



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

Chairman

Joseph F. Passiment, JR.

Vice Chairman

D. Paul Sommerville

Council Members

Logan Cunningham

Gerald Dawson

Brian E. Flewelling

York Glover, SR.

Chris Hervochon

Alice G. Howard

Mark Lawson

Lawrence P. McElynn

Stu Rodman

Interim County Administrator

Eric Greenway

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

County Council Meeting Agenda

Monday, May 10, 2021 at 6:00 PM

This meeting will be held both in person at County Council Chambers, 100 Ribaut Road, Beaufort, and virtually through Zoom.

Please be aware that there is limited seating available for the in-person meeting and attendees must practice social distancing per Beaufort County Emergency Ordinance 2021-03

1. CALL TO ORDER
 2. PLEDGE OF ALLEGIANCE - COUNCIL MEMBER LAWSON
- INVOCATION- REVEREND JOHN BLACK FROM CAMPBELL AME, BLUFFTON, SC
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 - March 8, 2021 and March 22, 2021
 6. ADMINISTRATOR'S REPORT
 7. PROCLAMATION PRESENTED TO BEAUFORT COUNTY EMS IN HONOR OF EMERGENCY MEDICAL SERVICES WEEK - COUNCIL MEMBER LARRY MCELYNN
 8. PROCLAMATION RECOGNIZING MAY AS ASIAN AMERICAN AND PACIFIC ISLANDER HERITAGE MONTH - COUNCIL MEMBER LARRY MCELYNN
 9. PROCLAMATION HONORING FRIEDA MITCHELL FOR HER WORK IN CHILD CARE REFORM AND CIVIL RIGHTS - COUNCIL MEMBER GERALD DAWSON

CITIZEN COMMENTS

10. CITIZENS MAY JOIN VIA ZOOM USING THE LINK AND MEETING INFORMATION BELOW:

[MEETING LINK:](#)

Meeting number (access code): 161 4154 7770

Password: BC123

(ANYONE who wished to speak during the Citizen Comment portion of the meeting will limit their comments to no longer than three (3) minutes (a total of 15 minutes) and will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language)

LIAISON AND COMMITTEE REPORTS

11. LIAISON AND COMMITTEE REPORTS

PUBLIC HEADING AND ACTION ITEMS

12. CONSENT AGENDA (PAGE 3)

[13.](#) THIRD READING OF AN ORDINANCE TO MAKE PERMANENT THE PREVIOUSLY ADOPTED EMERGENCY RESOLUTION ALLOWING FOR ELECTRONIC OR HYBRID MEETINGS, AND OTHER MATTERS RELATED THERETO

Vote at First Reading: 8:3

Vote at Second Reading: 9:2

[14.](#) PUBLIC HEARING AND THIRD READING OF AN ORDINANCE AS AMENDED AUTHORIZING THE EXECUTION AND DELIVERY OF A SSRC BY AND BETWEEN BEAUFORT COUNTY, SOUTH CAROLINA, AND PROJECT GARDEN (MATERIALS RESEARCH GROUP), PROVIDING FOR A PAYMENT OF A FEE IN LIEU OF TAXES AND OTHER MATTERS RELATED THERETO

Vote at Second Reading: 11:0

[15.](#) PUBLIC HEARING AND THIRD READING OF AN ORDINANCE AS AMENDED AUTHORIZING THE EXECUTION AND DELIVERY OF A SSRC BY AND BETWEEN BEAUFORT COUNTY, SOUTH CAROLINA AND PROJECT BURGER (SALT MARSH BREWING COMPANY) PROVIDING FOR A PAYMENT IN LIEU OF TAXES AND OTHER MATTERS RELATED THERETO

Vote at Second Reading: 11/0

[16.](#) PUBLIC HEARING AND THIRD READING OF AN ORDINANCE TO LEVY AND IMPOSE A ONE PERCENT LOCAL OPTION SALES AND USE TAX WITHIN BEAUFORT COUNTY, SOUTH CAROLINA, PURSUANT TO SECTION 4-10-10 ET SEQ., OF THE SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED; TO DEFINE THE SPECIFIC PURPOSE OF THE TAX; TO IMPOSE CONDITIONS AND RESTRICTIONS UPON THE USE OF THE PROCEEDS OF THE TAX; TO PROVIDE FOR A COUNTY-WIDE REFERENDUM FOR THE IMPOSITION OF THE TAX; TO PROVIDE FOR THE CONDUCT OF SUCH REFERENDUM; TO PROVIDE FOR THE ADMINISTRATION OF THE TAX, AND OTHER MATTERS RELATING THERETO.

Vote at First Reading: 7:3 (Council Member Dawson absent)

Vote at Second Reading: 8:3

[17.](#) PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AMENDING ORDINANCE NUMBER 2020/19 WHICH ESTABLISHED THE SOLID WASTE AND RECYCLING ENTERPRISE FUND

Vote at First Reading: 11:0

[18.](#) PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF UTILITY EASEMENTS #901550 & 901551 ENCUMBERING PROPERTY OWNED BY BEAUFORT COUNTY.

Vote at First Reading: 11:0

[19.](#) SECOND READING OF AN ORDINANCE APPROVING THE INTERGOVERNMENTAL AGREEMENTS BETWEEN BEAUFORT COUNTY, PORT ROYAL, AND THE CITY OF BEAUFORT REGARDING PROJECT BURGER (SALT MARSH BREWING COMPANY), GARDEN (MATERIALS RESEARCH GROUP), GLASS (GLASS WRX SC), AND STONE (STONEWORKS INCORPORATED).

[Vote at First Reading: 11:0](#)

- [20.](#) PUBLIC HEARING FOR RESOLUTION 2021/11: AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE A LEASE AGREEMENT BETWEEN BEAUFORT COUNTY, THE TOWN OF HILTON HEAD ISLAND AND THE HISTORIC MITCHELVILLE FREEDOM PARK FOR THE PROPERTY KNOWN AS THE BEACH CITY ROAD PARCELS
21. MATTERS ARISING OUT OF EXECUTIVE SESSION
-

CITIZEN COMMENTS

22. CITIZENS MAY JOIN VIA ZOOM USING THE LINK AND MEETING INFORMATION BELOW:

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Meeting number (access code): 161 4154 7770

Password: BC123

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23. ADJOURNMENT

CONSENT AGENDA

Items Originating from the Natural Resources Committee

1. CONTRACT EXTENSION FOR PHASE II PLANNING SERVICES TO WOOD AND PARTNERS, INC. FOR COMPLETION OF CIVIL AND ARCHITECT PLANS FOR WHITEHALL PARK
Approved on May 3, 2021 at the Natural Resources Committee Meeting.
2. APPOINTMENT OF GIRARD HOFFMAN FOR A 1ST TERM TO THE SOUTHERN BEAUFORT COUNTY CORRIDOR BEAUTIFICAN BOARD WITH AN EXPIRATION DATE OF 2025.
Approved on May 3, 2021 at the Natural Resources Committee Meeting.
3. APPOINTMENT OF GAIL MURRAY FOR A 1ST TERM TO THE ZONING BOARD OF APPEALS WITH AN EXPIRATION DATE OF 2025.
Approved on May 3, 2021 at the Natural Resources Committee Meeting

Items Originating from the Public Facilities Committee

4. COMMERCIAL PROPERTY LEASE AGREEMENT –30 HUNTER ROAD, HILTON HEAD ISLAND, SC 29926 - APAC-ATLANTIC INC. (FISCAL IMPACT: \$12,600.00 INCOMING FUNDS)
Approved on April 19, 2021 at the Public Facilities Committee Meeting

END OF CONSENT AGENDA



**County Council of
Beaufort County
Caucus**

Chairman

JOSEPH F. PASSIMENT, JR.

