the provisions of subparagraph (A) of this Paragraph 22, the Parties may mutually agree to terminate this Park Agreement at any time upon passage of an ordinance to that effect by each county and after conducting a public hearing and giving notice as set forth in subparagraph (B)(3) of Paragraph 5 of this Park Agreement.

SIGNATURES FOLLOW ON NEXT PAGE.

WITNESS our hands and seals as of the date first above written.

BEAUFORT COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Joseph Passiment, Chair, County Council

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council

JASPER COUNTY, SOUTH CAROLINA

By: \_\_\_\_\_  
Henry Etheridge, Chair, County Council

ATTEST:

\_\_\_\_\_  
Tisha L. Williams, Acting Clerk to Council

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**EXHIBIT A (Beaufort County)****Beaufort County Property  
December 31, 2020  
TRASK EAST SOLAR, LLC, PROPERTY**

A portion of that certain piece, parcel, or tract of land, with all improvements thereon, situate lying or being in the County of Beaufort, State of South Carolina, bearing Tax Map Parcel Number R100-020-000-119A-0000, as more fully described below.

**PARCEL 1**

DESCRIPTION IS OF THE HAROLD E TRASK, JR PROPERTY; TAX PARCEL R100 020 000 119A; RECORDED IN DEED BOOK 3435, PAGE 888 AT THE BEAUFORT COUNTY, SOUTH CAROLINA CLERK OF COURT.

COMMENCING AT AN EXISTING CONCRETE MONUMENT, SAID MONUMENT BEING A SECTION CORNER AND HAVING A SOUTH CAROLINA GRID COORDINATE OF N: 231,614.700 AND E: 2,077,560.356; THENCE S 87°57'52" E FOR A DISTANCE OF 652.93 FEET TO A CALCULATED POINT, SAID POINT BEING A COMMON CORNER WITH THE BEAUFORT COUNTY & CITY PROPERTY; THENCE S 00°00'00" E FOR AS DISTANCE OF 580.35 FEET TO AN EXISTING IRON PIPE, SAID PIPE BEING A COMMON CORNER WITH THE BEAUFORT COUNTY PROPERTY; THENCE N 90°00'00" W FOR A DISTANCE OF 389.56 FEET TO A POINT; THENCE S 00°00'00" E FOR A DISTANCE OF 526.95 FEET TO AN EXISTING IRON PIPE; THENCE N 90°00'00" E FOR A DISTANCE OF 267.68 FEET TO A POINT; THENCE S00°00'00" E FOR A DISTANCE OF 221.68 FEET TO A POINT; THENCE N 90°00'00" W FOR A DISTANCE OF 649.37 FEET TO A POINT; THENCE S 00°00'00"W FOR A DISTANCE OF 1320.47 FEET TO A CONCRETE MONUMENT, SAID MONUMENT BEING A COMMON CORNER WITH THE LAVONIA EVELYN GREEN-SMALLS PROPERTY; THENCE S 89°53'47" W FOR A DISTANCE OF 660.88 FEET TO A CONCRETE MONUMENT, SAID MONUMENT BEING A COMMON CORNER WITH THE ROBERT A HOLMES PROPERTY AND THE ARNOLD FRANKLIN & LUCINDA DELOACH PROPERTY; THENCE S 89°56'44" W FOR A DISTANCE OF 364.51 FEET TO A CONCRETE MONUMENT, SAID MONUMENT BEING A COMMON CORNER WITH THE EDWARD FRANKIE SINGLETON PROPERTY; THENCE S 89°48'25" W FOR A DISTANCE OF 296.18 FEET TO A CONCRETE MONUMENT, SAID MONUMENT BEING A COMMON CORNER WITH THE ROBERT L & AMY J FETZER PROPERTY; THENCE N 89°42'18" W FOR A DISTANCE OF 133.78 FEET TO AN EXISTING IRON PIPE, SAID PIPE BEING ON THE NORTHERN RIGHT OF WAY OF BAY PINES ROAD; THENCE FOLLOWING A CURVE TO THE LEFT WITH A RADIUS OF 1819.97' AND A CHORD BEARING OF N 61°23'03" W FOR A DISTANCE OF 374.42 FEET TO A POINT; THENCE N 67°42'32" W FOR A DISTANCE OF 324.72 FEET TO A POINT; THENCE FOLLOWING A CURVE TO THE LEFT WITH A RADIUS OF 677.94 FEET AND A CHORD DIRECTION OF S 87°34'20" W FOR A DISTANCE OF 561.76 FEET TO AN EXISTING REBAR, SAID REBAR BEING ON THE EASTERN RIGHT OF WAY OF PARKER DRIVE; THENCE FOLLOWING AFORESAID RIGHT OF WAY N 00°08'06" E FOR A DISTANCE OF 3,826.90 FEET TO A POINT; THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 705.13' AND A CHORD DIRECTION OF N 13°07'23" E FOR A DISTANCE OF 311.52 FEET TO A POINT;

THENCE ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 759.87 FEET AND A CHORD DIRECTION OF N 64°17'05" E FOR A DISTANCE OF 529.82 FEET TO A POINT; THENCE N 83°03'10" E FOR A DISTANCE OF 2,205.31 FEET TO AN EXISTING REBAR, SAID REBAR BEING A COMMON CORNER WITH HIGHLANDER INCORPORATED PROPERTY; THENCE S 19°28'00" W FOR A DISTANCE OF 57.67 FEET TO A POINT; THENCE S 65°42'00" E FOR A DISTANCE OF 2,367 FEET TO A POINT, SAID POINT BEING ON A PORT ROYAL RAILROAD RIGHT OF WAY; THENCE ALONG AFORESAID RIGHT OF WAY, S 19°44'56" E FOR A DISTANCE OF 443.30 FEET TO A POINT, SAID POINT BEING A COMMON CORNER WITH THE THOMAS CONCRETE OF SC, INC PROPERTY; THENCE S 58°14'53" W FOR A DISTANCE OF 585.59 FEET TO AN EXISTING IRON PIPE, SAID PIPE BEING A COMMON CORNER WITH THE ROBERT B GLOVER PROPERTY; THENCE S 19°42'51" E FOR A DISTANCE OF 694.88 FEET TO AN EXISTING REBAR, SAID REBAR BEING A COMMON CORNER WITH THE BEAUFORT COUNTY & CITY PROPERTY; THENCE N 90°00'00" W FOR A DISTANCE OF 920.99 FEET THE POINT AND PLACE OF BEGINNING, CONTAINING 417.98 ACRES, MORE OR LESS.

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**EXHIBIT B (Jasper County)**

**Jasper County Property  
December 31, 2020**

**NONE**

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# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
<i>Ordinance - Zoning Map Amendment/Rezoning Request for 18.3 acres (R100 024 000 032A 0000, R100 024 000 0276 0000, R100 024 000 030C 0000, and R100 024 000 033A 0000) at the Intersection of Bay Pines Road and Laurel Bay Road from T2 Rural and S1 Industrial to C4-Community Center Mixed-Use District</i>
<b>MEETING NAME AND DATE:</b>
<i>Beaufort County Council Meeting – September 14, 2020</i>
<b>PRESENTER INFORMATION:</b>
<i>Eric Greenway, AICP, Community Development Director (5 minutes)</i>
<b>ITEM BACKGROUND:</b>
<i>Planning Commission voted unanimously to recommend the amendment at their July 6, 2020 meeting. Natural Resources Committee voted unanimously to recommend the amendment to County Council at their August 31, 2020 meeting.</i>
<b>PROJECT / ITEM NARRATIVE:</b>
<i>The applicant seeks to change the zoning of 4 parcels making up 18.3 acres at the northeast corner of Bay Pines Road and Laurel Bay Road. Three of the properties are currently zoned S1 – Industrial. The easternmost parcel is zoned T2 Rural (see attached map). The applicant seeks C4 Community Center Mixed-Use zoning to facilitate the development of multi-family workforce housing on the site.</i>
<b>FISCAL IMPACT:</b>
<i>None</i>
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
<i>Staff recommends approval.</i>
<b>OPTIONS FOR COUNCIL MOTION:</b>
<i>Motion to approve the Zoning Map Amendment/Rezoning Request for 18.3 acres (R100 024 000 032A 0000, R100 024 000 0276 0000, R100 024 000 030C 0000, and R100 024 000 033A 0000) at the Intersection of Bay Pines Road and Laurel Bay Road from T2 Rural and S1 Industrial to C4-Community Center Mixed-Use District</i> <i>Or</i> <i>Motion to deny the Zoning Map Amendment/Rezoning Request for 18.3 acres (R100 024 000 032A 0000, R100 024 000 0276 0000, R100 024 000 030C 0000, and R100 024 000 033A 0000) at the Intersection of Bay Pines Road and Laurel Bay Road from T2 Rural and S1 Industrial to C4-Community Center Mixed-Use District</i>



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
<i>AN ORDINANCE DECLARING LOUD AND UNNECESSARY VEHICULAR NOISE A PUBLIC NUISANCE AND PROVIDING THAT VIOLATIONS ARE A MISDEMEANOR</i>
<b>MEETING NAME AND DATE:</b>
<i>County Council</i>
<b>PRESENTER INFORMATION</b>
<i>Administration (Time Needed for Item Discussion)</i>
<b>ITEM BACKGROUND:</b>
<i>FIRST READING ON MARCH 9, 2020 -- VOTE 10:1</i>
<b>PROJECT / ITEM NARRATIVE:</b>
<b>FISCAL IMPACT:</b>
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
<i>APPROVE</i>
<b>OPTIONS FOR COUNCIL MOTION:</b>
<i>MOTION TO APPROVE AN ORDINANCE DECLARING LOUD AND UNNECESSARY VEHICULAR NOISE A PUBLIC NUISANCE AND PROVIDING THAT VIOLATIONS ARE A MISDEMEANOR. MOVE TO THIRD READING AND PUBLIC HEARING ON SEPTMEBER 28, 2020</i>

**ORDINANCE 2020/ \_\_\_\_**

**AN ORDINANCE DECLARING LOUD AND UNNECESSARY VEHICULAR NOISE A PUBLIC NUISANCE AND PROVIDING THAT VIOLATIONS ARE A MISDEMEANOR.**

**WHEREAS**, Beaufort County Council finds and declares that loud, obnoxious, unnecessary or excessive vehicular noise is a serious hazard to the public health, welfare, peace and safety of Beaufort County residents and visitors; and

**WHEREAS**, residents and visitors of Beaufort County have a right to the peaceful enjoyment of their property and without exposure to loud, obnoxious, unnecessary, or excessive vehicular noises; and

**WHEREAS**, loud, obnoxious, unnecessary or excessive vehicular noises adversely impact residents' quality of life and are thus a public nuisance; and

**WHEREAS**, County Council is in receipt of citizens' concerns about the increased proliferation of "muscle" cars, modified mufflers, excessively loud speaker systems, and other loud, obnoxious, unnecessary or excessive vehicular noises in the unincorporated areas of Beaufort County; and

**WHEREAS**, it is in the best interest of Beaufort County residents and visitors to declare loud, obnoxious, unnecessary or excessive vehicular noises a public nuisance and provide for penalties for violations in the interest of protecting citizens public health, welfare, peace and safety as well as protecting the quality of life in Beaufort County.

**NOW, THEREFORE, BE IT ORDAINED** by Beaufort County Council, duly assembled, does hereby amend the Beaufort County Code of Ordinances Chapter 70 Traffic and Vehicles by inserting the below Article VI Loud and Unnecessary Noises Declared a Public Nuisance:

**Article VI.- Loud and Unnecessary Vehicular Noises Declared a Public Nuisance.**

Sec. 101. - Loud and unseemly noise.

- (a) Beaufort County Council finds that loud, obnoxious, unnecessary or excessive vehicular noise is a serious hazard to the public health, welfare, peace and safety of Beaufort County residents and visitors. Therefore, Beaufort County Council declares loud, obnoxious, unnecessary or excessive vehicular noise a public nuisance.
- (b) It shall be unlawful for any person to drive, propel or otherwise operate a motorized vehicle in a manner which emits loud and unseemly noise, which willfully disturbs any residence, neighborhood or business in Beaufort County. The prohibition of this subsection shall include operating a motorized vehicle by rapid throttle advancing (revving) of an internal combustion engine resulting in increased noise from the engine.

(c) It shall be unlawful for any person to play, operate or cause to be played or operated any vehicular sound system in such a manner as to be audible, in a loud, obnoxious, unnecessary or excessive way, from any public street or right-of-way.

(d) For the purpose of this Article VI, vehicle noise includes noise from cars, trucks, mopeds, motorcycles, vans, buses, motor scooters, motorized skateboards, and other electric or combustible type engine vehicles. Loud, obnoxious, unnecessary or excessive noise prohibited herein includes, but may not be limited to, noise from engines, mufflers, other mechanical parts, or sounds system associated with a vehicle.

(e) Loud and unseemly noise shall mean, loud, obnoxious, unnecessary or excessive noise which disturbs the peaceful enjoyment of private or public property. Loud and unseemly noise includes but is not limited to any one (1) of the following:

1. Misuse of acceleration or braking power that exceeds tire traction limits, sometimes known as "burn-outs", "burning rubber", "laying down rubber" or "peeling rubber".
2. Excessive acceleration or deceleration while in motion where there is no emergency need.
3. Rapid acceleration by means of quick up shifting of transmission gears with either a clutch or manual transmission or automatic transmission.
4. Rapid deceleration by means of quick downshifting of transmission gears with either a clutch or manual transmission or an automatic transmission.
5. Racing or revving of engines by manipulation of the accelerator, gas pedal, or carburetor in applying fuel to the engine in a greater amount than is necessary whether the vehicle is either in motion or standing still.
6. Operation of the vehicle by intentionally applying unnecessarily excessive acceleration from a stationary position, or unnecessary, deliberate or intentional bursts of acceleration while moving in a nonemergency situation.
7. Operating a motor vehicle (excluding emergency response vehicles as provided below) that exceeds a measured noise level of more than 92 decibels on the decibel meter when measured 20 inches from the exhaust pipe at a 45 degree angle while the vehicle is operating at idle.
8. Operating a motor vehicle of any size and regardless of the year of manufacture in violation of S.C. Code §§ 56-5-5020 and 56-5-5030.
9. Operation of a motor vehicle stereo system or sound system with excessive volume that substantially contrasts with the surrounding ambient noise(s) in a manner so as to disrupt the quiet, peaceful enjoyment of private or public property.

Sec. 102. - Exceptions.

- (a) This Article VI shall not be construed or interpreted in any way so as to interfere with or discourage the “Sound of Freedom” emanating from airplanes associated with the Marine Corps Air Station, Beaufort.
- (b) The normal sound of motorcycles and mopeds are not a violation of this Article VI unless something additional is contributing to the loud, obnoxious, unnecessary or excessive nature of the noise. For example, a driver excessively, repeatedly, or unnecessarily throttles the engine beyond what is necessary for the purpose of propulsion or the motorcycles parts have been modified to exaggerate the normal sounds of the motorcycle or moped.
- (c) Nothing herein should be construed to prohibit the use of a vehicular horn for the purpose of notifying those nearby of the presence of another vehicle or a potential hazard.
- (d) All equipment owned or operated by Federal, State, or local government including emergency response vehicles, law enforcement vehicles, EMS vehicles and Fire District response vehicles shall be exempt from this Article VI.
- (e) Motor vehicles used in any permitted events involving motor vehicles including but not limited to parades or car shows, during the permitted times of the events.

Sec. 103. - Enforcement and penalties.

- (a) Beaufort County Sheriff’s Office shall be charged with the responsibility of enforcing this Article. All violations of this Article VI shall be heard by the Beaufort County Magistrate Court. Nothing herein shall be construed to prevent Beaufort County Code Enforcement officers, duly commissioned by County Council, from enforcing the provisions of this Article VI.
- (b) Any person who violates the provision of this chapter shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a fine not exceeding the maximum allowed within the jurisdiction of the Beaufort County Magistrate Court, or imprisonment not exceeding 30 days, or both.
- (d) *Enforcement factors.* In the enforcement of standards established in this section an enforcement officer may be required to exercise judgment in determining if a particular noise is sufficiently loud or otherwise so offensive that it would unreasonably disturb other persons in the vicinity. The police department or other enforcing agency may make a subjective determination of loud or unseemly noise at the time of the complaint or enforcement. When making such determinations the enforcement officer shall consider the following factors:
- (1) The intensity (sound pressure level) of the noise.
  - (2) Whether the nature of the noise is usual or unusual.
  - (3) Whether the origin of the noise is natural or man-made.
  - (4) The volume and intensity of the background noise, if any.

- (5) The proximity of the noise to residential sleeping facilities
- (6) The nature and zoning of the area within which the noise emanates.
- (7) The time of the day or night along with day of week and time of year the noise occurs.
- (8) The duration of the noise.
- (9) Whether the noise is recurrent, intermittent or constant.
- (10) Any other articulable factor that demonstrates a disturbance of quiet and peaceful enjoyment of public or private property.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

DRAFT

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

Joe Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council.