Vice Chairman

D. PAUL SOMMERVILLE

Council Members

LOGAN CUNNINGHAM

GERALD DAWSON

BRIAN E. FLEWELLING

YORK GLOVER, SR.

CHRIS HERVOCHON

ALICE G. HOWARD

MARK LAWSON

LAWRENCE P. MCELYNN

STU RODMAN

Interim County Administrator

ERIC GREENWAY

Clerk to Council

SARAH W. BROCK

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County Council Caucus Meeting Minutes

Monday, March 8, 2021 at 5:00 PM

This meeting was held in a hybrid setting.

1. CALL TO ORDER

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

PRESENT

Chairman Joseph F. Passiment

Vice Chairman D. Paul Sommerville

Council Member Gerald Dawson

Council Member Logan Cunningham

Council Member Brian Flewelling

Council Member York Glover

Council Member Stu Rodman

Council Member Chris Hervocho

Council Member Alice Howard

Council Member Mark Lawson

Council Member Lawrence McElynn

2. PLEDGE OF ALLEGIANCE

Council Member Rodman led the Pledge of Allegiance

3. FOIA

Committee 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.

4. APPROVAL OF AGENDA

Motion: It was moved by Council Member Glover, Seconded by Council Member Howard to approve the agenda. The motion was approved without objection.

5. AGENDA REVIEW

Council Member Cunningham stated he planned to amend the council agenda to include an action item for the removal of the emergency mask mandate.

To listen to the discussion regarding this item please click on the link below.

<https://beaufortcountysc.new.swagit.com/videos/114118>

6. NEW BUSINESS

Council Member Sommerville reviewed Boards and Commissions liaison responsibilities and the excel sheet that was distributed regarding it.

To listen to the discussion regarding new business click on the link below.

<https://beaufortcountysc.new.swagit.com/videos/114118>

7. CITIZENS COMMENTS

There were no citizen comments.

8. ADJOURNMENT

The meeting adjourned at 5:26PM

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council
Ratified:



**County Council of
Beaufort County**

County Council Meeting

Chairman

Joseph F. Passiment, JR.

Vice Chairman

D. Paul Sommerville

Council Members

Logan Cunningham
Gerald Dawson
Brian E. Flewelling
York Glover, SR.
Chris Hervocho
Alice G. Howard
Mark Lawson
Lawrence P. McElynn
Stu Rodman

Interim County Administrator

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County Council Meeting Minutes

County Council of Beaufort County

Monday, March 08, 2021 at 6:00 PM

This meeting was held in a hybrid setting.

1. CALL TO ORDER

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

PRESENT

Chairman Joseph F. Passiment
Vice Chairman D. Paul Sommerville
Council Member York Glover
Council Member Chris Hervocho
Council Member Stu Rodman
Council Member Alice Howard
Council Member Mark Lawson
Council Member Lawrence McElynn
Council Member Gerald Dawson
Council Member Brian Flewelling
Council Member Logan Cunningham

2. PLEDGE OF ALLEGIANCE

Council Member Rodman called for a moment of silence for DJ Fields, Jr. a Bluffton High Student that was shot and killed over the weekend as well as Kylan Simmons who was injured during the shooting. Council Member Rodman then led the Pledge of Allegiance and gave the Invocation.

3. PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT

Chairman Passiment stated public notice of this meeting had been published, posted, and distributed in compliance with the SC FOIA Act.

4. APPROVAL OF AGENDA

Motion to Amend: it was moved by Council Member Cunningham, Seconded by Council Member Flewelling to amend the agenda to add an item regarding the removal of the current Emergency Mask Ordinance (2021-01).

Discussion: Council Member McElynn stated he preferred to let the ordinance expire in April as is. He further stated he disagreed with the motion to end the mask ordinance prematurely.

The Vote - Voting Yea: Council Member Hervocho, Council Member Rodman, Council Member Lawson, Council Member Flewelling, and Council Member Cunningham. Voting Nay: Chairman Passiment, Vice Chairman Sommerville, Council Member Glover, Council Member Howard, Council Member McElynn, and Council Member Dawson. Motion to amend failed 5:6.

Motion to Amend: It was moved by Council Member Howard, Seconded by Council Member Rodman to amend the agenda as follows: Remove action item number 11 completely, move consent agenda items two and five to public hearing and action items for discussion. Motion approved without objection.

Main Motion: It was moved by Council Member Sommerville, Seconded by Council Member Howard to approve the agenda as amended. Motion approved without objection.

5. ADMINISTRATOR'S REPORT

To see Interim County Administrator, Eric Greenway's report please click the link below.

<https://beaufortcountysc.new.swagit.com/videos/114137>

6. DISABILITIES AWARENESS MONTH PROCLAMATION

Council Member Glover read and presented a proclamation in honor of Disabilities and Special Needs Awareness month

7. US 278 INDEPENDENT REVIEW PRESENTATION

Assistant County Administrator, Jared Fralix discussed the information the county has received from SCDOT as well as alternatives and an update from the oversight committee. To see the entire presentation please click the following link. <https://beaufortcountysc.new.swagit.com/videos/114137>

8. CITIZENS COMMENTS

Greg John, Bluffton Resident, spoke regarding item number 5 on the consent agenda pertaining to his lot on May River Road and supporting the zoning amendment to a T2 Rural Center.

Blaine McClure spoke in favor of item number 5 on the consent agenda regarding of the rezoning on May River Road.

Mike Covert, Former Council Member, sent in a letter supporting item number 5 on the consent agenda.

Robbin Buchanan, St. Helena Island Resident, emailed stating the unconstitutional mask mandate must end.

Eric Greenway, Interim County Administrator, read 4 comments into the record that were submitted to the planning commission opposing item number 5 on the consent agenda.

9. LIAISON AND COMMITTEE REPORTS

Council Member McElynn spoke regarding the service learning grants and asked ACA Chuck Atkinson to address items 2, 3, and 4 on Beaufort County's Priority List.

Council Member Rodman spoke regarding the 278 Corridor as well as Solid Waste and the approval of the enterprise fund.

Council Member Howard spoke regarding her items on the agenda and upcoming ABC meetings she will report on at the next meeting.

Council Member Lawson spoke regarding the item he has coming forward this evening from the finance committee.

Council Member Dawson stated the Veteran Affairs office was moving to the DNS Building on Clear Water Way.

10. CONSENT AGENDA

Motion: It was moved by Council Member McElynn, Seconded by Council Member Dawson to approve the consent agenda items 1. - A resolution to establish Beaufort County's community development priority list, 3. - First reading of an ordinance approving the 2021 awards of local accommodations and hospitality; 4. - Rural and critical land preservation program consulting services for Beaufort County; 6. - Third reading of an ordinance regarding the amendment to article 7, section 7.3.30.e (appeals); 7. - Third reading of reading of an ordinance authorizing the execution and delivery of utility easement #901093 encumbering property owned by Beaufort County, 8. - Third reading of an ordinance authorizing the execution and delivery of utility easement #901094 encumbering property owned by Beaufort County. Motion approved without objection.

11. APPROVAL OF A RESOLUTION FOR THE BEAUFORT COUNTY TRANSPORTATION ADVISORY GROUP KNOWN AS BTAG.

Motion: It was moved by made by Council Member Rodman, Seconded by Council Member Flewelling to approve a resolution for the Beaufort County Transportation Advisory Group.

Discussion: Council Member Hervochon stated he intends to vote against this resolution. This committee hasn't met in 12 years or so and he finds the resurrection of this committee and timing to be curious as there are other subcommittees that serve this purpose.

Council Member Rodman stated we are going into a 10-year capitol plan for transportation so this committee is needed and is also a good mechanism for the mayors and municipalities to participate.

Council Member Flewelling stated this group is advisory in nature and not regulatory and so it really doesn't add a lot to the process except advice and advice is always welcome.

The Vote - Voting Yea: Chairman Passiment, Council Member Glover, Council Member Rodman, Council Member Howard, Council Member Lawson, Council Member McElynn, and Council Member Flewelling. Voting Nay: Vice Chairman Sommerville, Council Member Hervochon, Council Member Dawson, and Council Member Cunningham. The motion passes 7:4.

12. FIRST READING OF AN ORDINANCE REGARDING A ZONING MAP AMENDMENT/REZONING REQUEST FOR 1.96 ACRES (R600 036 000 015E 0000) AT THE INTERSECTION MAY RIVER ROAD AND BENTON LANE FROM T3 EDGE TO T2 RURAL CENTER:

Motion: It was moved by Council Member Cunningham, Seconded by Council Member Lawson to approve first reading of an ordinance regarding a zoning map amendment/rezoning request for 1.96 acres (r600 036 000 015e 0000) at the intersection May River Road and Benton Lane from T3 edge to T2 rural center.

Discussion: Council Member Howard stated this came from her committee and she is going to agree with the planning commission and vote against it as she considers it spot zoning.

Council Member Sommerville stated he was going to vote against it for reasons previously stated as well as spot zoning.

Council Member Flewelling stated he is going to vote in favor of it at first reading, but he also is concerned about spot zoning.

Council Member Lawson stated this property is in his district and the owners have held onto this property for a very long time and the property at one point had a commercial building on it. The owners have the backup to show this was at one point a commercial property and he supports the owners request.

Council Member Cunningham stated he drove to the property and is extremely surprised this isn't commercial property as well based on the properties around it. The owners had the property approved not once but twice for a gas station but that is not what they are looking for now. They are looking at putting a law office or something of that nature which will not affect noise at night.

Council Member Glover asked Interim Administrator Greenway if there was another way to rezone this and inquired about what kind of notice the property owners were given. To see further discussion of this item please click the link below. <https://beaufortcountysc.new.swagit.com/videos/114137>

The Vote - Voting Yea: Chairman Passiment, Council Member Hervochon, Council Member Rodman, Council Member Lawson, Council Member Flewelling, and Council Member Cunningham. Voting Nay: Vice Chairman Sommerville, Council Member Glover, Council Member Howard, Council Member McElynn, and Council Member Dawson. Motion passed 6:5.

13-16. BOARDS AND COMMISSIONS

Motion: It was moved by Council Member Flewelling, Seconded by Council Member Glover to approve the boards and commissions items listed below. Motion approved without objection.

- APPOINTMENT OF ROGER JADOWN FROM DISTRICT 5 TO THE DESIGN REVIEW BOARD.
- APPROVAL OF JOHN MAFFEI TO THE RURAL AND CRITICAL LANDS PRESERVATION BOARD.
APPOINTMENT OF BLAKE WHITE TO THE ALCOHOL AND DRUG ABUSE BOARD
- RECOMMENDATION TO THE GOVERNOR'S OFFICE FOR THE APPOINTMENT OF PRISCILLA DRAKE FROM DISTRICT 4 TO THE DISABILITIES AND SPECIAL NEEDS BOARD

27. CITIZEN COMMENTS

Blaine McClure stated the majority of the comments Mr. Greenway read were already addressed and not necessarily considered neighbors.

Greg John stated an original complainant called him and stated she was withdrawing her complaint having acquired additional information.

26. ADJOURNMENT

Meeting Adjourned at 8:00PM

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph F. Passiment, Jr., Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

Ratified:



Beaufort County Caucus

Chairman

JOSEPH F. PASSIMENT, JR.

Vice Chairman

D. PAUL SOMMERVILLE

Committee Members

LOGAN CUNNINGHAM
 GERALD DAWSON
 BRIAN E. FLEWELLING
 YORK GLOVER, SR.
 CHRIS HERVOCHON
 ALICE G. HOWARD
 MARK LAWSON
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County Council Caucus Meeting

Monday, March 22, 2021 at 5:00 PM

This meeting will be held both in person at County Council Chambers, 100 Ribaut Road, Beaufort, and also virtually through Zoom. Please be aware that there is limited seating available for the in-person meeting and attendees must wear a face covering and practice social distancing per Beaufort County Emergency Ordinance 2021-01

1. CALL TO ORDER

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

PRESENT

Chairman Joseph Passiment
 Council Member Logan Cunningham
 Council Member Gerald Dawson
 Council Member Brian Flewelling
 Council Member York Glover
 Council Member Chris Hervocho
 Council Member Alice Howard
 Council Member Mark Lawson
 Council Member Lawrence McElynn
 Council Member Stu Rodman

ABSENT

Vice-Chairman Paul Sommerville

2. PLEDGE OF ALLEGIANCE

Council Member Gerald Dawson led the Pledge of Allegiance.

3. PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT

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.

4. APPROVAL OF AGENDA

It was moved by Council Member Rodman, seconded by Council Member Glover to **"approve the agenda"**. 10:0 Motion carried

UPDATES

5. Discussion of Minor and Necessary Amendment to Lease of 15 Haig Point Road, Daufuskie Island (Marshside Mama's)

This property is generally known as Marshside Mama's and the General Store. The Lease Agreement requires the lessor to make substantial improvements to the property and then to reopen the property under the name of Marshside

Mama's 2. The lessor has informed the County that it is legally precluded from using the name Marshside Mama's 2 and wishes to rename it to D'fuskie's.

6. Litigation Update Regarding Beaufort Memorial Hospital

Beaufort Memorial has filed a lawsuit against Beaufort County. The purpose of the lawsuit was to prevent Beaufort County Council from reinstating to the Hospital's Board of Trustees a member of the Board who previously resigned and who later rescinded her resignation. Council subsequently decided to take any action on the reinstatement. Rather than dismissing the lawsuit as moot Beaufort Memorial thereafter filed an amended complaint in which it seeks: (1) to prevent Beaufort County from reinstating any Board member who resigns; (2) prevent Beaufort County from appointing to the Board anyone who has not been nominated to the Board by the Board itself; and (3) to prevent Beaufort County Council from amending its own ordinance without the Hospital's consent.

- The issue about reinstating the Board member is moot but complaint was amended due to discussion of the County amending the Ordinance
- Glad to move forward with lawsuit to get clarification
- Frivolous lawsuit until there is something done to warrant a lawsuit and countersue BMH to reimburse Attorney fees
- No time frame for when the lawsuit is being heard and members would not be wrong to move forward with Council's decision to amend the Ordinance
- Rule is the legal fees are not reimbursable unless there is a statute or a contract that allows you to do it, under frivolous you can, and it would be a separate action and would be very hard to do
- Prepaid legal will cover the cost at 80%

DISCUSSION ITEMS

7. Agenda Review

- No questions or changes to Council Agenda

8. New Business

- Retiree litigation resolution- Executive Committee Agenda
- Deputy County Administrator position- would like some clarification; needs to be discussed in Executive Session as it is a personnel matter.

EXECUTIVE SESSION

9. Section 30-4-70. (A) (2) Discussion of Negotiations Incident to Proposed Contractual Agreements Regarding Economic Development

10. Pursuant to SC Code Section 30-4-70 (A) (2) For the Receipt of Legal Advice Where the Legal Advice Relates to A Pending, Threatening, Or Potential Claim

It was moved by Council Member McElynn, seconded by Council Member Lawson to **"move into Executive Session"**.