Chronology

- Third and final reading occurred
- Public hearing occurred
- Second reading occurred
- First reading approval occurred
- Community Services Committee discussion and recommendation to



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
A RESOLUTION TO APPROPRIATE \$398,000 FROM THE COMMUNITY SERVICES GRANT PROGRAM FUNDS
<b>MEETING NAME AND DATE:</b>
Community Services Committee for October 5, 2020
<b>PRESENTER INFORMATION:</b>
Fred E. Leyda, Director, Human Services Department (15 min.)
<b>ITEM BACKGROUND:</b>
Council approved \$398,000 in its FY2021 budget for the Community Services Grants Program (Together for Beaufort County/Public Welfare Subsidies 10001598-55600).
<b>PROJECT / ITEM NARRATIVE:</b>
Humans Services Annual Grant Appropriations - Beaufort County Human Services Dept. convened independent review panel to develop recommendations on September 18, 2020.
<b>FISCAL IMPACT:</b>
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Approve the Community Services Grants Program recommendations.
<b>OPTIONS FOR COUNCIL MOTION:</b>
Motion to approve the Community Services Grant Program recommendations. or Motion to disapprove the Community Services Grant Program Recommendations

Item 1.



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: 2020 - 0432L

Originally submitted on: 9/21/2020 1:04:30 PM

Select Type: Ordinance/Resolution

Document Title: A RESOLUTION TO APPROPRIATE \$398,000 FROM THE COMMUNITY SERVICES GRANTS PROG...

Department: Human Services

Requester's Name: Ben Boswell

Ph: 843.986.7993

Em: bboswell@bcgov.net

Date Needed by: 9/25/2020

Is this item being presented to Council or Committee? Yes No Meeting date: 10/5/2020
(If Yes, please provide meeting date)

Description of Document or Any Concerns:

Would like to present these recommendations to the Community Services Committee on 10/5/2020. Just wanted to confirm this resolution will be acceptable. I modified the template provided last year.

Is the County receiving a reimbursement or any compensation? Yes No

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/A

Item 1.

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

Attachments:

 Grant Fund Resolution - Community Services (10.5.20).docx 26.04 KB	 No file attached	 No file attached
2020-09-21T13:06:29		

**LEGAL DEPARTMENT USE ONLY- INITIAL REVIEW**

Attachments:

 No file attached	 No file attached	 No file attached
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Approved     
  On Hold     
  Send to Finance  
 Disapproved     
  Additional Documents Requested

Comments:

Kurt Taylor  
3:59:20 PM  
 Legal Staff

9/21/2020  
 Date / Time

**FINANCE DEPARTMENT USE ONLY - INITIAL REVIEW**

Approved  Disapproved  N/A

Comments:

Funding in budget 10001598-55600 \$398,000.

raymond.williams  
 Finance

9/22/2020      4:28:21 PM  
 Date/Time

RESOLUTION 2020/ \_\_\_\_\_

**A RESOLUTION TO APPROPRIATE \$398,000 FROM THE COMMUNITY SERVICES GRANTS PROGRAM FUNDS AS PROVIDED IN THE FISCAL YEAR 2021 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 FY2021 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 18, 2020, 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 October 5, 2020 meeting and recommends to County Council approval of the grant recipients and the amounts provided as follows:

- AccessHealth Lowcountry \$20,000
- Alliance Match Funding \$25,000
- Beaufort County Community Relations Council \$10,000
- Beaufort County Disabilities Coalition \$5,000
- Bluffton Jasper County Volunteers in Medicine \$15,000
- Bluffton Self Help \$10,000
- Boys & Girls Clubs of the Lowcountry \$10,000
- Child Abuse Prevention Association \$17,000
- Clemson Extension-Beaufort County 4-H \$2,000
- Family Promise of Beaufort County \$10,000
- Friends of Caroline Hospice \$10,000
- Good Neighbor Free Medical Clinic of Beaufort \$25,000
- HELP of Beaufort \$20,000
- Hopeful Horizons \$20,000
- Low Country Legal Volunteers \$15,000
- Lowcountry Food Bank \$5,000
- Memory Matters \$4,000
- Military and Veterans Service Alliance (MAVSA) \$5,000
- Mt. Carmel Baptist Church Med-I-Assist Program \$20,000

- NAMI Lowcountry \$5,000
- Neighborhood Outreach Connection (NOC) \$15,000
- Pregnancy Center And Clinic Of The Low Country Inc \$6,000
- Programs for Exceptional People \$3,000
- Ronald McDonald House Charities of the Coastal Empire \$19,000
- Second Helpings \$10,000
- T4BC Administration \$10,000
- The Children's Center \$20,000
- The Literacy Center \$8,000
- Transitional Workforce Educational Assistance Collaborative (TWEAC) \$9,000
- United Way of the Lowcountry, Inc. \$20,000
- Volunteer Income Tax Assistance Program \$15,000
- Volunteers in Medicine Hilton Head Island \$10,000

**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 October, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

By:

\_\_\_\_\_  
Joseph Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council

## ORDINANCE No. 2020 / \_\_\_\_\_

ESTABLISHING THE BEAUFORT COUNTY DISTANCE LEARNING FUND AND OTHER  
MATTERS RELATED THERETO

WHEREAS,); Due to the COVID-19 pandemic, most aspects of “normal life” are far from normal, with one major area of continued concern being educating our young people; and

WHEREAS, the Beaufort County School District continues to monitor the COVID-19 metrics, and will continue to offer a virtual learning option, among other options; utilizing its own resources and community not-for-profit organizations and

WHEREAS, a large number of students are struggling with distance learning. There are many challenges including lack of internet access and lack of parental supervision as parents must report to work outside of the home; and

WHEREAS Beaufort County Council (“County Council”) has many areas of concern, including the education of our children and future workforce members; and

WHEREAS, County Council from time to time may make appropriations of public funds for public purposes;

NOW, THEREFORE, be it ordained by Beaufort County Council,

1. That \$200,000 is hereby appropriated for the purpose of supporting distance learning programs (the “Funds”).
2. That the Funds shall be allocated to the Coastal Community Foundation (the “Foundation”) in order for the Foundation to make grants to suitable not-for-profit organizations which shall conduct appropriate distance learning programs for students in Beaufort County Schools. The Foundation may use up to 3% of the Funds for its administrative costs.
3. The Funds shall be disbursed to the Foundation in two increments of \$100,000 each. The second payment will not be made until the first half of the money has been awarded to grant recipients.
4. The County Administrator is hereby authorized to enter into a suitable agreement with the Foundation which sets forth eligibility, operating, disbursement and reporting requirements for the use of the Funds.

ORDERED in meeting duly assembled this 12th day of October, 2020

---

Joe Passiment, Chairman

---

Attest: Sarah W. Brock, Clerk to Council



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
<i>Accommodations Tax/ Hospitality Tax reserve fund ordinance</i>
<b>MEETING NAME AND DATE:</b>
County Council 09/28/2020
<b>PRESENTER INFORMATION:</b>
<i>Hayes Williams Interim CFO 15 minutes</i>
<b>ITEM BACKGROUND:</b>
<i>The motion was approved at the Finance Committee meeting on 09/21/2020. Beaufort County Council wishes to have a method to access ATax and HTax funds in case of a disaster, pandemic or other occurrence on a case by case basis.</i>
<b>PROJECT / ITEM NARRATIVE:</b>
This ordinance would allow County Council to approve a resolution to allocate ATax and/or HTax reserves/ funds for purposes that are permitted under their related statute.
<b>FISCAL IMPACT:</b>
<i>Funding would be available from fund balance related to ATax or HTax funds.</i>
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Staff recommends Council to approve the ordinance.
<b>OPTIONS FOR COUNCIL MOTION:</b>
<i>Motion to approve the County ordinance related to the ATax/ Htax reserve funding.</i>

**ORDINANCE 2020-\_\_\_\_\_**

**AN ORDINANCE TO PROVIDE FOR A METHOD FOR ALLOCATING RESERVE ACCOMMODATIONS TAX AND/OR HOSPITALITY TAX REVENUES; AND OTHER MATTERS RELATING THERETO.**

**WHEREAS**, Beaufort County (the “County”), collects and administers a 3% local accommodations tax pursuant to SC Code Sections 4-9-30 and 6-1-500 et seq. and as provided in Beaufort County Code Section 66-42 et seq. (the “ATax”); and

**WHEREAS**, pursuant to Beaufort County Code Section 66-47(c)(1), twenty percent of collections over and above those allocated for specific enumerated uses are allocated to establish a reserve fund for emergency or unforeseen needs; and

**WHEREAS**, the County collects and administers a 2% local hospitality tax pursuant to SC Code Sections 4-9-30 and 6-1-700 et seq. and as provided in Beaufort County Code Section 66-531 et seq. (the “Htax”); and

**WHEREAS**, Beaufort County Council is desirous of establishing procedures for allocating certain of these funds in emergency situations;

**NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL**, in meeting duly assembled as follows:

1. By approval of a resolution by County Council, funds may be allocated out of ATax and/or Htax reserves for permitted use of funds by statute in cases of, a) a near miss of a hurricane, b) for response to a declared disaster, and c) for other such targeted needs as determined by Council on a case-by-case basis,
  
2. Section 66-44(b) of the Beaufort County Code of Ordinances, entitled “Permitted uses of local (3%) accommodations tax funds” is amended to read:  
 “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 for the County of Beaufort, South Carolina, except for expenditures following an emergency as provided in Ordinance 2020-\_\_\_\_, which may be authorized by approval of a resolution.”
  
3. Beaufort County Code Section 66-537 is amended to read as follows:  
 Sec. 66-537. - Management and use of hospitality tax.
  - (a) Fund the approved annual operating expenditures of the program at an amount not to exceed eight percent of the funds collected;
  - (b) Allocate the remaining balance through the county’s annual budget process; except
  - (c) County Council may make emergency appropriations as provided in 2020 Ordinance number \_\_\_\_\_ by approval of a resolution.

ADOPTED IN MEETING DULY ASSEMBLED this \_\_\_\_ day of \_\_\_\_\_ 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Joseph Passiment, Chairman

ATTEST:  
\_\_\_\_\_  
Sarah Brock, Clerk to Council

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



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
<i>Discussion and action item to Amend Ordinance 2019/56 Penn Center Renovations</i>
<b>MEETING NAME AND DATE:</b>
County Council 09/28/2020
<b>PRESENTER INFORMATION:</b>
<i>Ashley Jacobs County Administrator 10 Minutes</i>
<b>ITEM BACKGROUND:</b>
<i>This amended Ordinance was approved at the 09/21/2020 Finance Committee meeting. Ordinance 2019/56 allocated funds for Phase I of the Penn Center Renovations totaling \$822,000. The ordinance specifies Oceana Design as the architect and assigning responsibility to the firm for reviewing and approving invoices.</i>
<b>PROJECT / ITEM NARRATIVE:</b>
Penn Center is not satisfied with Oceana Design’s work, and requests an amendment to Ordinance 2019/56 that removes Oceana Design and allows for an RFQ from other architectural firms to be issued in order to complete the necessary renovations at Penn Center.
<b>FISCAL IMPACT:</b>
<i>No new funds required</i>
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Staff recommends amending the ordinance to have Beaufort County Purchasing issue an RFQ and award the contract with input and assistance from Penn Center.
<b>OPTIONS FOR COUNCIL MOTION:</b>
<i>Motion to Amend Ordinance 2019/56 to remove Oceana Design and authorize Beaufort County Purchasing to issue an RFQ for architectural services.</i>

2020-\_\_

**AN ORDINANCE APPROPRIATING FUNDS NOT TO EXCEED \$ 822,000 FROM THE 3% LOCAL ACCOMMODATIONS TAX FUNDS TO PENN CENTER, INC. TO ASSIST WITH PHASE I BUILDING PRESERVATION, RENOVATION AND RESTORATION OF HISTORIC BUILDINGS ON THE PENN CENTER CAMPUS AND OTHER MATTERS RELATED THERETO**

**WHEREAS**, Penn Center, Inc. ("Penn") is a 501(c)(3) non-profit organization. Its mission is to promote, preserve and protect Penn Center's history and culture through education, community development and social justice. It operates Penn Center one of the most significant African American historical and cultural institutions in existence today. It is a prominent historic tourist destination . It is located on Martin Luther King Drive (TMS No. R300016 000 0094 0000). Penn seeks financial assistance from the County to fund its efforts to preserve, protect, renovate and restore historically significant buildings on Penn Center's campus which currently serve, and will continue to serve for years to come, as a destination for tourists, visitors and scholars to Beaufort; and

**WHEREAS**, to facilitate and guide this effort, Penn has established a two-phase building preservation, renovation and restoration plan. Phase I improvements are described on Penn Center Building Restoration and Maintenance Plan (Exhibit " A"). This phase is estimated to cost approximately \$822,000. Penn seeks assistance from the County for this phase of the project; and

**WHEREAS**, Beaufort County Council finds that it is in the best interest of its citizens, residents, visitors and tourists to provide assistance to Penn in this effort.

**NOW THEREFORE, BE IT ORDAINED** by Beaufort County Council that an appropriation to Penn Center, Inc. in an amount not to exceed \$ 822,000 is hereby authorized from the 3% Local Accommodations Tax fund to assist with Phase I building preservation, renovation and restoration as set forth in Exhibit A (collectively the "Work") which is incorporated herein by reference. This appropriation is contingent upon each of the following conditions:

1. Receipt of a properly completed local A-tax application and review of the same pursuant to Resolution 2019 /31;
2. contracts for the Work shall be awarded through the Beaufort County procurement process;
3. Penn shall contract with an architectural/engineering firm hired through a Beaufort County RFQ process, to provide architectural review and contract administration services for all work which is performed utilizing these funds;
4. The architectural/engineering firm shall review, approve and submit to Beaufort County, directly, all Applications for Payment;
5. Beaufort County shall retain the funds in their entirety and shall make payment only upon receipt of approved Applications for Payment from the architectural/engineering firm and only upon the terms specified therein; and
6. Funds will be utilized solely for the capital improvement projects which are identified in Exhibit " A" and solely for the purposes specified therein; and

7. Penn shall comply with all reporting requirements which Beaufort County recently adopted relating to 3% Local A-Tax appropriations which are set forth in Resolution 2019/31.

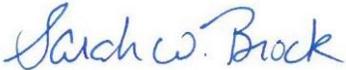
**DONE this \_\_\_\_ day of \_\_\_\_\_ 2020.**

COUNTY COUNCIL OF BEAUFORT COUNTY

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

Joseph Passiment, Chairman

ATTEST:



\_\_\_\_\_  
Sarah W. Brock, Clerk to Council

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



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
Fort Fremont Battery National Register Nomination Form amendment to include Battery Fornance
<b>MEETING NAME AND DATE:</b>
Natural Resource Committee; October 5, 2020
<b>PRESENTER INFORMATION:</b>
Stefanie M. Nagid, Passive Parks Manager 15 minutes
<b>ITEM BACKGROUND:</b>
No prior meetings or approvals have been conducted regarding this item.
<b>PROJECT / ITEM NARRATIVE:</b>
Fort Fremont Battery Jessup was nominated to the U.S. National Register of Historic Places in 1988, determined eligible by the DOI in 1989, and then finally listed in 2010. Fort Fremont Battery Fornance was not included in that original nomination due to a modern house occupying space on top of Battery Fornance. In the time since, the house has been demolished and the County purchased the property. The Friends of Fort Fremont and the Passive Parks Manager would like to amend the original nomination form to include Battery Fornance on the National Register of Historic Places.
<b>FISCAL IMPACT:</b>
There is no funding required for this action
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Staff recommends approval to submit the nomination form amendment to the U.S. DOI
<b>OPTIONS FOR COUNCIL MOTION:</b>
Motion to approve the amendment to include Battery Fornance to the Fort Fremont Battery National Register of Historic Places Nomination Form, and move forward to County Council on October 13, 2020 for final approval.  Motion to deny the amendment to include Battery Fornance to the Fort Fremont Battery National Register of Historic Places Nomination Form, and move forward to County Council on October 13, 2020 for final approval.

United States Department of the Interior  
National Park Service

National Register of Historic Places  
Continuation Sheet

Section number 7 Page 1

Fort Fremont Battery

Beaufort County, South

Item 5.

Name of multiple listing (if applicable)

The following documentation supports a boundary increase for the Fort Fremont Battery National Register Historic Site, on St Helena Island, Beaufort County, South Carolina. The Site was listed on the National Register in 2010 however the original listing was prepared in August 1988 and determined eligible in May 1989. At the time of the nomination's preparation and determination, the southern boundary of the Fort Fremont Battery National Register Historic Site was drawn at the north boundary of tract #181 on the present Beaufort County Tax Map. In 1989, all of the eligible site was private property. The boundary increase is to move the south boundary of the Fort Fremont Battery National Register Historic Site (now the north boundary of tract #181 on the Beaufort County Tax Map), to the south boundary of tract #181, encompassing all of tract #181. This property is now owned by Beaufort County.

In 2004, Beaufort County acquired the nominated property for the Fort Fremont Battery National Register Historic Site along with additional tracts #181, #189 and #191 south of Wharf Road, and Fort Fremont Road, west of Bay Point Road and north of the southern boundary of tract #181. In 2010, the original Site that was determined eligible in 1989 was listed on the National Register of Historic Sites. The original listing "Fort Fremont Battery" only included Fort Fremont's Battery Jesup, referred to as the "10-inch battery". The original listing did not include Battery Fornace, referred to as the "4.7-inch rapid-fire battery". This was because, in the opinion of the person originally preparing the listing nomination, it had "lost integrity due to the construction of a house...on its parapet". This house no longer exists and any remaining elements of the original foundation of the house are very minor. The house only interfaced with a portion of the top of the battery parapet and never intruded into any of the internal structures (magazines). This change in the south boundary of the Fort Fremont Battery National Register Historic Site will allow the inclusion of Fort Fremont's Battery Fornace in the Fort Fremont Battery National Register Historic Site.