It was moved to Amend the motion by Council Member Rodman, seconded by Council Member Cunningham to **"not include item number 9, Section 30-4-70. (a)(2) discussion of negotiations incidents to proposed contractual agreements regarding economic development"** in executive session. 10:0 Motion carried

- Council member Sommerville is out of town and he has most of the information pertaining to this item.

It was moved by Council Member Flewelling, seconded by Council Member McElynn to **"move forward with the executive session only discussing item number 10, Pursuant to SC Code Section 30-4-70- (a)(2) for the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim"**. 10:0

- No action coming from Executive Session

11. CITIZEN COMMENTS

No Citizen Comments.

12. ADJOURNMENT

The meeting adjourned at 5:46 PM

Ratified by Committee:



County Council Meeting

Chairman

JOSEPH F. PASSIMENT, JR.

Vice Chairman

D. PAUL SOMMERVILLE

Committee Members

LOGAN CUNNINGHAM
 GERALD DAWSON
 BRIAN E. FLEWELLING
 YORK GLOVER, SR.
 CHRIS HERVOCHON
 ALICE G. HOWARD
 MARK LAWSON
 LAWRENCE P. MCELYNN
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County Council Meeting

Monday, March 22, 2021 at 6:00 PM

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1. CALL TO ORDER

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PRESENT

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 Council Member Logan Cunningham
 Council Member Gerald Dawson
 Council Member Brian Flewelling
 Council Member York Glover
 Council Member Chris Hervocho
 Council Member Alice Howard
 Council Member Mark Lawson
 Council Member Lawrence McElynn
 Council Member Stu Rodman
 Vice-Chairman Paul Sommerville

2. PLEDGE OF ALLEGIANCE AND INVOCATION

Council Member Gerald Dawson led the Pledge of Allegiance.

3. PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT

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.

4. APPROVAL OF AGENDA

It was moved by Council Member Glover, seconded by Council Member Flewelling **“approve the agenda”**.

-add to action items today; to move forward with Facebook Live with videos

It was moved by Council Member Cunningham, seconded by Council Member Flewelling to amend the agenda, and add to the discussion items **“to move forward with Facebook Live for videos”** 9/2. Motion carried

It was moved by Council Member Hervocho, seconded by Council Member Cunningham to amend the agenda by adding an action item **“to repeal the Emergency Mask Ordinance”** 5/6. Motion defeated

It was moved by Council Member Flewelling, seconded by Council Member Glover to **“approve the amended agenda by adding a discussion item regarding moving forward with Facebook Live”** 10/1. Motion carried.

5. APPROVAL OF MINUTES

It was moved by Council Member Lawson, seconded by Council Member Howard to **“approve the minutes from December 14, 2020”** 11/0. Motion carried.

It was moved by Council Member Flewelling, seconded by Council Member Howard to **“approve the minutes from January 11, 2021”** 11/0. Motion carried.

6. ADMINISTRATOR’S REPORT

[Click here to watch County Administrator’s Report](#)

7. CITIZEN COMMENTS

No Citizen Comments

DISCUSSION ITEMS

Facebook Live Streaming

- Great tool for streaming and transparency
- Follow Citizen Comments decorum
- Fake Facebook accounts will not allow to them to publicly identify themselves
- Youtube Live suggestion
- handle public comments
- Facebook was discontinued due to derogatory comments
- Use as a streaming service not as a citizen comment platform

COMMITTEE REPORTS

8. Liaison and Committee Reports

- Public Facilities:
 - o 4 consent agenda items to be approved
 - o Tithanie Vaughn’s recognition for completing Masters
 - o 278 Corridor- Independent Review: Issues Resolved/Identified/open Issues
- Finance:
 - o Budget workshop calendar changes.
 - o ATAX/HTAX Awards
 - o Recommendation for Surplus Fund Balance Use
- Stormwater meeting in person
- Library board meeting
- BJ Higher Education Commission: Refinancing of the Debt, favorable motion to refinance to save a considerable amount of money and consolidate the debt
- Vaccines for Covid-19; Beaufort County facilities being used as sites for vaccination

9. CONSENT AGENDA

It was moved by Council Member Rodman, seconded by Council Member Howard to **“approve the consent agenda items”** 11/0 Motion carried.

1. Recommendation of award for RFQ #02520E: A&E Services; Buckwalter Recreation Athletic Complex Expansion (BRACE) Phase 1 (\$655,930)

It was moved by Council Member Rodman, seconded by Council Member Howard to **“approve the recommendation of award for RFQ #02520E: A&E Services; Buckwalter Recreation Athletic Complex Expansion (BRACE) Phase 1”** 11/0 Motion carried.

2. Recommendation of Award for IFB 021621E Dirt Road Paving Contract #52 (Year 2)

It was moved by Council Member Rodman, seconded by Council Member Howard to **“approve the recommendation of award for IFB 012621E Dirt Road Paving Contract #52 (Year 2)”** 11/0 Motion carried.

3. Memorandum of Agreement between Beaufort County and The Bluffton Township Fire District (BFTD) For the Sun City EMS/Fire Station 34 Renovation Project

It was moved by Council Member Rodman, seconded by Council Member Howard to **“approve the Memorandum of Agreement between Beaufort County and the Bluffton Township Fire District (BFTD) for the Sun City EMS/Fire Station 34 Renovation Project”**. 11/0 Motion carried.

4. Purchase of Additional Nutanix HCI Server System Nodes- \$132,940.18

It was moved by Council Member Rodman, seconded by Council Member Howard to **“approve the purchase of additional Nutanix HCI Server System Nodes”**. 11/0 Motion carried.

PUBLIC HEARINGS AND ACTION ITEMS

10. Public Hearing and Second Reading of an Ordinance Regarding a Zoning Map Amendment/Rezoning Request for 1.96 Acres (R600 036 000 015E 0000) at the Intersection May River Road and Benton Lane from T3 Edge to T2 Rural Center

It was moved by Council Member Cunningham, seconded by Council Member Lawson to approve the **“Ordinance Regarding a Zoning Map Amendment/Rezoning Request for 1.96 Acres (R600 036 000 015E 0000) at the Intersection May River Road and Benton Lane from T3 Edge to T2 Rural Center”** 6/5. Motion carried.

Discussion:

- Letters that were written are now being rescinded against the rezoning
- Spot zoning is not applicable
- Commercial left and right of property would be considered as commercial, surrounded by Bluffton Town property
- Concerned with the property not having BJWSA access
- Would like to hear more from staff
- Concerned with changing the zoning and then reselling
- Spot zoning explained by Planning and Zoning Director [Click here](#) to listen
- No Public Comment

11. Public Hearing and Second Reading of an Ordinance Approving the 2021 Awards of Local Accommodations and Hospitality Tax.

It was moved by Council Member Dawson, seconded by Council Member Glover, to approve the **“Ordinance Approving the 2021 Awards of Local Accommodations and Hospitality Tax”** 11/0. Motion carried

Discussion:

- No Public Comment
- Council thanked staff for hard work

12. First Reading of an Ordinance to Establish the Initial Residential Solid Waste Fee as a Uniform Service Charge for the Solid Waste and Recycling Enterprise System for Beaufort County to Fund the Planning, Designing, Constructing, and Maintaining Solid Waste and Recycling Management Programs, Projects, and Facilities; and other matters related thereto

It was moved by Council Member Glover, seconded by Council Member Sommerville, to approve **“the Ordinance to Establish the Initial Residential Solid Waste Fee as a Uniform Service Charge for the Solid Waste and Recycling Enterprise System for Beaufort County to Fund the Planning, Designing, Constructing, and Maintaining Solid Waste and Recycling Management Programs, Projects, and Facilities; and other matters related thereto”** 10/1 Motion carried

Discussion:

- Concerned with an unfair burden on property that assessed at a lower value; regressive tax; need to find a different way to fund the program
- More information is needed for the public regarding what this is and what it means to implement the Enterprise fund; what tax are the citizens going to be relieved from
- Enterprise fund explained [Link here](#) to listen
- People that pay less than \$169 in taxes will see an increase on their bill
- Encouraging to move this forward for second reading with the promise that staff will have more information available regarding financial impact to citizens on the tax bill based on assessed property
- No Public Comment

13. First Reading of an Ordinance to Use \$5 Million in Fund Balance to Defeas Bonds

It was moved by Council Member Flewelling, seconded by Council Member Lawson to approve an **“Ordinance to Use \$5 Million in Fund Balance to Defeas Bonds”**. 11/0 motion carried

14. A Resolution Authorizing the Interim County Administrator to Enter into an Agreement to Grant Exclusive and Nonexclusive Parking Rights Over the County Parcel for the Benefit of the Myrtle Parcel and the County Parcel, all as more particularly set forth in the document entitled: “Access and Parking Agreement”

It was moved by Council Member Glover, seconded by Council Member Howard to approve a **“Resolution Authorizing the Interim County Administrator to Enter into an Agreement to Grant Exclusive and Nonexclusive Parking Rights Over the County Parcel for the Benefit of the Myrtle Parcel and the County Parcel, all as more particularly set forth in the document entitled: Access and Parking Agreement”**.

Discussion:

- Should not limit Beaufort county owned property for a developer to use
- this will allow the County Zoning department to allow the developer to use 47 parking spaces to account for his development and grants the developer the rights to those spaces
- If the County doesn’t do this this it will limit the amount of development for the space because of parking access and may result in a building that doesn’t have full occupancy because of not enough parking space
- That part of the parking lot is only at full occupancy during Jury selection per the magistrate, otherwise it is vacant

- Why isn't the count being compensated for the use?
- Bring back to council later when parking area is assessed and how the county is compensated

It was moved by Council Member Flewelling, seconded by Council Member Glover to amend the item to read “ **first reading by title only of an Ordinance Authorizing the Interim County Administrator to Enter into an Agreement to Grant Exclusive and Nonexclusive Parking Rights Over the County Parcel for the Benefit of the Myrtle Parcel and the County Parcel, all as more particularly set forth in the document entitled: Access and Parking Agreement**” 11/0. Motion carried.

It was moved by Council Member Dawson, seconded by Council Member Howard to “**approve the item as amended**” 8/3. Motion carried.

15. Summary and Revised Recommendation from Pathways Public Meeting Number 1

It was moved by Council Member Rodman, seconded by Council Member Glover to approve “**Summary and Revised Recommendation from Pathways Public Meeting Number 1**”. 11/0. Motion carried.

BOARDS AND COMMISSIONS

16. An Appointment for Andrew Disalvo to the Board of Assessment Appeals

It was moved by Council Member Flewelling, seconded by Council Member Glover to approve the “**Reappointment for Andrew Disalvo to the Board of Assessment Appeals**” 11/0. Motion carried.

17. A Reappointment for James Buckley to the Airports Board

It was moved by Council Member Flewelling, seconded by Council Member Glover to approve the “**Reappointment for James Buckley to the Airports Board**”. 11/0. Motion Carried.

18. CITIZEN COMMENTS

No Citizen Comments.

ADJOURNMENT

The meeting adjourned at 7:55 PM

Ratified by Committee:

~ Proclamation ~

Whereas, Beaufort County is fortunate in having a highly-trained and well equipped Emergency Medical Services; and

Whereas, this Emergency Medical Services is staffed by professional and experienced Emergency Medical Technicians and Paramedics who are on call day and night; and

Whereas, Emergency Medical Services is a vital public service; and

Whereas, the members of Emergency Medical Services teams are ready to provide lifesaving care to those in need 24 hours a day, 7 days a week; and

Whereas, access to quality emergency care dramatically improves the survival and recovery rate of those who experience sudden illness or injury; and

Whereas, the members of Emergency Medical Services teams, whether career or volunteer, engage in thousands of hours of specialized training and continuing education to enhance their lifesaving skills; and

Whereas, it is appropriate to recognize the value and the accomplishments of Emergency Medical Services' providers by designating Emergency Medical Services Week.

Now, therefore, be it resolved, that Beaufort County Council proclaims

May 16th – May 21st Emergency Medical Services Week.

Dated this 26th day of April 2021.



A handwritten signature in blue ink, reading "Joseph Passiment".

Joseph Passiment, Chairman
Beaufort County Council

~ Proclamation ~

Whereas, in 1977, United States Representatives Frank Horton (New York), and Norman Y. Mineta (California), introduced a Resolution to proclaim the first ten days of May as Asian-Pacific Heritage Week that President Jimmy Carter signed into law in 1978; and

Whereas, Asian Americans and Pacific Islanders were initially celebrated in 1978. In 1990, their recognition expanded to a monthlong observance in the United States; and

Whereas, Asian Americans and Pacific Islanders have a rich heritage thousands of years old; and

Whereas, the month of May was chosen to commemorate the immigration of the first Japanese to the United States in May 1843, and to mark the anniversary of the completion of the transcontinental railroad on May 10, 1869, by a majority of Chinese immigrant workers who laid the tracks; and

Whereas, Asian Americans and Pacific Islanders bring a diversity that represents one of our greatest strengths, and by recognizing their contributions and accomplishments, we celebrate the importance of inclusion to building a brighter future for all of our citizens; and

Whereas, Asian Americans and Pacific Islanders have enriched our social, intellectual, and artistic life in the United States of America; and

Whereas, Asian Americans and Pacific Islanders have made valuable contributions to all areas of life in Beaufort County including government, business, arts and sciences, medicine, education, law enforcement, and the military for more than a century; and

Now, therefore, be it resolved, that Beaufort County Council proclaims May 2021 as

Asian Americans and Pacific Islanders Month



Dated this 10th Day of May 2021

Joseph Passiment
 Joseph Passiment, Chairman
 Beaufort County Council

~ Proclamation ~

Whereas, Beaufort County Council would like to pay tribute to the life and achievements of Frieda R. Mitchell, a tireless civil rights and social justice activist and a fierce advocate for children and families in Beaufort County; and

Whereas, Frieda Mitchell was born June 20, 1925 in Sheldon, South Carolina to parents who laid a strong foundation of education and service for their children; and

Whereas, Ms. Mitchell attended a private boarding school for girls, as there was no school bus transportation for African American children to attend the then-segregated high school in Beaufort, where she studied business education and excelled with a perfect 4.0; and

Whereas, Mitchell, became an educator initially teaching first grade. She traveled for a short time in search of greater prosperity before returning to Beaufort to accept a position at a Beaufort County school. It was at this time that she observed the dismal living conditions and lack of political opportunities of many residents in her community and wanted to make a difference. She rallied residents in Sheldon and organized a massive voter registration campaign and that effort helped elect the first African American to Beaufort County Council; and

Whereas, as Beaufort County pushed toward integrated schools, Mitchell was among those on the front lines by organizing and chairing a group called Beaufort County Education Community (BCEC), the central force for school desegregation. The Committee's efforts led to a landmark election in 1968 when Frieda Mitchell was among the first African Americans elected to a school board in South Carolina. She remained a member of the board for 16 years; and

Whereas, Mitchell saw her life's work as shaping children and as co-director of a community development project at Penn Community Service Centers, she used her position to direct a particular spotlight onto daycare needs for the working poor.