Battery Fornace is a classic concrete Endicott Period battery for two Armstrong 4.72-inch quick-fire (rapid-fire) guns whose mission, in defense of Port Royal Sound and the US Naval Station on Parris Island, was to engage any enemy vessels attempting to interfere with (sweep) the controlled mine fields placed in Port Royal Sound and the Beaufort River. These mine fields and the guns to defend them were one of the two primary elements of Fort Fremont's coastal defense system and the reason for its construction on the site selected on St. Helena Island. Battery Fornace, therefore, is a very important and integral element of the history of Fort Fremont.

Battery Fornace was constructed between 1898 and 1899, and is located less than 100 feet south of Battery Jesup. The Battery consisted of two pedestal mounted guns positioned to fire over the parapet wall. Two magazines (15 ft X 25 ft) are located below and to the left of the gun positions. Two steel and iron loading platforms which were included in the gun positions were probably removed during WW II scrap drives. Facing the rear of the battery, gun position #1 is on the right and gun position #2 is on the left. Gun position #1 is completely intact with its gun mounting pedestal. One could say that, should a 4.72-inch gun become available, it could be remounted at the battery with little work. Gun #2 position is where the private home was constructed. It was not a large structure and only some minor remains exist of its brick foundation. Its impact on the integrity of the exterior of the gun #2 position is very small. There is no impact of the previous house structure on any of the interior structures of the battery.

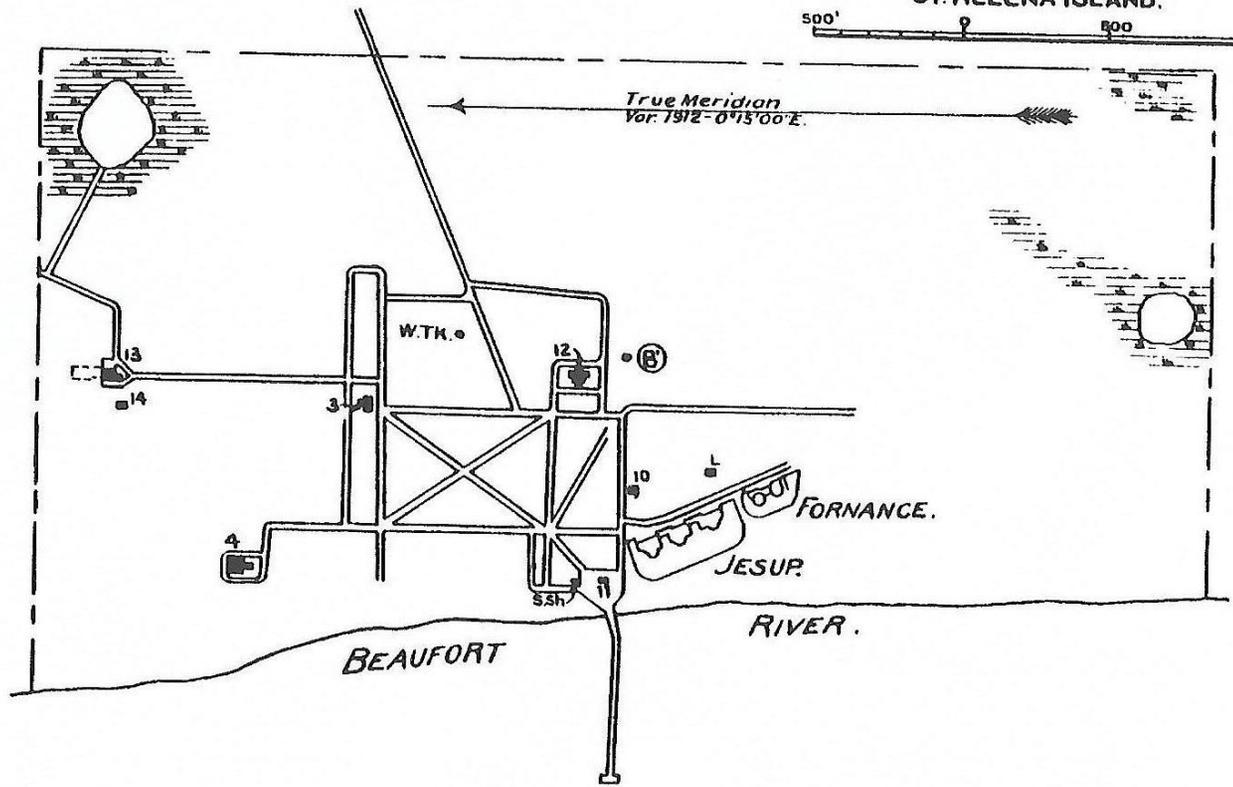
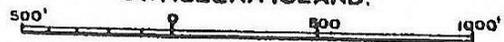
- LEGENO.**
- 3. OFFICERS QRS.
  - 4. HOSPITAL.
  - 10. OIL HOUSE.
  - 11. SCALES.
  - 12. LAVATORY.
  - 13. STABLE.
  - 14. SLEEPING QRS FOR STABLEMEN.

EDITION OF DEC 7, 1915,  
 REVISIONS: MAR. 8, 1919.

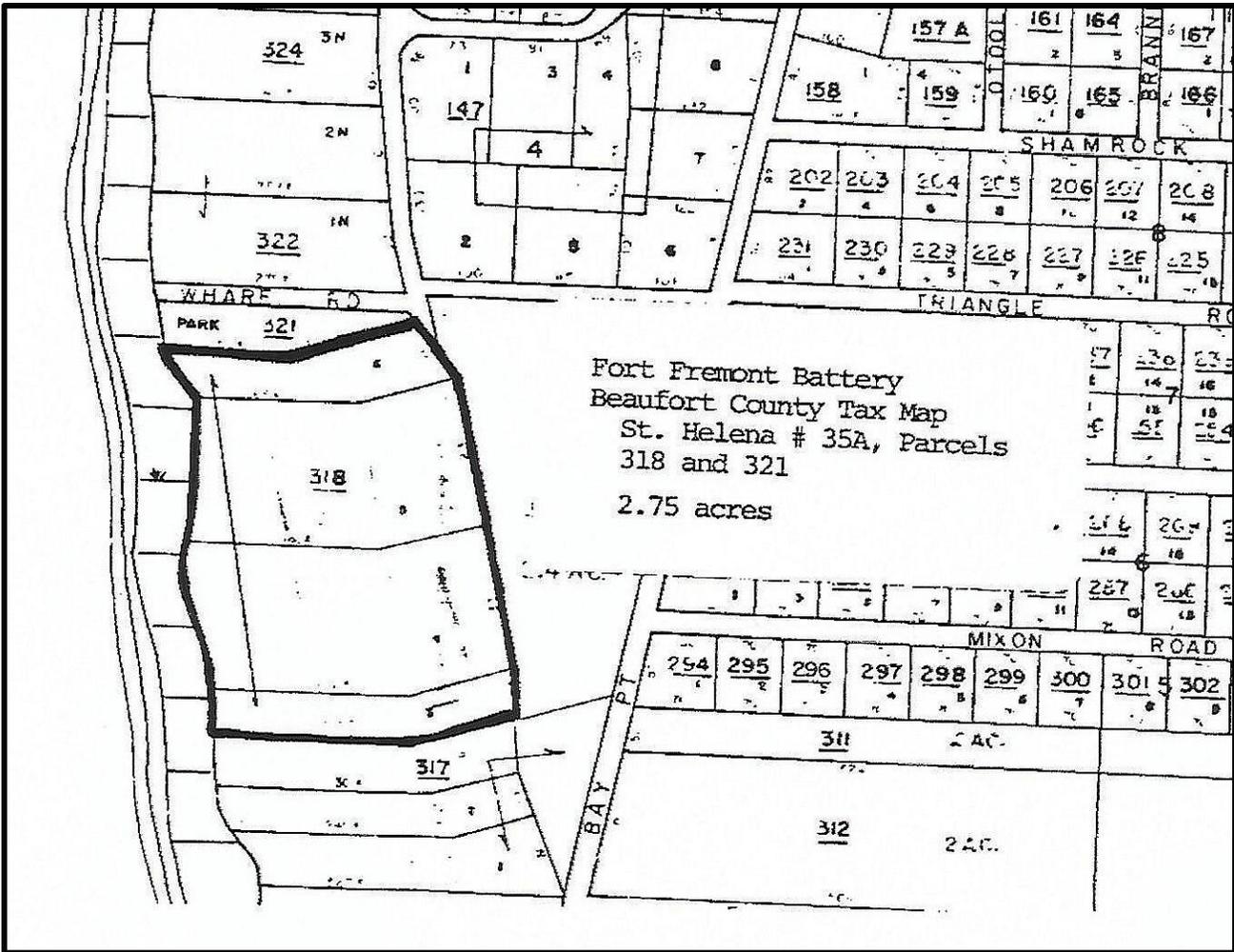
SERIAL NUMBER [REDACTED]  
 CONFIDENTIAL.

PORT ROYAL HARBOR, B.C.  
**FORT FREMONT**  
 ST. HELENA ISLAND.

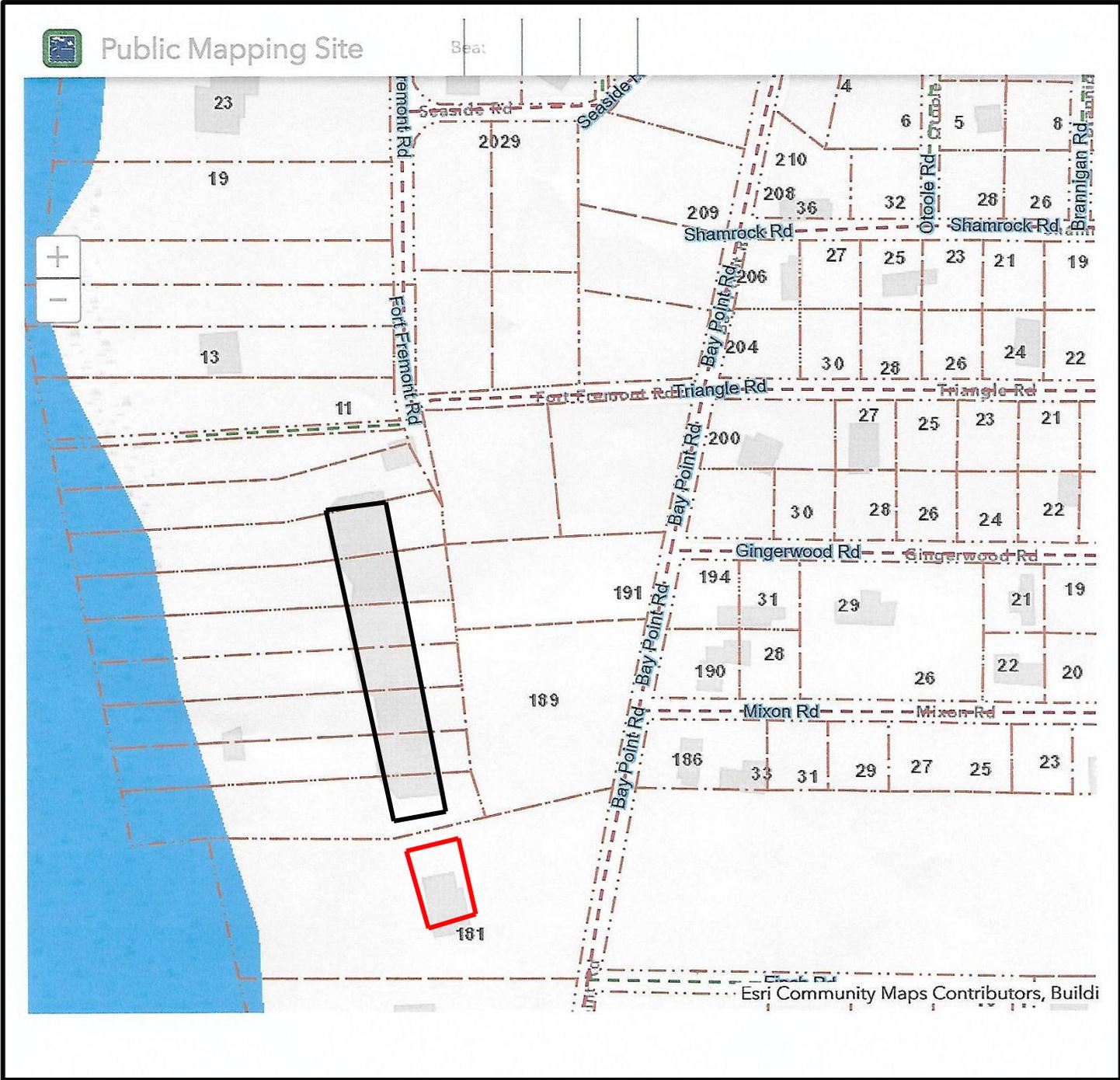
- BATTERIES**
- \* JESUP
  - FORNANCE 2-47
  - \* Dismantled



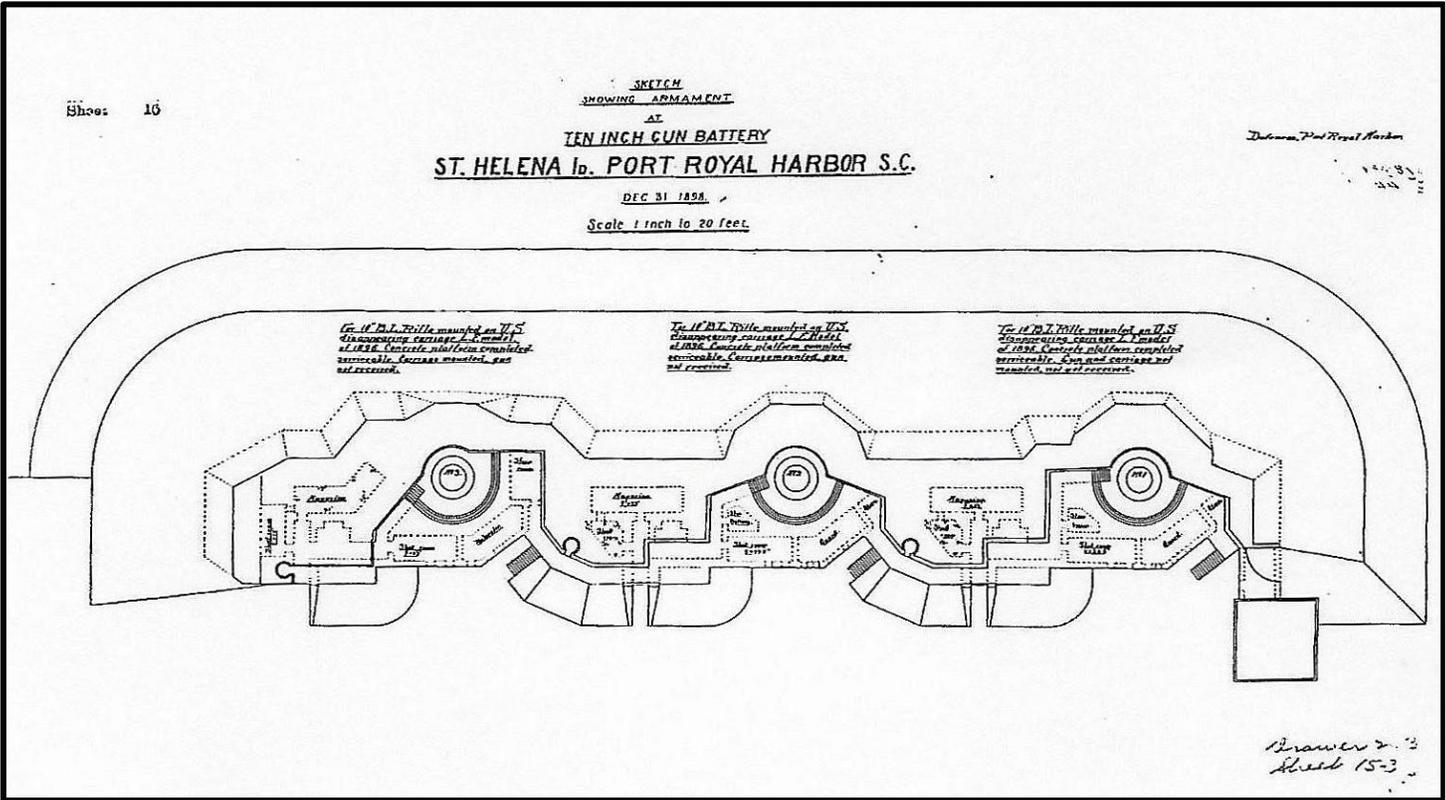
A map of Fort Fremont dated 1919. The locations of Battery Jesup (3 10-inch guns) and Battery Fornance (2 4.72-inch guns) are shown next to each other