Whereas, In 1970, she convened a historic meeting of numerous programs and state agencies to organize the United Communities for Child Development (UCCD), which allowed for state and federal funding resources to support childcare programs throughout the state and served as executive director; and

Whereas, this program received national attention and catapulted Frieda Mitchell into a position as a national figure in major daycare policy discussion. Mitchell's efforts, once only local, were escalated throughout the Southern states, as well as overseas in South Africa when the W.K. Kellogg Foundation recruited her to conduct an international tour; and

Whereas, in 1996, Ms. Mitchell, with the help of U.S. Sen. Fritz Hollings helped secure \$500,000 grant for the construction of a modern childcare facility on St. Helena Island, which was named in her honor.

Now, therefore, be it resolved, by the County Council of Beaufort County, that the Council hereby wishes to Honor Frieda Mitchell's family, friends and fellow citizens in her life and achievements.



June 20, 1925–October 15, 2020.



Dated this 10th Day of May 2021

Joseph F Passiment, Jr., Chairman
Beaufort County Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
AN ORDINANCE TO MAKE PERMANENT THE PREVIOUSLY ADOPTED EMERGENCY RESOLUTION ALLOWING FOR ELECTRONIC OR HYBRID MEETINGS, AND OTHER MATTERS RELATED THERETO
MEETING NAME AND DATE:
Executive Committee April 5, 2021
PRESENTER INFORMATION:
<i>Kurt Taylor, County Attorney</i> <i>5 minutes</i>
ITEM BACKGROUND:
<i>County Council adopted an emergency resolution last year to allow for electronic meetings. This ordinance would make permanent the rules for conducting electronic and hybrid meetings</i>
PROJECT / ITEM NARRATIVE:
See above
FISCAL IMPACT:
<i>n/a</i>
STAFF RECOMMENDATIONS TO COUNCIL:
Recommend approval
OPTIONS FOR COUNCIL MOTION:
<i>Motion to approve/deny Ordinance regarding electronic and hybrid meetings</i>

ORDINANCE 2021/____
**AN ORDINANCE TO MAKE PERMANENT THE PREVIOUSLY ADOPTED
EMERGENCY RESOLUTION ALLOWING FOR ELECTRONIC OR HYBRID
MEETINGS, AND OTHER MATTERS RELATED THERETO**

WHEREAS, on March 13, 2020, Governor Henry McMaster issued Executive Order No. 2020-08 related to the 2019 Novel Coronavirus (“*COVID-19*”) and declared that a State of Emergency exists in South Carolina; and

WHEREAS, on March 17, 2020, Governor Henry McMaster issued Executive Order No. 2020-10 directing local governing bodies to “utilize any available technology or other reasonable procedures to conduct such meeting and accommodate public participation via virtual or other remote or alternate means”; and

WHEREAS, on May ____, 2020, Beaufort County Council (“County Council”) adopted Resolution 2020/____ which provided for the use of electronic communications for the conduct of meetings during the state of emergency; and

WHEREAS, the South Carolina Freedom of Information Act, , which is codified at Title 30, Chapter 4 of the Code of Laws of South Carolina 1976, as amended, (the “*Act*”) defines a “Meeting” as “the convening of a quorum of the constituent membership of a public body, whether corporal *or by means of electronic equipment*, to discuss or act upon a matter over which the public body has supervision, control, jurisdiction or advisory power” (emphasis added); and

WHEREAS, holding meetings by electronic or hybrid means has proven to be successful for County Council, county staff and also for members of the public to participate over the past ten months; and

WHEREAS, County Council now wishes to adopt provisions of a more permanent nature which will allow for meetings of the County Council and its Boards and Commissions to be held by electronic means, either fully virtual, or hybrid in-person and virtual electronic means; while ensuring any such electronic meetings fully comply with the open meeting requirements of the Act; and

NOW THEREFORE, be it hereby ordained in this meeting of the Beaufort County Council (the “County Council”), as follows:

There shall be added to the Code of Ordinances of Beaufort County a new section 2-30, which shall read as follows

Section 1. Standards for Electronic and Hybrid Meetings. The County Council and its Boards and Commissions (collectively referred to hereinbelow as the “Governing Body”) are hereby authorized to conduct public meetings exclusively in electronic form and/or in hybrid form,

with some members in attendance in person and some via electronic means, provided the medium for such meeting, whether telephonic, broadcast video, computer-based, or other electronic media, or any combination of these, and the conduct of the electronic meeting, allows for the following standards and practices to be met:

(a) At the beginning of any electronic or hybrid meeting, the presiding officer shall poll the members of the Governing Body to confirm attendance, and any member of attending by way of electronic media or in person shall be considered present for the purposes of constituting a quorum.

(b) Throughout the duration of the electronic or hybrid meeting, all members of the Governing Body, as well as any officials or staff required to speak at such meeting, must have the capability to be heard at all times by any other member of the governing body and by the general public.

(c) Any vote of the Governing Body must be conducted by individual voice vote of the members of the Governing Body, who shall verbally indicate their vote on any matter by stating “aye” “yes” “yay” “no” or “nay”, raising their hand, or some similar verbal or visual cue to indicate an affirmative or negative position on the matter before the Governing Body. All individual votes shall be recorded by the clerk, secretary, or presiding officers, as appropriate. Notwithstanding the above, motions may be approved “without objection” without the need for verbal or visual cues.

(d) Meetings shall be recorded or minutes kept in the same manner as an in-person meeting as required by the Act.

(e) All members of the governing body, officials, staff, and presenters should identify themselves and be recognized prior to speaking. Members of the Governing Body shall comply with the rules of the Governing Body as they relate to procedural matters in order to preserve order and allow for the effectiveness of electronic or hybrid meetings. However, any physical presence requirements or similar provisions in the procedural rules are hereby superseded.

(f) Electronic or hybrid executive sessions shall be permitted in accordance with the provisions of the Act and the Governing Body shall properly announce its reason for going into any executive session in conformance with Section 30-4-70 of the Act. Upon the entry into any electronic or hybrid executive session, meeting minutes need not be kept and the electronic or hybrid meeting utilized for such executive session may be held by (i) a separate telephonic, broadcast video, computer-based, or other electronic media, or any combination of these wherein the public shall not be permitted to participate, or (ii) on the initial telephonic, broadcast video, computer-based, or other electronic media, or any combination of these, with the implementation of necessary participation or listening restrictions, provided that in either instance all members of the Governing Body must have the capability to be heard at all times.

(g) With respect to any electronic or hybrid meeting, any public comment periods provided for by local resolution, policy, or bylaws shall remain in effect. However, members of the public may either (i) submit written public comments which shall be distributed to the members of the Governing Body, or (ii) make a written request to the moderator (as provided in the agenda materials) of the electronic or hybrid meeting to make a presentation during a public comment period or public hearing.

(h) Additionally, the Governing Body, acting through staff, may establish separate rules and procedures for public hearings, if any, so long as the public is able to effectively participate in the public hearing with the Governing Body such that the spirit and purpose of the public hearing is fulfilled.

Section 2. Procedures for Boards, Commissions, and Committees. The normal operating procedures of all boards, commissions, and committees are hereby supplemented in order to allow the meetings thereof to be conducted using electronic or hybrid means; provided that such electronic or hybrid means conforms to the standards set forth in Section 1, as they may be amended by the Governing Body.