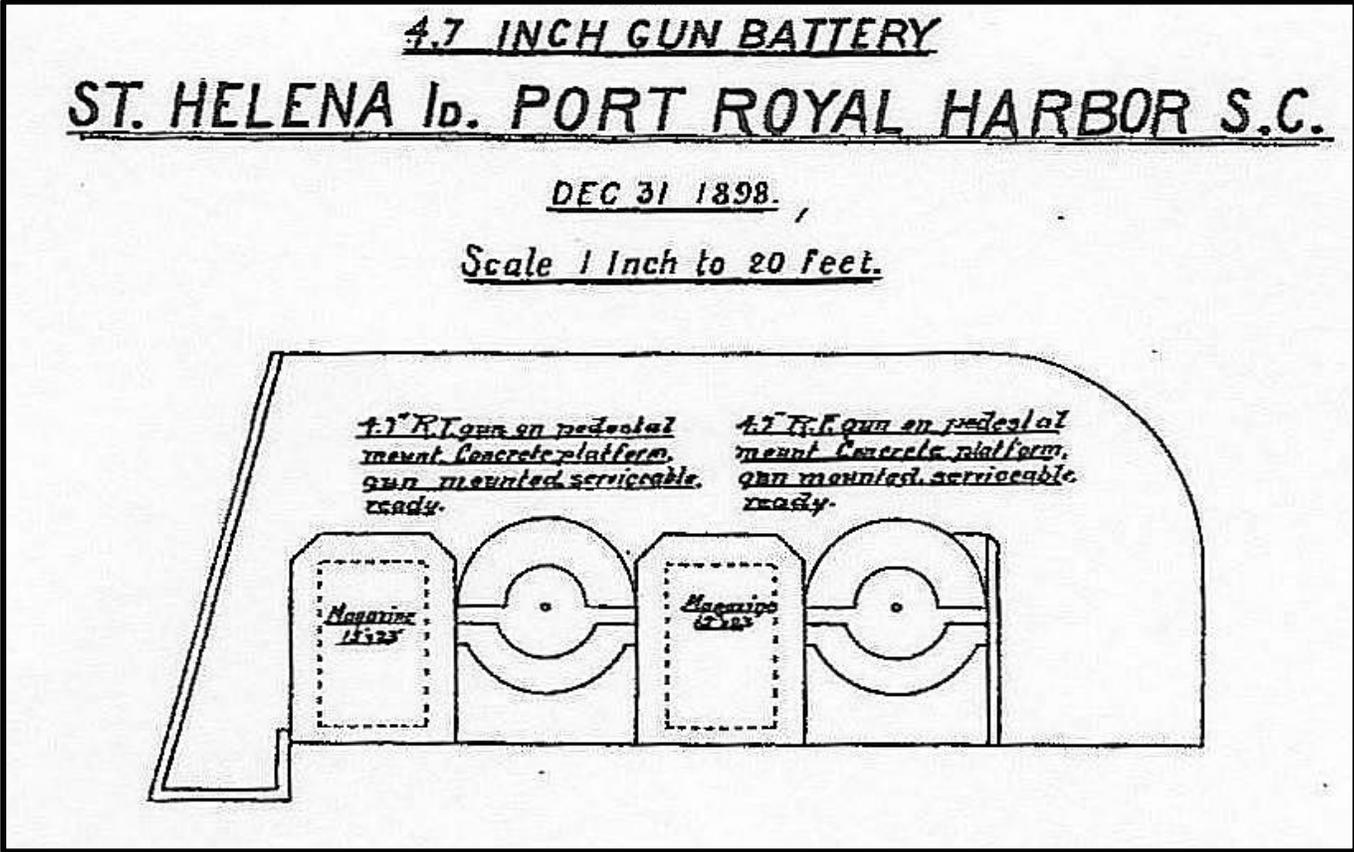


A detail from the Beaufort County Tax Map c. 1988 showing the outline of the original site nominated on the National Register of Historic Places Registration Form for "Fort Fremont Battery". This submission was prepared in August 1988 and was determined to be eligible May 26, 1989. It was not designated on the National Register until 2010. The site only included Battery Jesup. Battery Fornance which is just beyond the southern boundary was not included.



Beaufort County Tax Map c.2020. Battery Jesup (3 10-1inch guns), outlined in black, is inside the 1988 application area. Battery Fornance (2 4.72-inch guns) is outside (south) of the southern boundary of the 1988 application area. Battery Fornance, outlined in red, is included in tract #181 which was acquired by Beaufort County in 2004.





Drawing of Battery Fornance mounting two 4.72-inch guns.



Photograph of the rear of Battery Fornance



The rear of battery Fornance. The two down arrows point to the two gun positions; #1 gun on the right and #2 gun on the left. The up arrows point to the two magazines; on the right is the #1 gun magazine and on the left is gun #2 magazine.



The parapet of Battery Fornance at gun #1. Left is looking north toward Battery Jesup, the right is looking south toward the #2 gun position at Battery Fornance. The large concrete column in the center is the pedestal on which the 4.72-inch gun was mounted.



(Left) The rear of Battery Fornance #1 gun position, note the stairs up to the gun position. (Right) The iron and steel loading platform, which was removed at Battery Fornance for scrap, probably during WW II. This existing platform is at Battery Bingham, a similar 4.72-inch battery at Fort Moultrie, Sullivan's Island, SC.



(Left) The door to #1 gun magazine at the rear of the #1 gun position. (Right) The interior of the #1 gun magazine. The condition of the magazine is very good. It has been cleaned subsequent to this photo.



Battery Fornance looking south from the traverse between gun #1 and gun # 2. This concrete slab was probably part of the house constructed on the battery. The hold down bolts, circled in the left photo, have been removed for visitor safety as they were a tripping hazard.



Battery Fornance #2 gun position. (Left) This is looking north toward the traverse and gun #1 position. (Right) This is a detail of the #2 gun position. The arrow is pointing to a low course of bricks that surrounded the gun position. The concrete pedestal was removed. The few bricks are the only remnants of the house that was constructed on top of the #2 gun position.



(Left) Battery Fornance #2 gun position from the rear. Note that it is largely intact except for the missing gun pedestal. (Right) The door to #2 gun magazine to the left of the #2 gun position.



(Left) Battery Fornance The top of the #2 gun magazine. Circled are remaining hold down bolts from the house construction. These have been removed to improve visitor safety as they are tripping hazards. (Right) This is the 4.72-inch magazine at Battery Bingham, Fort Moultrie. This magazine, 15 ft X 25 ft, is the same size as the two at Battery Fornance. This illustrates how the magazines at Battery Fornance could look.



(Above) A 4.72-inch Quick Fire Armstrong gun on display in Georgia. This is exactly the type of gun that was mounted at Battery Fornance. The two guns at Battery Fornance were removed in 1920. One gun was donated to a town in Pennsylvania where it remained until scrapped in WW II. The other was retained by the Army but cannot be located today.

United States Department of the Interior  
National Park Service

RECEIVED

Item 5.

National Register of Historic Places  
Registration Form

AUG 22 1988

NATIONAL REGISTER

Determined Eligible  
5/26/89

This form is for use in nominating or requesting determinations of eligibility for individual properties or districts. See instructions in *Guidelines for Completing National Register Forms* (National Register Bulletin 16). Complete each item by marking "x" in the appropriate box or by entering the requested information. If an item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, styles, materials, and areas of significance, enter only the categories and subcategories listed in the instructions. For additional space use continuation sheets (Form 10-900a). Type all entries.

1. Name of Property

historic name Fort Fremont Battery  
other names/site number \_\_\_\_\_

2. Location

street & number Bay Point Rd., .3 miles from Land's End Road  not for publication  
city, town St. Helena Island  vicinity  
state South Carolina code 045 county Beaufort code 013 zip code 29920

3. Classification

Ownership of Property	Category of Property	Number of Resources within Property	
<input checked="" type="checkbox"/> private	<input type="checkbox"/> building(s)	Contributing	Noncontributing
<input type="checkbox"/> public-local	<input type="checkbox"/> district	_____	_____ buildings
<input type="checkbox"/> public-State	<input type="checkbox"/> site	_____	_____ sites
<input type="checkbox"/> public-Federal	<input checked="" type="checkbox"/> structure	<u>1</u>	_____ structures
	<input type="checkbox"/> object	_____	_____ objects
		<u>1</u>	<u>0</u> Total

Name of related multiple property listing:  
Historic Resources of St. Helena Island, c1740-c1935  
Number of contributing resources previously listed in the National Register 0

4. State/Federal Agency Certification

As the designated authority under the National Historic Preservation Act of 1966, as amended, I hereby certify that this  nomination  request for determination of eligibility meets the documentation standards for registering properties in the National Register of Historic Places and meets the procedural and professional requirements set forth in 36 CFR Part 60. In my opinion, the property  meets  does not meet the National Register criteria.  See continuation sheet.  
George L. Vogt, State Historic Preservation Officer, SC Department of Archives & History  
Signature of certifying official Mary W. Edmunds Date 8/11/88  
State or Federal agency and bureau \_\_\_\_\_

In my opinion, the property  meets  does not meet the National Register criteria.  See continuation sheet.  
Signature of commenting or other official \_\_\_\_\_ Date \_\_\_\_\_  
State or Federal agency and bureau \_\_\_\_\_

5. National Park Service Certification

I, hereby, certify that this property is:  
 entered in the National Register.  
 See continuation sheet.  
 determined eligible for the National Register.  See continuation sheet. 5/26/89  
 determined not eligible for the National Register.  
 removed from the National Register.  
 other, (explain:) \_\_\_\_\_

Signature of the Keeper

Date of Action

**6. Function or Use**

Historic Functions (enter categories from instructions)

Defense/Fortification

Current Functions (enter categories from instructions)

Vacant/Not in use

Item 5.

**7. Description**

Architectural Classification

(enter categories from instructions)

Other/Coastal Fortification

Materials (enter categories from instructions)

foundation Concrete

walls Concrete

roof

other

Describe present and historic physical appearance.

This battery conforms to the general description under the property type "Structures Associated with Coastal Defense". It served as a battery of three 10-inch rifled guns and was the primary armament of this coastal fortification. An adjacent rapid-fire battery of two 4.7-inch guns is extant but has lost integrity due to the construction of a house, which has since burned, on its parapet. The 10-inch battery measures approximately 250 feet wide and fifty feet deep. The floors of the magazines at this battery are approximately thirteen feet above the low-water mark; the top of the parapet at the 10-inch battery is approximately twenty-five feet above the low-water mark, as is the top of the parapet at the rapid-fire battery. No guns or other equipment remain in place at either battery.(1)

 See continuation sheet

**B. Statement of Significance**

Certifying official has considered the significance of this property in relation to other properties:

Item 5.

nationally     statewide     locally

Applicable National Register Criteria     A     B     C     D

Criteria Considerations (Exceptions)     A     B     C     D     E     F     G

Areas of Significance (enter categories from instructions)

Military

Architecture

Period of Significance

1898-1911

Significant Dates

Cultural Affiliation

N/A

Significant Person

N/A

Architect/Builder

U.S. Army Corps of Engineers

State significance of property, and justify criteria, criteria considerations, and areas and periods of significance noted above.

The Fort Fremont Battery is significant as an intact example of late nineteenth and early twentieth century military architecture. It is also significant as the major armament at one of two surviving coastal fortifications in the United States intact from the Spanish-American War era. Fort Fremont was one of the fortifications built under the direction of the Endicott Board, a body created in 1886 to evaluate the coastal defenses of the United States and named for its head, Secretary of War William C. Endicott. After a thorough study and review of the defenses, the board determined that they were badly outdated. It made the construction of new fortifications and strengthening of existing fortifications a top priority of the United States Army. Although the board's plans were never fully implemented, there were twenty-six installations constructed or modified between 1890 and 1910 as a result of the recommendations. Of those twenty-six installations, six were constructed specifically as a result of the United States' war with Spain in 1898. Fort Fremont was one of those six fortifications.(2) It and Fort Dade, on Egmont Key at Tampa Bay, Florida, are the only two extant Spanish-American War fortifications which retain their character from that period; the others were extensively modified during World War I and/or World War II.(3)

Fort Fremont was authorized soon after the Spanish-American War began in April 1898. It was named for Major General John C. Fremont, explorer, first presidential candidate of the Republican Party in 1856, and Civil War general.(4) A strategic location, at Land's End across the Beaufort River and Port Royal Sound from Parris Island, was chosen to protect Beaufort from possible enemy incursions into the sound. Although the war ended in the fall of 1898 and the sound was never threatened, construction continued as planned. The complex was built by the Corps of Engineers with hired labor from the Beaufort area and was completed by 1900, when it was turned over to the Coast Artillery.

See continuation sheet

9. Major Bibliographical References

Item 5.

Previous documentation on file (NPS):

- preliminary determination of individual listing (36 CFR 67) has been requested
- previously listed in the National Register
- previously determined eligible by the National Register
- designated a National Historic Landmark
- recorded by Historic American Buildings Survey # \_\_\_\_\_
- recorded by Historic American Engineering Record # \_\_\_\_\_

See continuation sheet

Primary location of additional data:

- State historic preservation office
- Other State agency
- Federal agency
- Local government
- University
- Other

Specify repository:

SC Dept of Archives and History

10. Geographical Data

Acreage of property 2.75 acres

UTM References

A     
 Zone Easting Northing

C

B     
 Zone Easting Northing

D

See continuation sheet

Verbal Boundary Description

The boundary of the nomination is shown as the black line on the accompanying Beaufort County Tax Map, St. Helena Sheet #35A, Parcels 318 and 321, drawn at a scale of 1" = 200'.

See continuation sheet

Boundary Justification

The nominated property includes the 10-inch battery and its immediate setting.

See continuation sheet

11. Form Prepared By

name/title J. Tracy Power, NR Historian  
 organization SC Dept of Archives & History date 15 February 1988  
 street & number 1430 Senate St., PO Box 11669 telephone (803) 734-8608  
 city or town Columbia state SC zip code 29211

# Register of Historic Places Location Sheet

er 8 Page 2

A notable feature of Endicott-era fortifications was their emphasis on THE guns rather than on the fortifications themselves. As a result THEse fortifications were made of concrete poured into forms, usually SIT uated so that they would be much less noticeable than their masonry PREdecessors. The batteries were placed on a ridge overlooking Port Royal Sound, set into the land side of the ridge and barely visible, if AT ~~THE~~ <sup>ALL</sup> to ships in the sound. The fort's armament, consisting of THREE 10-inch rifled guns on disappearing carriages and a rapid-fire BATTERY of two 4.7-inch guns, was standard for the period. The DISappearing carriages for the large guns were ingeniously designed, so THAT the recoil of the guns carried them down and back to a position BELOW the level of the parapet, where their crews could reload them in SAFETY. (5)

THE complex at Fort Fremont, when completed, covered nearly seventy ACRES; the central portion of the installation, which included the ADMINISTRATION building, guard house, barracks, hospital, stable, ENGI neer building, carpenter shop, storehouse, pumphouse, coal house, MESS hall, bakery, commissary, post exchange, lavatory, and water tower, COVERED nearly nearly twenty-three acres. Of the complex, only the 10-1 nch battery, the rapid-fire battery, and the brick hospital built IN 1906 survive; the rest of the buildings were of frame construction AND HAVE since been demolished. (6) Fort Fremont's garrison in 1901 was THE 116th Coast Artillery, United States Army, under the command of LE UENANT Colonel Frederick Marsh. Forts Pulaski and Screven, at SAVANNAH, Georgia, were manned by the 78th, 144th, and 145th Coast ARTILLERY and Fort Screven served as the headquarters for all three FORTS. (7) The War Department planned to phase out the post at Fort FREMONT as early as 1906, but a garrison normally numbering some one HUNDRED officers and men was stationed there, usually conducting ARTILLERY practice and maintaining the fort and its guns, until 1911. OFFICERS and men from Forts Pulaski and Screven often came to St. HELENA to play baseball or hold dances atop the parapet. In early 1911 THE 127th Coast Artillery, which was then stationed at Fort Fremont, WAS ORDERED to Fort Crockett, at Galveston, Texas. When Fort Crockett BECAME the mobilization center for border patrols into Mexico not only FREMONT'S garrison but its guns were sent to Texas. The fort was DECOMMISSIONED and the new training center for the Marine Corps was ESTABLISHED at Parris Island instead of St. Helena, and after nineteen YEARS, the War Department sold the property at public auction in June 1930. (8) It has been privately owned since that time.

United States Department of the Interior  
National Park Service

## National Register of Historic Places Continuation Sheet

Section number 8 Page 3

Although no archaeological survey has been conducted at the battery, the early and extensive occupation, limited amount of landscape disturbing activities, and historically and architecturally significant activities at the battery suggest that the site has the potential to yield valuable archaeological data.

### NOTES

(1) Annual Reports of the War Department for . . . 1898. Report of the Chief of Engineers, Part 1 (Washington: U.S. Government Printing Office, 1898), pp. 703-05 (cited below as Chief of Engineers' Report with the year); Military Field Branch, Harbor Defense Files, Record Group 77, National Archives, Washington, D.C. (Including Q.M. 13W-3, Complete Report on Fort Fremont, and "Fort Fremont, S.C.," Plans from the Quartermaster General's Office, October 1906), copies in possession of Carl J. Dorr, Land's End Plantation, St. Helena Island, S.C.

(2) Graham A. Cosmas, An Army for Empire: The United States Army in the Spanish-American War (Columbia: University of Missouri Press, 1971), pp. 7, 38-41, 84-87; Emanuel R. Lewis, Seacoast Fortifications of the United States: An Introductory History (Washington: Smithsonian Institution Press, 1970), pp. 74-80, 140-41.

(3) The nine installations, including eighteen forts, were Fort Rosecrans, San Diego Harbor, California; Forts Dade and DeSoto, Egmont Key, Tampa Bay, Florida; Fort Screven, Tybee Island, Georgia; Forts Mansfield, Michie, Terry, Tyler, and E.G. Wright, Long Island Sound, New York and Rhode Island; Forts Getty, Greble, Philip Kearny, and Wetherill, Narragansett Bay, Rhode Island; Fort Fremont, St. Helena Island, Port Royal Sound, South Carolina; Fort Crockett, Galveston Bay, Texas; and Forts Casey, Flagler, and Worden, Puget Sound, Washington. Information on the integrity of the forts was provided by the staffs of the Florida, Georgia, New York, Oregon, Rhode Island, and Texas State Historic Preservation Offices; also Lewis, pp. 140-41; Anthony F. Turhollow, A History of the Los Angeles District U.S. Army Corps of Engineers 1898-1965 (Los Angeles: U.S. Army Corps of Engineers, 1975), pp. 261, 270-71, 317-18; Aubrey Parkman, Army Engineers in New England: The Military and Civil Work of the Corps of Engineers in New England (Waltham, Massachusetts: U.S. Army Corps of Engineers, 1978), pp. 117-19; Marshall Hanft, Fort Stevens: Oregon's Defender at the River of the West (Salem: Oregon State Parks and Recreation Branch, 1980),

United States Department of the Interior  
National Park Service

## National Register of Historic Places Continuation Sheet

Section number 8 Page 4

pp. 213-226; and Lynn M. Alperin, Custodians of the Coast: History of the United States Army Engineers at Galveston (Galveston, Texas: U.S. Army Corps of Engineers, 1977), pp. 179, 181, 185, 195-96, 255-56.

(4) Chief of Engineers' Report, 1898, pp. 8, 25, 703-06; Ezra J. Warner, Generals in Blue: Lives of the Union Commanders (Baton Rouge: Louisiana State University Press, 1964), pp. 160-61.

(5) Lewis, pp. 74-80; Chief of Engineers' Report, 1898, pp. 8, 25, 703-06; Chief of Engineers' Report, 1899, pp. 27, 865-68; Chief of Engineers' Report, 1900, pp. 24-25, 915-17.

(6) "Fort Fremont, S.C.," Plans from the Quartermaster General's Office, October 1906.

(7) Q.M. 13W-3, Complete Report on Fort Fremont.

(8) Edith M. Dabbs, Sea Island Diary: A History of St. Helena Island (Spartanburg: The Reprint Company, Publishers, 1983), pp. 199; J.E. McTeer, Beaufort Then and Now (Beaufort: Beaufort Book Company, 1971), pp. 95-97.

United States Department of the Interior  
National Park Service

# National Register of Historic Places Continuation Sheet

PHOTOGRAPHS

Section number \_\_\_\_\_ Page 1

The following information is the same for each of the photographs:

Name of property: Fort Fremont Battery (Historic Resources of  
St. Helena Island, c.1740-c. 1935 multiple  
property listing)

Location of property: Beaufort County, South Carolina

Photographer: South Carolina Department of Archives and History  
Staff

Location of negative: South Carolina Department of Archives and  
History

Additional information for each photograph follows:

1. Fort Fremont Battery Disappearing Gun Placement  
April 1987  
View looking east.
2. Fort Fremont Battery  
April 1987  
Rear elevation, view looking east.

332

Fort Fremont Hospital  
Beaufort County Tax Map  
St. Helena # 35A, Parcel 332  
2.4 acres

6.65 AC

331 10N  
330 9N  
329 8N  
328 7N  
327 6N  
326 5N  
325 4N  
324 3N  
322 1N  
321

94 1.66 AC  
93 45AC

92 3.33 AC

HOTEL RD.  
95 96 97 98 99

LAFFIT RD  
100 101 102 103 104 105

RIBAULT  
112 119 120 121 122  
113 118 125 123  
114 117 126 124  
115 116 127

128 1 AC TOT.  
129 130  
142 143 144 145  
135 136 137 138

147 148 149 150  
151 152 153 154  
155 156 157 158 159

SEASIDE  
162 163 168  
161 164 167 171  
160 165 166 172  
176 175 174 173

SHAMROCK RD.  
202 203 204 205 206 207 208 209 210  
231 230 229 228 227 226 225 224 223

WHARF RD  
PARK 321  
318  
317

Fort Fremont Battery  
Beaufort County Tax Map  
St. Helena # 35A, Parcels  
318 and 321  
2.75 acres

237 236 235 240 241  
234 233 232 231 230

267 266 265 264 263

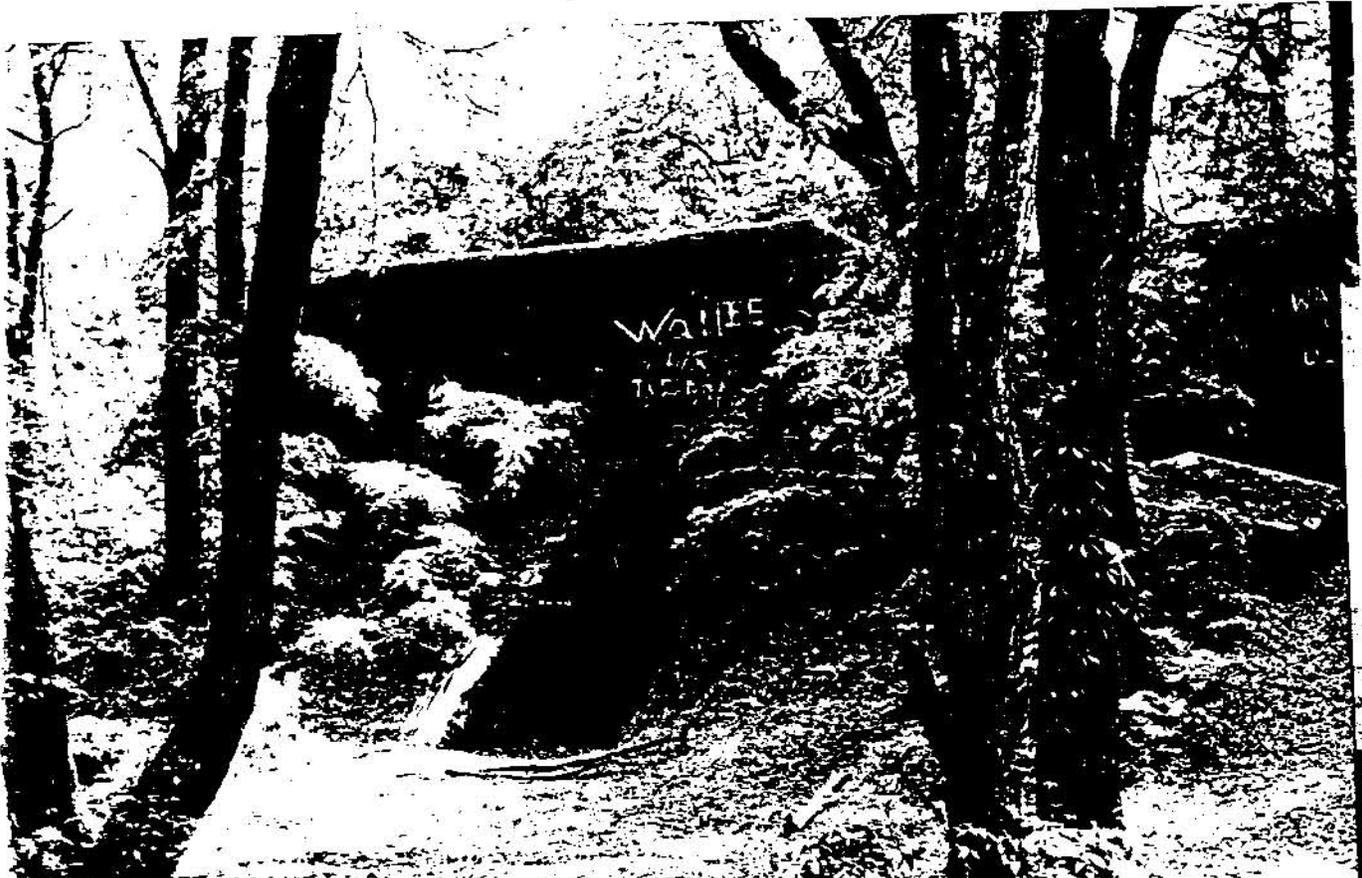
MIXON ROAD  
294 295 296 297 298 299 300 301 302 303 304

311 2 AC  
312 2 AC  
310



10/10/10

10/10/10





# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
Fort Fremont Battery National Register Nomination Form amendment to include Battery Fornance
<b>MEETING NAME AND DATE:</b>
County Council; October 12, 2020
<b>PRESENTER INFORMATION:</b>
Stefanie M. Nagid, Passive Parks Manager 5 minutes
<b>ITEM BACKGROUND:</b>
Natural Resources Committee unanimously approved this item on October 5, 2020.
<b>PROJECT / ITEM NARRATIVE:</b>
Fort Fremont Battery Jessup was nominated to the U.S. National Register of Historic Places in 1988, determined eligible by the DOI in 1989, and then finally listed in 2010. Fort Fremont Battery Fornance was not included in that original nomination due to a modern house occupying space on top of Battery Fornance. In the time since, the house has been demolished and the County purchased the property. The Friends of Fort Fremont and the Passive Parks Manager would like to amend the original nomination form to include Battery Fornance on the National Register of Historic Places.
<b>FISCAL IMPACT:</b>
There is no funding required for this action
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Staff recommends approval to submit the nomination form amendment to the U.S. DOI
<b>OPTIONS FOR COUNCIL MOTION:</b>
Motion to approve the amendment to include Battery Fornance to the Fort Fremont Battery National Register of Historic Places Nomination Form.  Motion to deny the amendment to include Battery Fornance to the Fort Fremont Battery National Register of Historic Places Nomination Form.



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
Resolution amending Resolution 2019/49 for Public Access and Passive Recreation Projects – Phase II
<b>MEETING NAME AND DATE:</b>
Natural Resources Committee; October 5, 2020
<b>PRESENTER INFORMATION:</b>
Eric Greenway, Planning and Zoning Department Director 10 minutes
<b>ITEM BACKGROUND:</b>
R2019/49 was approved by County Council on November 18, 2019
<b>PROJECT / ITEM NARRATIVE:</b>
The co-owners of the Mobley property no longer desire to amend the current Joint Ownership Agreement and do not desire to move forward with construction of a passive park at this time. The Graves Development Agreement (DA) is moving at an accelerated pace and funding for the planning and development of the Okatie River Park, as per the DA, will need to begin this fiscal year.
<b>FISCAL IMPACT:</b>
R2019/49 allocated \$1,000,000 to the Mobley property for planning and construction of a passive park. This amendment would instead allocate those funds to the Okatie River Park for planning and construction of a passive park. No additional funding will be needed.
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Staff recommend approval of the reallocation of funds from the Mobley property to the Okatie River Park property.
<b>OPTIONS FOR COUNCIL MOTION:</b>
Motion to approve the Resolution to amend R2019/49 to reallocate the \$1,000,000 Mobley property funding to the Okatie River Park for the planning and construction of a passive park and to move forward to County Council on October 13, 2020 for adoption.  Motion to deny the Resolution to amend R2019/49 to reallocate the \$1,000,000 Mobley property funding to the Okatie River Park for the planning and construction of a passive park and to move forward to County Council on October 13, 2020 for adoption.

**RESOLUTION 2020/\_\_\_**

**A RESOLUTION TO AMEND RESOLUTION 2019/49 WHICH SUPPORTS PUBLIC ACCESS AND PASSIVE RECREATION PROJECTS ON RURAL AND CRITICAL LAND PRESERVATION PROGRAM PASSIVE PARK PROPERTIES**

**WHEREAS** Beaufort County adopted the Passive Parks Public Use Work Plan (Resolution 2018/22) on October 22, 2018, and the Passive Parks Ordinance (2018/53) on December 10, 2018; and

**WHEREAS** Beaufort County adopted by Resolution (2019/18) the right to reserve Land Preservation Bond funds for the implementation of public access and passive recreation park improvement projects on a first come, first serve basis with \$5 million (20%) from the 2018 Land Preservation Bond funding; and

**WHEREAS** on May 20, 2019, Beaufort County adopted by Resolution (2019/23) a reservation request of \$765,000 (3.1%) from the 2018 Land Preservation Bond funding towards the implementation of public access and passive recreation projects on County owned fee-simple Rural and Critical Preservation Land Program passive parks; and

**WHEREAS** on November 18, 2019, Beaufort County adopted by Resolution (2019/49) a reservation request of \$4,235,000 (16.9%) from the 2018 Land Preservation Bond funding towards the implementation of public access and passive recreation projects on County owned fee-simple Rural and Critical Preservation Land Program passive parks; and

**WHEREAS** on February 1, 2019 the County entered into a Development Agreement with Mr. Robert L. Graves whereby the County is obligated to pay the cost of designing and constructing the Okatie River Park improvements; and

**WHEREAS** Mr. Robert L. Graves has requested the County to accelerate the Okatie River Park improvements to coincide with his pending development.

**NOW THEREFORE, BE IT RESOLVED, THAT THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA** amends Resolution 2019/49 to strike the “Mobley Preserve” from its Exhibit A and replace it with “Okatie River Park”, as listed in Exhibit A attached hereto. All other text and fund allocations remain as originally written.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah Brock  
Clerk to Council

**Exhibit A**

**Public Access and Passive Recreation Projects**

<del>Mobley Preserve</del> Okatie River Park Design/Build	\$1,000,000
Okatie Marsh Regional Preserve Planning/Construction	\$1,000,000
Pinckney Point Preserve Planning/Construction	\$1,000,000
Whitehall Park Design/Build	\$500,000
Ford Shell Ring Park Planning/Construction	\$250,000
Pocket Parks Design/Build	\$485,000
TOTAL	\$4,235,000

**RESOLUTION 2019 / 49**

**A RESOLUTION TO SUPPORT PUBLIC ACCESS AND PASSIVE RECREATION PROJECTS  
ON RURAL AND CRITICAL LAND PRESERVATION PROGRAM PASSIVE PARK  
PROPERTIES**

**WHEREAS** Beaufort County has been a frontrunner among local governments in land preservation since 1999 with the creation of the Rural and Critical Land Preservation Program; and

**WHEREAS** the 2018 Land Preservation Bond referenda passed with 70% approval by the citizens of Beaufort County; and

**WHEREAS** the 2018 Land Preservation Bond referenda states that an amount “not to exceed 20%” of the funds may be used to improve existing and newly acquired open space and natural areas protected under the Program; and

**WHEREAS** Beaufort County has acquired over 13,000 acres of fee-simple properties with Land Preservation funding, and anticipates acquiring additional fee-simple properties with Land Preservation funding; and

**WHEREAS** Beaufort County understands and recognizes the benefits of open space and passive recreation on community health and vibrancy, tourism, education, and quality of life for its citizens; and

**WHEREAS** Beaufort County believes and supports that the preserved lands should be publically accessible with passive recreation improvements; and

**WHEREAS** Beaufort County adopted the Passive Parks Public Use Work Plan (Resolution 2018/22) on October 22, 2018, and the Passive Parks Ordinance (2018/53) on December 10, 2018; and

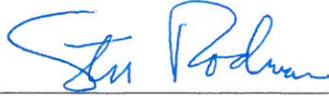
**WHEREAS** Beaufort County adopted by Resolution (2019/18) the right to reserve Land Preservation Bond funds for the implementation of public access and passive recreation park improvement projects on a first come, first serve basis with \$5 million (20%) from the 2018 Land Preservation Bond funding; and

**WHEREAS** on May 20, 2019, Beaufort County adopted by Resolution (2019/23) a reservation request of \$765,000 (3.1%) from the 2018 Land Preservation Bond funding towards the implementation of public access and passive recreation projects on County owned fee-simple Rural and Critical Preservation Land Program passive parks.

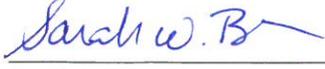
**NOW THEREFORE, BE IT RESOLVED, THAT THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA** reserves an amount not to exceed \$4,235,000 (16.9%) from the 2018 Land Preservation Bond funding towards the implementation of public access and passive recreation projects, as listed in Exhibit A, on County owned fee-simple Rural and Critical Preservation Land Program passive parks.

Adopted this 18<sup>th</sup> day of November, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY:   
Stewart H. Rodman, Chairman

ATTEST:

  
Sarah W. Brock  
Clerk to Council

**Exhibit A**

**Public Access and Passive Recreation Projects**

Mobley Preserve Design/Build	\$1,000,000
Okatie Marsh Regional Preserve Planning/Construction	\$1,000,000
Pinckney Point Preserve Planning/Construction	\$1,000,000
Whitehall Park Design/Build	\$500,000
Ford Shell Ring Park Planning/Construction	\$250,000
Pocket Parks Design/Build	\$485,000
<b>TOTAL</b>	<b>\$4,235,000</b>



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
Resolution amending Resolution 2019/49 for Public Access and Passive Recreation Projects – Phase II
<b>MEETING NAME AND DATE:</b>
County Council, October 12, 2020
<b>PRESENTER INFORMATION:</b>
Eric Greenway, Planning and Zoning Department Director 10 minutes
<b>ITEM BACKGROUND:</b>
R2019/49 was approved by County Council on November 18, 2019 This amendment request was approved by Natural Resources Committee on October 5, 2020
<b>PROJECT / ITEM NARRATIVE:</b>
The co-owners of the Mobley property no longer desire to amend the current Joint Ownership Agreement and do not desire to move forward with construction of a passive park at this time. The Graves Development Agreement (DA) is moving at an accelerated pace and funding for the planning and development of the Okatie River Park, as per the DA, will need to begin this fiscal year.
<b>FISCAL IMPACT:</b>
R2019/49 allocated \$1,000,000 to the Mobley property for planning and construction of a passive park. This amendment would instead allocate those funds to the Okatie River Park for planning and construction of a passive park. No additional funding will be needed.
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Staff recommend approval of the reallocation of funds from the Mobley property to the Okatie River Park property.
<b>OPTIONS FOR COUNCIL MOTION:</b>
Motion to approve the Resolution to amend R2019/49 to reallocate the \$1,000,000 Mobley property funding to the Okatie River Park for the planning and construction of a passive park.  Motion to deny the Resolution to amend R2019/49 to reallocate the \$1,000,000 Mobley property funding to the Okatie River Park for the planning and construction of a passive park.



# BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

<b>ITEM TITLE:</b>
Beaufort County Airport – Hangar Ground Lease Agreement
<b>MEETING NAME AND DATE:</b>
County Council – September 28, 2020
<b>PRESENTER INFORMATION</b>
Jared Fralix, P.E. ACA- Engineering John Rembold, Airports Director (Alternate) (Time Needed for Item Discussion = 5 minutes)
<b>ITEM BACKGROUND:</b>
September 17, 2020 – This item was unanimously approved by the Airports Board September 21, 2020 – This item was unanimously approved at Public Facilities Committee
<b>PROJECT / ITEM NARRATIVE:</b>
As a result of the growth of general aviation at the airport, there is a need and an interest for increased hangar space in our area. Therefore, Beaufort County Airport will like to offer long term ground leases on vacant land for the construction of aircraft hangars.
<b>FISCAL IMPACT:</b>
Construction will be privately funded. Risk Management has been consulted regarding insurance requirements.
<b>STAFF RECOMMENDATIONS TO COUNCIL:</b>
Approve the hangar ground lease agreement for aircraft storage at ARW Airport.
<b>OPTIONS FOR COUNCIL MOTION:</b>
Motion to approve the first reading of the ordinance for Beaufort County Airport (AWR) Hangar Ground Lease Agreement and bring forward to the second reading at the next County Council meeting.  Motion to deny the first reading of the ordinance for Beaufort County Airport (AWR) Hangar Ground Lease Agreement and bring forward to the second reading at the next County Council meeting.
<b>(Next Step – Bring ordinance to next County Council meeting for 2<sup>nd</sup> reading)</b>

Item 7.



COUNTY COUNCIL OF BEAUFORT COUNTY
PURCHASING DEPARTMENT
106 Industrial Village Road, Bldg. 2, Post Office Drawer 1228
Beaufort, South Carolina 29901-1228

David L Thomas, Purchasing Director
dthomas@bcgov.net 843.255.2353

TO: Councilman Chris Hervochon, Chairman, Finance Committee

FROM: David L Thomas. CPPO. Purchasing Director

SUBJ: Negotiate a Contract
Recommendation for Approval: ARW Hangar Ground Lease Agreement

DATE: 09/21/2020

BACKGROUND:

As a result of the growth of general aviation at the airport, there is a need for increased hangar space in our area. Therefore, Beaufort County Airport will like to offer long term ground leases on vacant land for the private construction of aircraft hangars. Several parties have indicated strong interest in developing hangar space at the airport. This agreement gives the airport the tool it needs to proceed. The benefit to the airport and to the county is an increase in economic activity at the airport and in the community through fuel sales, tax revenues, and local private investment.

Hangars will be privately developed via private capital so the airport will not be required to invest significant capital in this project.

VENDOR INFORMATION:

Privately developed hangars via private capital

COST:

\$ 0.00

Insert Addition Vendor Info.

FUNDING:

N/A

Funding approved: Yes By: raymond.williams Date: 09/14/2020

FOR ACTION: Finance Committee meeting occurring September 21, 2020.

RECOMMENDATION:

The Finance Committee approve and recommend to County Council approval of the hangar ground lease agreement.

Attachment: HangarGroundLeaseAgreement.pdf 10.35 MB

Click here to attach a file

cc: Ashley Jacobs, County Administrator

Approved: Yes Date: 09/16/2020

Check to override approval: Overridden by:

Override Date:

Raymond Williams, Finance Director

Approved: Yes Date: 09/14/2020

Item 7.

Jared Fralix, Assistant County Administrator, Engineering	Approved: Yes	Date: 09/14/2020
<input type="checkbox"/> Check to override approval: Overridden by: <input type="text"/>	Override Date: <input type="text"/>	<input type="checkbox"/> ready for admin: <input checked="" type="checkbox"/>
Jon Rembold, Director, Airports Department	Approved: Yes	Date: 09/14/2020
<input type="checkbox"/> Check to override approval: Overridden by: <input type="text"/>	Override Date: <input type="text"/>	<input type="checkbox"/> ready for admin: <input checked="" type="checkbox"/>

CC others

Approved by Committee:

Approved by Council:

After Initial Submission, Use the Save and Close Buttons



TO: Councilman Brian Flewelling, Chairman, Beaufort County Public Facilities Committee

FROM: Howard Ackerman, Chairman, Beaufort County Airports Board

SUBJ: Recommendation for approval: ARW Hangar Ground Lease Agreement

DATE: September 21, 2020

**BACKGROUND:**

As a result of the growth of general aviation at the airport, there is a need for increased hangar space in our area. Therefore, Beaufort County Airport will like to offer long term ground leases on vacant land for the construction of aircraft hangars. The director’s goal is to develop a good land-use plan for ARW that will provide environmentally acceptable, functional, and aesthetically pleasing facilities for the general aviation customer. This is an opportunity for a positive economic development at the airport.

The Beaufort County Airports Board strongly endorses this plan and requests County Council support.

Hangars will be privately developed via private capital so the airport will not be required to invest significant capital in this project.

**FOR ACTION:**

Public Facilities Committee meeting occurring September 21, 2020.

**RECOMMENDATION:**

The Public Facilities Committee approve and recommend to County Council approval of the hangar ground lease agreement.

**Encl:** ARW Hangar Ground Lease Agreement  
 Site Exhibit  
 Example of Typical Hangars



TO: Councilman Brian Flewelling, Chairman, Beaufort County Public Facilities Committee

FROM: Jon Rembold, Airports Director

SUBJ: Recommendation for approval: ARW Hangar Ground Lease Agreement

DATE: September 21, 2020

**BACKGROUND:**

As a result of the growth of general aviation at the airport, there is a need for increased hangar space in our area. Therefore, Beaufort County Airport will like to offer long term ground leases on vacant land for the private construction of aircraft hangars. Several parties have indicated strong interest in developing hangar space at the airport. This agreement gives the airport the tool it needs to proceed. The benefit to the airport and to the county is an increase in economic activity at the airport and in the community through aviation fuel sales, tax revenues, and local private investment.

Hangars will be privately developed via private capital so the airport will not be required to invest significant capital in this project.

**FOR ACTION:**

Public Facilities Committee meeting occurring September 21, 2020.

**RECOMMENDATION:**

The Public Facilities Committee approve and recommend to County Council approval of the hangar ground lease agreement.

**Encl:** ARW Hangar Ground Lease Agreement  
 Site Exhibit  
 Example of Typical Hangars

**ORDINANCE 2020/\_\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO LEASE AGREEMENTS WITH AIRCRAFT OWNERS WHO DESIRE TO CONSTRUCT AN AIRCRAFT HANGAR IN DESIGNATED AREAS AT THE BEAUFORT COUNTY AIRPORT**

**WHEREAS**, the Beaufort County Airport (“Airport”) has a Master Plan and Airport Layout Plan with changes that depict areas for future hangar development; and

**WHEREAS**, by entering into ground leases, “Exhibit A”, allowing private development at the airport, Beaufort County saves significant capital investment while still achieving the goal of hangar construction; and

**WHEREAS**, multiple aircraft owners have expressed a desire to develop “box” or “executive” type aircraft hangars similar to those shown in “Exhibit B” for their aircraft; and

**WHEREAS**, a significant source of revenue for the airport is fuel sales, therefore it is to the economic benefit of the airport to lease land to develop such hangars as they typically house aircraft which tend to purchase more fuel; and

**WHEREAS**, in the development area, there is adequate acreage for multiple hangar buildings, as shown in “Exhibit C”, attached hereto and incorporated herein by reference; and

**WHEREAS**, County Council finds that it is in the best interest of the citizens and residents of Beaufort County for the County Administrator to enter into leases with the future developers of the leased areas for the long-term benefit of the Beaufort County Airport.

**NOW, THEREFORE, BE IT RESOLVED** that Beaufort County Council, duly assembled, does hereby authorize the County Administrator to enter into lease agreements with the future developers of areas designated for the construction of aircraft hangars at the Beaufort County Airport.

Adopted this \_\_\_\_ day of \_\_\_\_\_, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Joseph Passiment, Chairman

ATTEST:

\_\_\_\_\_  
Sarah W. Brock, Clerk to Council

**EXHIBIT A**

**BEAUFORT COUNTY AIRPORT**

**AIRCRAFT HANGAR AGREEMENT AND GROUND LEASE**

**WITH**

---

**[name of tenant]**

**BEAUFORT COUNTY AIRPORT  
AIRCRAFT HANGAR AGREEMENT AND GROUND LEASE**

THIS AGREEMENT AND GROUND LEASE (“Agreement”), made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by and between the COUNTY of BEAUFORT, a political subdivision of the State of South Carolina (the “County”), and \_\_\_\_\_ [name of tenant] a \_\_\_\_\_ [state of organization and type of legal entity] (the “Lessee”).

**WITNESSETH:**

WHEREAS, the County is owner and operator of the Beaufort County Airport (hereinafter “Airport”) including vacant land all of which is located at 39 Airport Circle in Beaufort County, South Carolina; and

WHEREAS, Lessee is the owner or operator of an aircraft which it wishes to base at the Airport; and

WHEREAS, County has land available at the Airport which is suitable for the erection and use of an aircraft storage hangar (the “Site”); and

WHEREAS, Lessee wishes to lease the Site from County and to construct a hangar thereon, and County is willing to lease the Site to Lessee on the terms and conditions provided and set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants, agreements and conditions set forth below, County does hereby agree to lease the Site set forth below to Lessee, and Lessee does hereby agree to lease the Site from County.

## ARTICLE I

### LEASED PREMISES

Section 1.1 Leased Premises. County hereby demises and lets to Lessee and Lessee hereby takes and accepts from County a leasehold interest in that portion of the Airport ("Site") depicted on Exhibit "A" hereto, consisting of \_\_\_\_\_ acres, more or less and located at \_\_\_\_\_ [address if applicable]. The Site, along with the improvements to be constructed thereon pursuant to this Agreement in Section 1.2 below ("Leasehold Improvements") shall be called the "Leased Premises".

Section 1.2 Improvements by Lessee. Lessee will cause to be erected, constructed, or installed on the Leased Premises such improvements as Lessee shall determine are reasonably necessary or desirable to serve as the storage hangar for Lessee's aircraft (the "Leasehold Improvements"). Upon the expiration or other termination of this Agreement, Lessee shall surrender to County possession of all Leasehold Improvements except personal property and trade fixtures of Lessee then existing on or within the Leased Premises.

Section 1.3 Design of Improvements. Unless otherwise agreed by the parties in writing, Lessee shall, within sixty (60) days of the execution of this Agreement by all parties submit to County plans for constructing, erecting and installing the Leasehold Improvements on the Leased Premises. The plans shall be in final form and shall consist of (1) working drawings, (2) technical specifications, (3) bid documents and (4) schedule for accomplishing improvements. Construction shall be completed within eighteen (18) months of inception of lease unless otherwise approved by the Airports Director.

Section 1.4 Architectural Requirements. Architecture ("Leasehold Improvements") will have to be "approved" by the appropriate committee of the Airports Board. All structural improvements, signs, equipment and interior design and decor constructed or installed by

Lessee, its agents or contractors, including the plans and specifications therefor, shall conform in all respects to applicable statutes, ordinances, building codes and rules and regulations.

Section 1.5 Bonds or Letter of Credit. To ensure that mechanic's liens are not placed on airport property, and to ensure that capital improvements once initiated are completed and not abandoned before completion, County requires Lessee to provide either payment and performance bonds or Letters of Credit in an amount equal to the anticipated costs of construction plus ten (10) percent for contingencies.

Section 1.6 Construction of Improvements. Upon written approval of its plans and specifications by the County, Lessee shall have the right and obligation to enter the Leased Premises, take possession thereof and commence constructing the Leasehold Improvements. Unless otherwise agreed by the parties in writing, such construction shall begin within thirty (30) days after the later of (i) the date of County's written approval of Lessee's plans or (ii) the granting of all necessary permits and approvals by all governmental bodies in charge of the approval processes, and shall be continuous and expedited so that the Leasehold Improvements shall be completed as soon as practicable. All contractors shall maintain general liability and worker's compensation/employer's liability insurance coverage reasonably satisfactory to the County. Lessee shall provide builder's risk insurance naming the lender and the County as loss payees with respect to 100% in value of the improvements to be provided under such contracts. No Leasehold Improvements, unattached fixtures or equipment shall be subject to any liens whether created by operation of law or by agreement. All construction shall, in all material respects, conform to and comply with all applicable statutes, ordinances, building codes, rules and regulations of such authorities as may have jurisdiction over any aspect of said construction. Lessee, at its sole cost and expense, shall also procure all building, safety, fire and other permits necessary for any construction.

Section 1.7 As Built Drawings; Cost Certification. Within thirty (30) days of completion of construction of the Leasehold Improvements, hereby defined as the date of Lessee's Certificate of Completion, Lessee shall deliver to County a complete set of as-built drawings.

Section 1.8 Encumbrances on Leased Premises. The Leased Premises shall be accepted by Lessee subject to any and all then existing easements or other encumbrances, and County shall have the right to install, lay, construct, maintain, repair and operate such sanitary sewers, drains, storm water sewers, pipelines, manholes, connections, water, oil or gas pipelines, and telephone and telegraph power lines and such other appliances and appurtenances necessary or convenient in connection therewith, over, in, upon, through, across and along the Leased Premises, or any part thereof, and to enter thereupon at reasonable times for any and all such purposes; provided, however, that no right of County provided for in this section shall be so exercised as to interfere unreasonably with the Lessee's use of the property and improvements pursuant to this Lease.

Section 1.9 Condition of Leased Premises. Lessee accepts the Site in "as is" condition.

Section 1.10 Title to Leased Premises in County. Lessee agrees and acknowledges that title to the Leased Premises is, and shall remain, in County. Lessee agrees that its sole interest in the Leased Premises is and shall be that of a tenant.

Section 1.11 Utilities. Lessee agrees to pay for all utilities used by or attributed to it at, or in connection with its use of, the Leased Premises, including, but not limited to, service deposits, meter deposits and all service charges. No such payment shall be considered a payment of rent entitling the Lessee to a credit under any other provision of this Agreement. In all instances of any damages to any utility service line caused by Lessee, its employees, contractors, suppliers, agents or invitees, Lessee shall be responsible for the cost of repair. If other Lessees subsequently tie into infrastructure which was previously installed by another Lessee ("original Lessees"), the original Lessee(s) shall be entitled to a pro-rata reimbursement of the costs of installing the infrastructure which is being tied into.

Section 1.12 Rights on Airport. County hereby grants to Lessee the right to store its aircraft ("aircraft") in and on the Leased Premises. In connection with its rights to use and occupy the Leased Premises, Lessee shall have the additional following rights:

(a) Access to and From Airfield. The right (which shall extend to Lessee's employees, patrons, guests and invitees), in common with others, of free ingress and egress by aircraft from the Leased Premises to the airfield.

(b) Use of Apron as Taxiway. The right to taxi its aircraft across the aircraft aprons appurtenant to the public general aviation terminal at the Airport ("FBO Aprons"), as needed to access the airfield in common with others to which County has granted a similar right. Lessee agrees to abide by any apron taxi lanes established by the County from time to time to regulate the movement of aircraft on and over the FBO Aprons and to conduct Lessee's operations in such a manner so as not to interfere with the use thereof by other lessees, licensees or permittees of the County. The provisions of this paragraph shall extend to Lessee's employees, patrons, guests and invitees in connection with the aircraft.

(c) Public Aircraft Facilities. The right, in common with others, to use existing and future facilities on the Airport that provide for the landing, taking off and taxiing of aircraft including navigational aids, hazard designation and warning devices, air field security roads and fences, lighting and clear zone areas, subject to the applicable fees set from time to time by the County. The provisions of this paragraph shall extend to Lessee's employees, patrons, guests and invitees in connection with the aircraft.

(d) Common Facilities. The right, in common with others, to use the public portions of the Airport and appurtenances thereto. The provisions of this paragraph shall extend to Lessee's employees, patrons, guests and invitees in connection with the aircraft.

(e) Ingress and Egress. The right, in common with others, of free ingress to and egress from the Leased Premises over Airport roads, driveways and common areas,

as the same shall be specified as such from time to time by the County; provided, however, the foregoing is not intended in any way to relieve Lessee of its obligations to comply with the Airport's Security Plan (as described in Section 2.12 hereof) in force from time to time as required by the United States or its departments and agencies. Accordingly, Lessee shall be responsible for, among other things, controlling access to aircraft parked, stored or otherwise located on the Leased Premises and the air operations area. Lessee shall be responsible for payment of all fines or penalties resulting from violations of the Security Plan, whether published or in force by virtue of local, state or federal law or regulation. The provisions of this paragraph shall extend to Lessee's employees, patrons, guests and invitees.

(f) Signs. The right to install identification and directional signs on and about the Leased Premises, subject to prior written approval of the Airports Director, which approval shall not be unreasonably withheld, unless the Director shall have provided such signs as part of an overall sign program, and in all events, such signs shall conform to any overall sign program of the County.

Section 1.13 County's Right to Enter and Inspect. Upon reasonable notice to Lessee (except for emergency or safety matters, in which event, no notice shall be required) the County shall have the right to enter any part of the Leased Premises at reasonable or necessary times for the purposes of inspection, protection or exercising any rights under this Agreement. It shall also have the right, upon reasonable notice to Lessee, to show the Leased Premises at any time within six (6) months prior to the termination of this Agreement.