Section 3. Conflicts in Procedures. To the extent that any board, commission, or committee is authorized by South Carolina law to establish its own rules of procedure, the procedures set forth in Section 1 for electronic or hybrid meetings shall apply by default, unless such board, commission, or committee takes action to the contrary. To the extent that any provision of South Carolina law permits the Governing Body to adopt rules of procedure for any board, commission, or committee by ordinance or otherwise, this Ordinance shall suffice to fulfill that purpose.

Section 4. Effective Date; Expiration. The provisions hereof shall be effective upon approval following third reading.

DONE AS AN ORDINANCE and approved at a meeting duly assembled this ___ day of ___, 2021.

BEAUFORT COUNTY COUNCIL

(SEAL)

Joseph Passiment, Chair

ATTEST:

Sarah Brock, Clerk of Council

Section 2. It is hereby found, determined, and declared by the County Council, as follows:

- (a) The Project will constitute a “project” as said term is referred to and defined in the Act, and the County’s actions herein will serve the purposes and in all respects conform to the provisions and requirements of the Act.
- (b) The Project and the payments set forth herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made and the anticipated costs and benefits to the County.
- (c) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.
- (d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.
- (e) The purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes.
- (f) The inducement of the location or expansion of the Project within the County and State is of paramount importance.
- (g) The benefits of the Project to the public will be greater than the costs.

Section 3. The form, terms, and provisions of the SSRC Agreement presented to this meeting are hereby approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the SSRC Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council and/or the County Administrator are authorized, empowered, and directed to execute, acknowledge, and deliver the SSRC Agreement in the name of and on behalf of the County, and thereupon to cause the SSRC Agreement to be delivered to the Company. The SSRC Agreement is to be in substantially the form now before this meeting and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of Counsel to the County, such official’s execution thereof to constitute conclusive evidence of such official’s approval of any and all changes or revisions therein from the form of the SSRC Agreement now before this meeting.

Section 4. The Chairman of the County Council and/or the County Administrator, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the SSRC Agreement and the performance of all obligations of the County under and pursuant to the SSRC Agreement.

Section 5. The provisions of this Ordinance are hereby declared to be separable, and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

Section 6. All orders, resolutions, ordinances, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed, and this Ordinance shall take effect and be in full force from and after its passage and approval.

(SIGNATURE PAGE TO FOLLOW)

SPECIAL SOURCE REVENUE CREDIT AGREEMENT

by and between

MRGSC PROPERTY, LLC

and

BEAUFORT COUNTY, SOUTH CAROLINA

_____, 2020

SPECIAL SOURCE REVENUE CREDIT AGREEMENT

This SPECIAL SOURCE REVENUE CREDIT AGREEMENT (“Credit Agreement”) is made and entered into as of _____, 2020, by and among BEAUFORT COUNTY, SOUTH CAROLINA (“County”), a body politic and corporate and a political subdivision of the State of South Carolina (“State”), acting by and through the Beaufort County Council (“County Council”) as the governing body of the County, and MRGSC Property, LLC (“Company”).

WITNESSETH

WHEREAS, pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (“MCIP Act”), the County is authorized to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. The County has created or will create with Jasper County, South Carolina a multi-county industrial park (“Park) pursuant to a multi-county industrial park agreement (“Park Agreement”) entered into pursuant to the terms of the MCIP Act; and

WHEREAS, in accordance with Article VIII, Section 13 of the South Carolina Constitution, real and personal property having a situs in a multi county industrial park, are exempt from all ad valorem taxation, however, the owners or lessees of such real and personal property are obligated to make, or cause to be made, annual payments in lieu of taxes to the County in the total amount equivalent to the ad valorem property taxes or other fee-in-lieu-of-taxes that would have been due and payable with respect to such real and personal property but for the location of such real and personal property within such park (each, a “Fee Payment”); and

WHEREAS, the County, acting by and through its County Council is authorized by Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended, including Sections 4-1-170 and 4-1-175 thereof, and Title 4, Chapter 29 of the Code of Laws of South Carolina 1976, as amended, including Section 4-29-68 (collectively, the “SSRC Act”), and Article VIII, Section 13 of the South Carolina Constitution (i) to provide credits (“Special Source Revenue Credits” (“SSRC”)) for the purpose of defraying certain costs, including, without limitation, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County or the Project (defined herein) and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise, all to enhance the economic development of the County; and (ii) to expand, in conjunction with one or more other counties, a multi-county industrial park in order to facilitate the grant of SSRCs; and

WHEREAS, the Company is planning an investment consisting of the expenditure of approximately \$3,190,000 in taxable investment (“Investment”) in connection with the acquisition by construction, lease, and/or purchase of certain land, buildings, furnishings, fixtures, and/or equipment and the creation of approximately 26 new, full-time jobs for the purpose of expanding a manufacturing facility in the County (collectively, the “Project”); and

WHEREAS, the Project will comprise a portion of real property located entirely in the County of Beaufort, with improvements thereon, which is described more fully in Exhibit A, attached hereto (“Project Site”); and

WHEREAS, the County Council has determined that the Credit Agreement is an appropriate instrument to induce the Company to invest in the Project and create jobs in the County.

NOW, THEREFORE, IN CONSIDERATION of the respective representations and agreements contained in this Credit Agreement, the parties agree to the following:

Section 1. Representations of the Company and County.

Section 1.1 The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Company is a corporation duly organized, validly existing, and in good standing, under the laws of the State of South Carolina, have power to enter into this Credit Agreement, and by proper corporate action have been duly authorized to execute and deliver this Credit Agreement.

(b) The Company is or intends to become the owner of the Project Site.

(c) This Credit Agreement has been duly executed and delivered by the Company and constitutes the legal, valid, and binding obligation of the Company, enforceable in accordance with its terms except as enforcement thereof may be limited by bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally.

(d) Neither the execution and delivery of this Credit Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Credit Agreement, will result in a material breach of any of the terms, conditions, or provisions of any corporate restriction or any agreement or instrument to which the Company is now a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the property or assets of the Company other than as may be created or permitted by this Credit Agreement.

(e) The agreement of the County to enter into this Credit Agreement and provide the SSRCs has been instrumental in inducing the Company to make the Investment in the Project.

Section 1.2 The County makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State which acts through the County Council as its governing body and by the provision of the Act is authorized and empowered to enter into the transactions contemplated by the Credit Agreement and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Credit Agreement and any and all other agreements described herein or therein.

(b) Neither the execution and delivery of this Credit Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Credit Agreement, will result in a material breach of any of the terms, conditions,

or provisions of any agreement or instrument to which the County is now a party or by which it is bound, or will constitute a default under any of the foregoing

Section 2. Fee Payments and SSRCs.

The County grants an annual SSRC to the Company, for a period of twenty (20) years (“Credit Period”) against each annual Fee Payment due for Investment made in the Project that has been placed into service beginning in 2020 and by December 31, 2025 (“Investment Period”). Any SSRC provided under this Credit Agreement shall be used to reimburse the Company for eligible expenditures, as permitted by the SSRC Act, which includes the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the Project and Project Site, for improved or unimproved real estate, or for machinery and equipment. In no event shall the aggregate amount of SSRCs received as of any point in time exceed the amount of the Company’s aggregate amount of expenses toward such eligible expenditures as of such time. The SSRCs shall be calculated as follows:

Real Property Ad Valorem Tax Payment calculated as a standard property tax without regard to this Credit Agreement	Real Property Ad Valorem Tax Payment
Personal Property Ad Valorem Tax Payment calculated as a standard property tax without regard to this Credit Agreement	Personal Property Ad Valorem Tax Payment
Real Property Value (as it would be defined in Section 12-44-50 using gross cost as the applicable fair market value) x 6% Assessment Ratio x Fixed Millage Rate of 0.2867 =	Real Property FILOT Tax Payment
Personal Property Value (as it would be defined in Section 12-44-50 including the applicable statutory depreciation) x 6% Assessment Ratio x Fixed Millage Rate of 0.2867 =	Personal Property FILOT Tax Payment
(Real Property Ad Valorem Tax Payment + Personal Property Ad Valorem Tax Payment) – (Real Property FILOT Tax Payment + Personal Property FILOT Tax Payment) =	Annual SSRC