Section 1.14 County's Right to Install Utilities. The County shall have the right to enter any part of the Leased Premises at reasonable or necessary times for the purposes of installing any utility lines or related equipment necessary for the Lessee or other users of the Airport.

Section 1.15 Surrender of Leased Premises at Termination. Upon termination, default or other expiration of this Agreement, Lessee shall immediately surrender the Leased Premises to County. Any and all capital improvements and fixtures shall become part of the Leased Premises and shall be surrendered to the County in good condition reasonable wear and tear

excepted. Lessee’s failure to surrender the Leased Premises to County within sixty (60) days of County’s request for the same based on termination, default of expiration of the Agreement shall constitute surrender unless Lessee initiates legal action to prevent the same within forty five (45) days of County’s request for the same.

**ARTICLE II**

**LEASE TERM AND RESTRICTIONS ON USE**

Section 2.1 Effective Date/Commencement Date. The Commencement Date shall be the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

Section 2.2 Term; Option to Extend. The term of this Agreement (“Term”) shall be twenty-five (25) years and shall commence on the Commencement Date and, unless terminated earlier pursuant to law or the provisions hereof, shall continue until midnight on January 31, 20\_\_\_\_\_ (“Termination Date”). Lessee may elect to extend the lease one (1) time for an additional five-year term at a rate to be determined by the Airports Director.

Section 2.3 Holding Over. Should Lessee hold over on any part of the Leased Premises with respect to which this Agreement has terminated, such holding over shall be deemed merely a month-to-month tenancy, but otherwise on all the terms and conditions herein provided.

Section 2.4 Right of County to Terminate by Cancellation. If, at any time during the original term or any renewal term hereof, County requires the use of the Leased Premises for airfield related purposes, including, but not limited to, expansion of runways and taxiways and compliance with any safety, clearance, or setback requirements that may be promulgated by FAA or any successor agency, this Agreement may be canceled by the County. Should the County elect to so cancel this Agreement it shall (i) advise Lessee as soon as possible when the issue arises and (ii) give Lessee written notice of cancellation and the purpose therefor at least one hundred eighty (180) days prior to the effective date of such cancellation ("Cancellation Date"). Upon such notice and the expiration of such notice period this Agreement shall automatically terminate and be of no further force and effect. Upon any such cancellation the County shall reimburse to Lessee an amount calculated by multiplying Lessee’s certificated Cost of Leasehold

Improvements by a fraction, the numerator of which shall be the number of months remaining on the Term hereof as of the date of termination and the denominator of which shall be three-hundred (300).

Section 2.5 Restrictions on Use. The Leased Premises and the Leasehold Improvements and all other property located thereon shall be used solely and exclusively as the base for Lessee's owned or leased aircraft and for no other business or activity whatsoever. It shall be a violation of this Lease for Lessee to use the property for any illegal use or for the purpose of furthering any illegal activity. Lessee shall not store aircraft that it does not own, lease and operate; Lessee shall not store itinerant aircraft in or on the Leased Premises except for such time as the owners or operators thereof are short-term guests, defined as less than fourteen (14) days per calendar year, of the Lessee. Lessee may service, and perform light maintenance on Lessee's aircraft in the hangar. Any service or maintenance required for any Aircraft belonging to or operated by guests or invitees of Lessee at the Leased Premises or elsewhere on the Airport shall be obtained from the FBO Manager or a licensed aircraft maintenance company located on the Airport, if possible.

Lessee is prohibited from engaging in any commercial activity whatsoever, aeronautical or otherwise, on or in the Leased Premises or elsewhere on the Airport except pursuant to a separate commercial business lease agreement granted to lessee by the Airports Director.

Section 2.6 Aviation Fuel/Aircraft Servicing. County operates the FBO on the Airport, including the General Aviation Terminal, hangars and aircraft parking aprons, and maintains and operates aviation fuel storage and delivery facilities from which it sells and dispenses aviation fuel to based aircraft owners and operators and itinerant aircraft owners and operators. Fuel will be sold to and pumped into Lessee's aircraft by County's FBO Staff. The fueling of tenant aircraft shall be provided by the FBO. All fuel shall be purchased from the FBO.

Section 2.7 Abandonment. Unless agreed to by the parties in writing, the failure of Lessee to utilize the Leased Premises over a continuous period in excess of one-hundred twenty (120) days for reasons which are not otherwise excused under this Agreement shall be deemed an abandonment of the Leased Premises by Lessee and therefore a failure to perform Lessee's

obligations under this Agreement. Upon such abandonment, County shall have the right, but not the obligation, to give notice of default under Section 9.1(d) hereof. The mere occupancy of the Leased Premises by an employee of Lessee without the storage of aircraft in the Hangar shall not mitigate the requirements of this section.

Section 2.8 Garbage and Refuse Storage and Removal. Lessee shall be responsible for garbage and refuse storage and removal in compliance with all Airport and other applicable rules and regulations regarding the disposal of trash and garbage, and at Lessee's expense.

Section 2.9 Noise, Waste, Odor, Vibrations and Annoyances. Lessee shall conduct its operations in an orderly and proper manner so as not to commit any nuisance or waste (which includes failing to maintain improvements to standards established by the County and allowing capital improvements to deteriorate) at the Leased Premises or annoy, disturb or be offensive to others at the Airport, and shall take all reasonable measures, using the latest known and most practicable devices and means, to prevent waste and to eliminate any unusual, nauseous or objectionable smoke, gases, vapors, odors, or any vibrations tending to damage any Leasehold Improvements or interfere with activities at the Airport, and to maintain a sound level in its operations that is in compliance with any applicable governmental rules and regulations.

Section 2.10 Prohibited Acts. In connection with the exercise of its rights to use and occupy the Leased Premises, or otherwise in its use of or on the Airport, Lessee shall not:

- (a) Conduct its operations in a manner that deprives the public of its rightful, equal and uniform use of Airport property;
- (b) Conduct its operations in a manner that interferes with reasonable use by others of common facilities;
- (c) Conduct its operations in such a way as to hinder police, firefighting or other emergency personnel in the discharge of their duties or as to constitute a hazardous condition that would increase the risks normally attendant upon the operations contemplated under this Agreement;

(d) Conduct or facilitate illegal activities on Airport property or use the aircraft for illegal purposes or to further illegal activities; or

(d) Store bulk aviation gasoline (AVGAS), kerosene, automobile gasoline, oils, or other petroleum liquids in or at the Leased Premises without prior permission of the Airport Director.

Section 2.11 Environmental Representation and Covenants.

(a) Except as is necessary for the normal and ordinary use of the Leased Premises, as set forth in Section 2.5 above, Lessee shall not cause, permit or suffer any Hazardous Materials (as defined below) to be brought upon, treated, kept, stored, disposed of, discharged, released, produced, manufactured, generated, refined or used upon, about or beneath the Leased Premises or any portion thereof, by Lessee, its agents, employees, contractors, invitees or permitted subtenants or assigns, except in strict compliance with the Environmental Laws, as defined below. For purposes of this Agreement and this section, the term "Hazardous Materials" shall mean and include, without limitation, all types of chemical substances, petroleum products, flammable explosives, radioactive materials, urea, formaldehyde, PCB's, asbestos or material containing asbestos, and any other illegal, regulated, hazardous, toxic, dangerous or otherwise harmful waste, substance or material. For purposes of this Agreement and this paragraph, the term "Environmental Laws" shall mean and include, without limitation, any and all federal, state, county, city or other law, statute, ordinance, treaty, code, rule, regulation, order or decree as may now or at any other time be or have been in effect, regulating, establishing liens for the cleanup of, imposing liability or standards of conduct concerning, or in any manner relating to any Hazardous Materials. For purposes of this Agreement and this paragraph, the term "Release" shall mean and include, without limitation, any and all discharging, spilling, leaking, dumping, emitting, emptying, seeping, injecting, escaping, leaching, disposing and the like.

(b) Lessee shall not cause, permit or suffer the existence or the commission by Lessee, its agents, employees, contractors or invitees, or by any other person, of a violation of any Environmental Laws upon, about or beneath the Leased Premises or any portion thereof.

(c) Lessee shall not create or suffer to exist with respect to the Leased Premises, or permit any of its agents, employees, contractors, or invitees to create or suffer to exist any lien, security interest or other charge or encumbrance of any kind arising out of any Environmental Laws. Should any such lien, security interest or other charge or encumbrance be filed against the Leased Premises, Lessee shall cause said lien, security interest or other charge or encumbrance to be removed from the Leased Premises or shall provide a bond satisfactory to County for the payment or satisfaction thereof. Said actions shall be taken by Lessee as soon as practicable; provided that said actions shall be taken in no event later than thirty (30) days from the filing, posting or notice of such lien, security interest or other charge or encumbrance.

(d) Lessee covenants and agrees, at its sole cost and expense, to defend, indemnify and hold harmless County from and against any and all damages (including without limitation all foreseeable and unforeseeable consequential damages), losses, liabilities, obligations, penalties, costs (including without limitation, the cost of any required or necessary inspection, audit, cleanup or detoxification and the preparation of any closure or other required plans, consent orders, license applications, or the like), personal injury or death, damage to property, claims, litigation costs, disbursements or expenses including, without limitation, attorneys and experts reasonable fees and disbursements which may at any time be imposed upon, incurred by or asserted or awarded against County, and arising from or out of (i) the use, generation, storage, disposal of or the release of any Hazardous Materials by Lessee, its employees, agents and contractors upon, about, beneath or affecting all or any portion of the Leased Premises or any surrounding areas, where such surrounding areas have been contaminated as a result of the use or Release of Hazardous Material by Lessee, its

employees, agents and contractors on the Leased Premises, or (ii) the enforcement of this Agreement as to matters concerning this Section 2.10 arising after the Commencement Date, whether or not any claims prove to be true or false.

(e) Lessee shall, upon demand of County, and at its sole cost and expense, promptly take all remedial actions with respect to the Leased Premises which are required by any federal, state or local governmental agency or political subdivision or which are reasonably necessary to remove any Hazardous Materials from the Leased Premises and restore the Leased Premises to compliance with the Environmental Laws, which remedial action is necessitated from the presence upon, about or beneath the Leased Premises of any Hazardous Material because of, or violation of any Environmental Laws by, Lessee, its agents, employees, contractors, invitees or permitted subtenants or assigns. Lessee shall take all actions necessary to restore the Leased Premises to the condition existing prior to the Commencement Date, notwithstanding any lesser standard of remediation allowable under applicable law or governmental policies. Any such remediation shall be performed in a good, safe and workmanlike manner and shall minimize any impact on the business conducted at the Leased Premises.

(f) Should Lessee have heretofore caused or permitted from the Commencement Date, or cause or permit subsequent to the Commencement Date, any intentional or unintentional Release of Hazardous Materials upon, about or beneath the Leased Premises, whether or not such Release results in damage to soil, surface water, ground water, flora, fauna or humans on the Leased Premises, or within waters of the State or the United States, or on other properties, it shall promptly notify all federal, state and local regulatory agencies of the release as required by law and shall notify County of the release, in writing, within seven (7) days of determining that a Release has occurred. Lessee shall further notify County within seven (7) days after the receipt by Lessee of notice of any demand or claim or the commencement of any action, suit or proceeding in respect of any of the matters referenced in this paragraph. It is expressly understood and agreed that failure by County to object to any actions taken by Lessee hereunder shall not

be construed to be an approval by County of Lessee's actions, nor shall it be construed as a waiver by County of any right related thereto.

(g) County shall, at all times, be free to inspect the Leased Premises and may independently establish to its satisfaction and in its absolute discretion the existence or non-existence of any fact or facts, the existence or non-existence of which is relevant to any claim or defense of any matter related herein, and Lessee shall allow County or its agents access to the Leased Premises as is reasonably necessary to establish such facts.

(h) Should Lessee fail to perform or observe any of its obligations or covenants contained in this paragraph, then County shall have the right, but not the duty, without limitation upon any of the other rights of County pursuant to this Agreement, to enter the Leased Premises itself or through its agents, consultants or contractors and perform the same. Lessee agrees to indemnify County for the costs thereof and liabilities therefrom as set forth in subsection (d) above. The provisions of this Section 2.11 shall survive the termination of this Agreement.

Section 2.12 Airport Security. Lessee acknowledges that the Airport may have certain security requirements imposed upon it by the United States, including the Department of Homeland Security and the Transportation Security Administration. Lessee agrees that its use and occupancy of the Leased Premises will be bound and constrained by any such security requirements that it is given Notice of, and that, upon notification by the Airport, it will abide by and comply with all such restrictions, constraints, rules, regulations, orders, plans or decrees (collectively "Security Plan") enacted by, or imposed upon County, by the United States and its security agencies in, on and about the Leased Premises and the Airport. Lessee further agrees that the requirement to comply with any such Security Plan shall not entitle Lessee to damages or the right to terminate or modify this Agreement.

Section 2.13 Additional Compliance Requirements. It is intended that the standards, obligations and duties imposed by this Article II shall be maintained and complied with by Lessee in addition to its compliance with all applicable governmental laws, ordinances and regulations, and in the event that any of said laws, ordinances and regulations shall be more stringent than

the standards, duties and obligations imposed on Lessee hereunder, then Lessee shall comply with such laws, ordinances and regulations in its operations under this Agreement. Noncompliance with any governmental law, ordinance or regulation, the validity of which shall be contested in good faith and with reasonable promptness, shall not be interpreted as a violation of this covenant until such contest shall have been abandoned or the time for objection or appeal has expired.

### **ARTICLE III**

#### **RENTS, FEES AND CHARGES**

Section 3.1 Ground Rent. For each twelve (12) month period beginning on the Commencement Date ("Lease Year"), Lessee shall pay to County, for the premises and privileges granted hereunder, the amount of twenty-five (.25¢) cents per square foot of leased property.

The annual rental shall, by agreement of the parties each year, be payable in lump sum at the beginning of each twelve-month period or be payable in twelve (12) equal monthly installments of \$ \_\_\_\_\_, in advance and without demand, on the first day of each month. All such payments are to be made in lawful money of the United States of America.

Section 3.2 Rental Adjustments. The annual rent payable by Lessee for the Leased Premises shall be increased (but not decreased) at the beginning of the third anniversary of the Commencement Date. The annual lease payment ("rent") set forth above shall increase three (3%) percent beginning three (3) years from the date the lease commences and continuing each year thereafter throughout the life of this Agreement.

Section 3.4 Reserved.

Section 3.5 Method and Manner of Payment. All payments required to be made by Lessee hereunder shall be made in lawful money of the United States of America in the offices of the Airport Director at the FBO or to such other location as the Airport Director may designate in writing to Lessee.

Section 3.6 Delinquent Payments. Without waiving any other right of action available to the County, should Lessee be delinquent in paying the County any payment required by this Agreement for a period of ten (10) days or more, Lessee shall pay the County interest thereon at the rate of eighteen percent (18%) per year from the date such amount was due and payable until paid.

Section 3.7 Fees and Taxes. The Lessee agrees to pay, when due, all fees, taxes and assessments charged, assessed or levied by any governmental authority on the Leased Premises and lessee's personal; property therein and thereon, or in order to carry on Lessee's business at the Leased Premises. No such payment shall be considered a payment of rent, fees or use charges entitling the Lessee to a credit under any other provision of this Agreement. The failure to pay any tax, license, fee, or assessment, the validity of which shall be contested in good faith and with reasonable promptness, shall not be interpreted as a violation of this covenant until such contest shall have been resolved in the taxing authority's favor or abandoned or the time for objection or appeal has expired.

Section 3.8 Triple Net Lease. This Agreement shall be without cost to County during the Term and any subsequently granted renewal terms, continuance, replacement lease or hold over. It is the intent of County and Lessee that this Agreement be defined, interpreted and enforced as a triple net lease to County and Lessee shall pay all costs and expenses associated with occupancy and use of the Leased Premises, except as expressly set forth herein.

#### ARTICLE IV

##### MAINTENANCE, ALTERATIONS, REPAIRS AND UPKEEP

Section 4.1 Maintenance of the Leased Premises. The provisions of Section 3.8 hereof notwithstanding:

(a) Lessee shall be obligated, without cost to the County, to maintain the Leased Premises and every part thereof in good appearance, repair and safe condition. Lessee shall maintain the Leasehold Improvements, and all interior finishes, furnishings, unattached fixtures and equipment located on the Leased Premises.

(b) The County shall be the sole judge of the quality of maintenance. The County or its authorized agents may at any time, without notice, enter upon the Leased Premises to determine if maintenance satisfactory to the County is being accomplished. If County determines in its sole and absolute discretion that the maintenance of the Leased Premises is deficient, it may mitigate the deficiency at Lessee's expense and the cost of such mitigation shall be billed to Lessee by County, and paid by Lessee, as additional rent hereunder. Lessee shall remit the amount of such additional rent to County within fifteen days of receipt of County's documented statement of the cost of such mitigation.

Section 4.2 Repairs. The Lessee agrees to make all reasonably necessary repairs and replacements of the Leasehold Improvements. All such repairs and replacements shall be of quality equal to the original in materials and workmanship. Should Lessee fail to make such repairs, County shall have the right to enter the Leased Premises and make such repairs, or cause them to be made, and the cost thereof shall be chargeable to Lessee as additional rent hereunder. Lessee shall remit the amount of such costs to County within fifteen days of receipt of County's documented statement of the cost of such repairs.

Section 4.3 Condition at Termination. Lessee agrees to surrender and deliver up the Leased Premises at the termination of this Agreement in good order and condition, reasonable wear and tear excepted. Upon termination of this Agreement, Lessee shall have the right to remove all of its removable personal property and trade fixtures from the Leased Premises provided such removal is done within thirty (30) days of such termination and in a manner so as not to deface or otherwise adversely affect the physical appearance of the Leased Premises.

Section 4.4 Alterations to Leased Premises. Before making alterations to the Leasehold Improvements Lessee shall first obtain the written consent of the Airport Director, such consent not to be unreasonably withheld or delayed. All alterations to the Leased Premises made by the Lessee shall be made at the Lessee's expense and shall be made in a workmanlike manner without damage to the Leased Premises, except such that is repaired or corrected by the Lessee. The Airport Director shall have the right to review and approve in writing the plans and

specifications for such alterations and to impose requirements for permits, insurance and bonding for such improvements and alterations.

## ARTICLE V

### INDEMNIFICATION AND INSURANCE

Section 5.1 Indemnification - County Held Harmless. It is an express condition of this Agreement that, except where caused solely by its negligence, County, its elected officials, officers, agents and employees shall be free from any and all claims, debts, demands, liabilities or causes of action of every kind or character, whether in law or in equity, by reason of any death, injury or damage to any person or persons or damage or destruction of property or loss of use thereof, whether it be the person or property of Lessee, its agents or employees, or of any third persons, from any cause or causes whatsoever arising from any event or occurrence in or upon the Leased Premises or any part thereof, or otherwise arising from Lessee's operations under and during the term of this Agreement; and Lessee shall indemnify, defend and save harmless the County, its elected officials, officers, agents and employees against and from any and all such claims, demands, debts, liabilities and causes of action (including attorneys' fees and costs). In any circumstances in which Lessee provides a defense to the County, it shall employ attorneys for such defense that are reasonably acceptable to County. The provisions of this indemnity shall survive the termination of this Agreement.

Section 5.2 Liability Insurance. Lessee shall maintain an insurance policy on all aircraft that shall occupy the leased hanger. This policy shall have minimum limits of coverage in the amount of one million dollars (\$1,000,000). Beaufort County shall be named as an additional insured under the policy. Prior to (or within fifteen (15) days after the effective date of this Agreement, Lessee shall provide County with a certificate showing proof of such insurance. Said certificate shall be obtained from the underwriter and not the agent. Lessee shall notify County of any changes in the insurance coverage and shall do so within fifteen (15) days of the effective date of the change.

All liability policies shall be occurrence based.

Section 5.4 Fire and Extended Coverage. Lessee, at its own cost and expense, shall insure for fire and extended coverage risks all Leasehold Improvements on the Leased Premises. Such insurance shall be in an amount equal to the full insurable value of such improvements. All fire insurance policies shall contain loss payable endorsements in favor of the parties as their respective interests may appear hereunder. Lessee agrees that any payments received from such insuring companies by reason of loss under such policy or policies shall be applied toward repair and reconstruction of the Leasehold Improvements or paid to the County in accordance with Article VI hereof.

Section 5.5 Certificates Evidencing Coverage: Insurer Acceptable to County. A certificate evidencing all insurance coverage required of Lessee under this Article V shall be filed with the County on or prior to the Commencement Date, and such certificate shall provide that such insurance coverage will not be canceled or reduced without at least thirty (30) days prior written notice to the County. At least ten (10) days prior to the expiration of any such policy, a certificate showing that such insurance coverage has been renewed shall be filed with the County. If such insurance coverage is canceled or reduced, the Lessee shall within fifteen (15) days after receipt of written notice from the County of such cancellation or reduction in coverage, file with the County a certificate showing the required insurance has been reinstated or provided through another insurance company or companies. The company or companies furnishing insurance pursuant to this Article V shall be qualified to issue insurance effective in the State of South Carolina and be of sound and adequate financial responsibility to fulfill their obligations hereunder, and to that end the selection of such insurance companies shall be subject to the approval of County, which approval shall not be unreasonably withheld.

Section 5.6 Waiver of Subrogation. County and Lessee mutually agree that with respect to any loss which is covered by insurance then being carried by them respectively, or required to be carried hereunder, to the extent permitted by the applicable insurance policy or policies, the party carrying or required to carry such insurance and suffering any such loss hereby releases the other of and from any and all claims with respect to such loss and County's and Lessee's insurance

companies shall have no right of subrogation against the other or any party hereto on account thereof.

## ARTICLE VI

### DAMAGE OR DESTRUCTION TO LEASED PREMISES

In the event of damage or casualty to any part of the Leased Premises including the Leasehold Improvements, Lessee shall be required to repair or replace damaged property. If Lessee elects to terminate the Lease, Lessee shall pay to County the amount of insurance proceeds it receives for such damage or casualty.

## ARTICLE VII

### ASSIGNMENT AND SUBLETTING

Lessee shall neither assign nor transfer this Lease, or any right or leasehold interest granted to it by this Agreement, without the written consent of the Airports Director such consent not to be unreasonably withheld. Any such assignment or sublease shall be in writing and promptly upon the execution thereof, Lessee shall furnish a copy to the County.

## ARTICLE VIII

### DEFAULT BY LESSEE

Section 9.1 Default. The happening of any one or more of the following listed events and the expiration of any notice and cure periods herein provided (which events, upon such expiration, are hereinafter referred to singularly as “Event of Default” and plurally as “Events of Default”) shall constitute a breach of this Agreement on the part of Lessee, namely:

- (a) The filing by, on behalf of, or against Lessee of any petition or pleading to declare Lessee a bankrupt, voluntary or involuntary, under any Bankruptcy Act or law, which is not dismissed within sixty (60) days after the date of filing.

(b) The commencement in any court or tribunal of any proceeding, voluntary or involuntary, to declare Lessee insolvent or unable to pay its debts, which is not dismissed within sixty (60) days after the date of filing.

(c) The failure of Lessee to pay any rent or any other amount payable under this Agreement within ten (10) days after written notice by the County that the same is due and payable.

(d) The failure in any material respect of Lessee to comply with or to perform, fully and promptly, any act required of it under the terms of this Agreement, or otherwise to comply with any term or provision hereof within the shorter of -- (i) the time specifically required, or (ii) thirty (30) days after written notice by the County to the Lessee to do so, unless such default cannot be cured within such period and Lessee has in good faith commenced and is prosecuting the cure thereof, in which case the Lessee shall have a reasonable extension of such period in order to cure such default.

(e) The appointment by any court or under any law of a receiver, trustee or other custodian of the property, assets or business of Lessee, who is not dismissed within sixty (60) days after the date of appointment.

(f) The assignment by Lessee of all or any part of its property or assets for the benefit of creditors.

(g) The failure of Lessee to comply with the requirements of any component or requirement of Section 2.5 and Section 2.12 above.

Section 9.2 Waiver. No Waiver by the County of default by the Lessee of any terms, covenants, or conditions hereof kept and to be performed, preserved by the Lessee shall be construed to be a waiver of any subsequent default. The acceptance of rental or the performance of all or any part of this Agreement by the County for or during any period or periods after default of any of the terms, covenants and conditions herein contained to be performed, kept and observed by the Lessee, shall not be deemed a waiver of any right on the part of the County to declare a default or cancel this Agreement for a subsequent breach thereof.

## ARTICLE IX

### EFFECT OF DEFAULT

Upon the occurrence of any Event of Default as defined in Article IX above and the failure of the Lessee to cure such default in the time period set forth in said Article IX, the County shall have the right to terminate this Agreement by written notice to the Lessee, which termination shall be effective as of the date of said written notice. Upon any such termination, whether by lapse of time or otherwise, Lessee shall promptly surrender possession and vacate the Leased Premises and deliver possession thereof to the County, and Lessee hereby grants to the County full and free license to enter into and upon the Leased Premises in such event and with or without process to expel or remove Lessee and any others who may be occupying the Leased Premises and to remove therefrom any and all property, using for such purpose such force as may be necessary without being guilty or liable for trespass, eviction, or forcible entry or detainer and without relinquishing the County's right to the rent due from Lessee or any other right given to the County hereunder or by operation by law. Except as otherwise expressly provided in this Agreement, Lessee hereby expressly waives the service of demand for the payment of rent or for possession of the Leased Premises or to re-enter the Leased Premises, including any and every form of demand and notice prescribed by any statute or other law.

## ARTICLE X

### TERMINATION BY CANCELLATION AND DEFAULT BY COUNTY

Section 11.1 Right of Lessee to Terminate by Cancellation. Provided that Lessee is not in default, Lessee may terminate this Agreement for any reason with six (6) months' notice to the Lessor and cancel all of its obligations hereunder by giving written notice to County in the manner as hereinafter provided upon or after the happening of any one of the following events:

- (a) The inability of the Lessee to use the Leased Premises for a period in excess of sixty (60) days, because of the issuance of any order, rule or regulation by the United States or an instrumentality thereof preventing the Lessee from operating at the Leased Premises for cause or causes not constituting a default under this Agreement;

(b) The default by the County in the performance of any covenant or agreement herein required to be performed by the County and the failure of the County to remedy such default for a period of sixty (60) days after receipt from the Lessee of written notice to remedy the same, unless such default cannot be cured within such sixty (60) day period and the County has in good faith commenced and is prosecuting the cure thereof, in which case the County shall have a reasonable extension of such period in order to cure such default; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if the County shall have remedied the default prior to receipt of the Lessee's notice of cancellation;

(c) The assumption by the United States or an instrumentality thereof of the operation, control or use of the Airport or any substantial part thereof in such a manner as

to substantially restrict the Lessee for a period of at least ninety (90) days from operating its business at the Airport; or

(d) The issuance by any court of competent jurisdiction of an injunction restraining the use of the Airport or the Leased Premises if said injunction shall remain in force for more than ninety (90) days and is not caused in whole or in part by the acts or failures to act of Lessee.

Section 11.2 Waiver. The Lessee's performance of all or any part of this Agreement for or during any period or periods after a default of any of the terms, covenants or conditions hereof to be performed, kept or observed by the County, or the occurrence of such other event as may excuse performance, shall not be deemed a waiver of any right on the part of Lessee (i) to cancel this Agreement for failure by the County so to perform, keep or observe any of the terms, covenants or conditions hereof to be performed, kept and observed, or by reason of such occurrence, or (ii) to enforce any other right that the Lessee may have by reason of such failure or occurrence. No waiver by the Lessee of any of the terms, covenants or conditions hereof shall be construed to be or act as a waiver by Lessee of any subsequent default or occurrence.

## ARTICLE XI

### GENERAL PROVISIONS

Section 12.1 Restrictions and Regulations. The activities conducted by Lessee pursuant to this Agreement shall be subject to:

(a) Any and all applicable rules, regulations, orders and restrictions which are now in force or which may be adopted hereafter by County with respect to the operation of the Airport, including restrictions on arrivals and departures;

(b) Any and all orders, directions or conditions issued, given or imposed by, the County with respect to the use of the roadways, driveways, curbs, sidewalks, parking areas or public areas on the Airport; and

(c) Any and all applicable laws, ordinances, rules, statutes, regulations or orders, including, but not limited to, environmental statutes, regulations or orders of any governmental authority, federal, state or municipal, lawfully exercising authority over the Airport or Lessee's operations, including restrictions on airline schedules of arrivals and departures.

County shall not be liable to Lessee for any diminution or deprivation of Lessee's rights hereunder on account of the exercise of any such authority, nor, except as elsewhere expressly provided in this Agreement, shall Lessee be entitled to terminate the whole or any portion of this Agreement by reason thereof unless the exercise of such authority shall so interfere with Lessee's use and enjoyment of the Leased Premises as to constitute a termination of this Agreement by operation of law in accordance with the laws of the State of South Carolina.

Section 12.2 Waiver of Claims. Lessee hereby waives any claim against the County and its elected officials, officers, agents or employees for loss of anticipated profits caused by any suit or proceeding attacking the validity of this Agreement or any part thereof, or by any judgment or award in any suit or proceeding declaring this Agreement null, void or voidable or delaying the same or any part hereof.

Section 12.3 Waivers. Every provision herein imposing an obligation upon County or Lessee is a material inducement and consideration for the execution of this Agreement. No waiver by County or Lessee of any of the terms, covenants or conditions of this Agreement, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or any other term, covenant or condition herein contained, nor of the strict and prompt performance thereof. No delay, failure or omission of the County to re-enter the Leased Premises or to exercise any right, power, privilege or option arising from any default, or subsequent acceptance of fees then or thereafter accrued shall impair any such right, power, privilege or option or be construed to be a waiver of any such default or acquiescence therein. No notice by County shall be required to restore or revive time as being of the essence hereof after waiver by County of default in one or more instances.

Section 12.5 Situs and Service of Process. This agreement shall be governed by and interpreted in accordance with the laws of the State of South Carolina. In the event of a dispute relating to the terms of this agreement, any resulting action shall be instituted and prosecuted in the appropriate courts in Beaufort County, South Carolina.

Section 12.6 Agreement Binding Upon Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

Section 12.7 Time of Essence. Time is expressly agreed to be of the essence of this Agreement.

Section 12.8 Applicable Law. This Agreement and every question arising hereunder shall be construed or determined according to the laws of the State of South Carolina.

Section 12.9 Quiet Enjoyment. The County agrees that Lessee, upon payment of all fees, charges and other payments required under the terms of this Agreement and observing and keeping the conditions and covenants of this Agreement on its part to be observed and kept, shall lawfully acquire and hold, use and enjoy the Leased Premises during the Term of this Agreement.

Section 12.10 Lessee’s Dealings with County. Whenever in this Agreement, the Lessee is required or permitted to obtain the approval of, consult with, give notice to, or otherwise deal with the County, the Lessee shall deal with the County’s authorized representative; and unless or until the County shall give Lessee written notice to the contrary, the County’s authorized representative shall be the Airport Director.

Section 12.11 Notices, Consents and Approval. All notices, consents and approvals required or authorized by this Agreement to be given by or on behalf of either party to the other shall be in writing and signed by a duly designated representative of the party by or on whose behalf they are given, and shall be deemed given at the time a registered or certified letter properly addressed, postage prepaid, is deposited in any United States post office.

(a) Notice to the County shall be addressed to it and delivered in person or by U.S. Mail to the office of the Airport Director, Beaufort County Airport, 39 Airport Circle, Beaufort South Carolina 29907, either by registered or certified mail, postage prepaid, or at such other office as it may hereafter designate by notice to the Lessee in writing.

(b) Notice to the Lessee shall be addressed to the attention of:

\_\_\_\_\_  
[address]  
Beaufort, SC 29907

either by registered or certified mail, postage prepaid, or at such other office in the continental United States as it may hereafter designate by notice to the County in writing.

Section 12.12 Drug-Free Workplace. Lessee will provide a Drug-Free Workplace by: (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of controlled substance is prohibited in the

facilities and specifying the actions that will be taken against employees for violation of such prohibition.

(b) Notifying the employee in the statement required by Section 12.12(a) that, as a condition of employment, the employee will:

(i) Abide by the terms of the statement; and

(ii) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.

(c) Notifying the County within ten (10) days after receiving notice under subparagraph (b)(2) from any employee or otherwise receiving actual notice of such conviction.

(d) Taking one of the following actions within thirty (30) days of receiving notice under subparagraph (b)(2) with respect to any employee who is so convicted:

(i) Taking appropriate personnel action against such employee up to and including termination; or

(ii) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health law enforcement or other appropriate agency.

(e) Making a good faith effort to continue to maintain a Drug-Free Workplace through implementation of subparagraphs (a) through (d).

Section 12.13 Independent Contractor. The parties hereto agree that the Lessee is an independent contractor and not subject to direction or control by the County, except as specified in this Agreement, and except by general rules and regulations adopted for the control and regulation of the Airport and its facilities.

Section 12.14 Interpretation. The language of this Agreement shall be construed according to its fair meaning, and not strictly for or against either County or Lessee. The section headings appearing herein are for the convenience of the parties and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of provisions of this Agreement. If any provision of this Agreement is determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision of this Agreement and all such other provisions shall remain in full force and effect; and it is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

Section 12.15 Memorandum of Lease in Lieu of Recording. The parties agree that should either desire that adequate legal notice of this Agreement be given on the public records of Beaufort County, South Carolina, the other will agree to the execution of a memorandum of this Agreement containing a sufficient description of the parties, the Leased Premises and Term of this Agreement to comply with the minimum requirements for the giving of such notice.

Section 12.16 Warranty of Title. The County represents and warrants that it has good and merchantable fee simple title to the Site and has full right to lease the Site to Lessee.

Section 12.17 Entire Agreement. The provisions of this Agreement contain the entire understanding between the parties. This Agreement supersedes any and all verbal representations, communications and/or prior writings between the parties. This Agreement may not be changed, altered, modified or amended except in writing and with the mutual consent of the parties.

**[Signatures on Following Page]**

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed, in duplicate, with all the formalities required by law.

**Lessee:**

WITNESS

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

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

\_\_\_\_\_

Date: \_\_\_\_\_

**County of Beaufort as Lessor:**

WITNESS:

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

[Title]

\_\_\_\_\_

Date: \_\_\_\_\_

**(LEASE) EXHIBIT A - DEPICTION OF LEASED PREMISES**

**(LEASE) EXHIBIT B - LEASED PARCEL DESCRIPTION, BEAUFORT COUNTY AIRPORT**

**EXHIBIT B**  
**TYPICAL HANGARS**



80' x 80'



180' x 50'

**EXHIBIT C**