In calculating the Real Property Ad Valorem Tax Payment and Personal Property Ad Valorem Tax Payment, the Company agrees to waive Section 3(g) of Article X of the South Carolina Constitution as well as Section 12-37-220 (B)(32) and (34) of the Code of Laws of South Carolina. **[NOTE TO COUNTY AUDITOR: IN PREPARING OR REVIEWING ANNUAL CALCULATIONS, APPLY THE FULL MILLAGE RATE, WITHOUT REDUCTION FOR ANY ABATEMENT, TO BOTH THE “EXEMPT” AND “NON-EXEMPT” AMOUNTS CERTIFIED BY DOR IN CALCULATION THE AD VALOREM TAX AMOUNTS.]**

In order to assist the County in preparing the annual tax bills, the Company shall file an annual certification with the County Auditor on or before August 1 of each year in the form attached hereto as Exhibit B. Further, the Company shall file a separate schedule with its annual PT-300 filing (or successor form) with the South Carolina Department of Revenue to include only assets placed in service in the Investment Period described above. This separate schedule should be clearly and unambiguously designated as “BEAUFORT COUNTY 2020 SSRC ASSETS,” and a copy of the schedule should be provided to the County Auditor each year in connection with the filing of Exhibit B. Failure to file Exhibit B shall constitute a waiver of the SSRC for the applicable year.

The County shall credit the annual SSRC against the Fee Payment of the corresponding year to result in a “Net Fee Payment” to be due to the County from Company A and Company B.

Section 3. Minimum Investment

(a) In the event that the Company does not make and maintain capitalized investment in the County of at least \$2,000,000 in the Project within and as of the end of the Investment Period, the SSRC as described in Section 2 above shall terminate both prospectively and retroactively, and the Company shall repay to the County any shortfall in the Net Fee Payments made under this Credit Agreement and the payments that would have been due and payable had this Credit Agreement not been in effect. This repayment obligation is a contractual obligation, and the Company hereby waives any statute of limitations defense that would in any way reduce the amount of this obligation. For purposes of this paragraph, capitalized investments shall be calculated based on gross cost without regard to depreciation.

(b) Any amounts determined to be owing pursuant to this Section 3 shall be subject to interest at the rates in effect for the late payment of ad valorem taxes and shall be due within 90 days after the last day of the Investment Period.

Section 4. Project Shall Remain in the Park. The County shall use its best efforts to ensure that the Project, once placed in the Park, will remain in the Park for a period not less than 20 years. If, for any reason, the Park Agreement is modified to exclude the Project, or is otherwise terminated, then the County will use its best efforts to ensure that the Project shall be immediately placed into another multi-county park arrangement to which the County is party and that would enable the Company to receive the SSRCs set forth in this Credit Agreement.

Section 5. Administration Expenses. The Company shall pay the County’s legal fees incurred with the review and preparation of this Agreement. Such fees shall be paid within thirty (30) days of the Company’s receipt of an invoice for such legal fees.

Section 6. Notices. Any notice, election, demand, request, or other communication to be provided under this Credit Agreement shall be effective when delivered to the party named below or three business days after deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party may subsequently furnish, in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

AS TO THE COUNTY: Beaufort County, South Carolina
 Attn: County Attorney
 100 Ribaut Road
 Beaufort, SC 29902

WITH A COPY TO: Haynsworth Sinkler Boyd, P.A.
 Attn: William R. Johnson
 P.O. Box 11889
 Columbia, SC 29211-1889

AS TO THE COMPANY: MRGSC Property, LLC
 [enter contact info]

Section 7. Binding Effect. This Credit Agreement is binding, in accordance with its terms, upon and inure to the benefit of the Company, and its respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises, and agreements of this Credit Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 8. Counterparts. The parties may execute this Credit Agreement in any number of counterparts, in original or by facsimile or electronic means, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 9. Governing Law. This Credit Agreement and all documents executed in connection with this Agreement are construed in accordance with and governed by the laws of the State of South Carolina. To the extent of any conflict between the provisions of this Credit Agreement and the SSRC Act, the SSRC Act controls.

Section 10. Amendments. The parties may modify or amend this Credit Agreement only in a writing signed by the parties.

Section 11. Further Assurance. From time to time the County shall execute and deliver to the Company any additional instruments as the Company reasonably requests to evidence or effectuate the purposes of this Credit Agreement, subject to any approvals required to be obtained from County Council.

Section 12. Severability. If any provision of this Credit Agreement is illegal, invalid, or unenforceable for any reason, the remaining provisions remain unimpaired and any illegal, invalid, or unenforceable provision are reformed to effectuate most closely the legal, valid, and enforceable intent and to afford the Company with the maximum benefits to be derived under this Credit Agreement and the SSRC Act, it being the intention of the County to offer the Company the strongest inducement possible to encourage the Company to proceed with the Project in the County.

Section 13. Assignment. This Credit Agreement may be assigned in whole or in part only with the prior written consent or subsequent written ratification of the County.

Section 14. Limited Obligation. THIS CREDIT AGREEMENT AND THE SPECIAL SOURCE REVENUE CREDITS BECOMING DUE HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY PROVIDED BY THE COUNTY SOLELY FROM THE FEE PAYMENTS RECEIVED BY THE COUNTY FOR THE PROJECT PURSUANT TO THE PARK AGREEMENT, AND DO NOT AND SHALL NEVER CONSTITUTE A GENERAL OBLIGATION OR AN INDEBTEDNESS OF THE COUNTY OR ANY MUNICIPALITY WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION (OTHER THAN THE

PROVISIONS OF ARTICLE X, SECTION 14(10) OF THE SOUTH CAROLINA CONSTITUTION) OR STATUTORY LIMITATION AND DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THEIR GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE SPECIAL SOURCE REVENUE CREDITS.

Section 15. Indemnification.

(a) The Company shall and agrees to indemnify and save the County harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Project during the term of this Credit Agreement, and Company further, shall indemnify and save the County harmless from all claims arising during the term of this Credit Agreement from (i) any condition of the Project, (ii) any breach or default on the part of the Company in the performance of any of its obligations under this Credit Agreement, (iii) any act of negligence of the Company or any of its agents, contractors, servants, employees or licensees related to the Project, (iv) any act of negligence related to the Project of any assignee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee of the Company, or (v) any environmental violation, condition, or effect related to the Project. The Company shall indemnify and save the County harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon, and upon notice from the County, the Company shall defend the County in any such action, prosecution or proceeding.

(b) Notwithstanding the fact that it is the intention of the parties that the County, its agents, officers, or employees, shall not incur pecuniary liability by reason of the terms of this Credit Agreement, or the undertakings required of the County hereunder, or by reason of the performance of any act requested of it by the Company, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, should the County, its agents, officers or employers incur any such pecuniary liability other than as a result of their own negligence or willful or intentional misconduct, the Company shall indemnify and hold them harmless against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Company shall defend them in any such action, prosecution or proceeding.

(c) These indemnification covenants shall be considered included in and incorporated by reference in any subsequent documents related to the Project or this Credit Agreement that the Company requests the County sign, and any other indemnification covenants in any subsequent documents shall not be construed to reduce or limit the above indemnification covenants.

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Credit Agreement to be executed in its name and on its behalf by the Chair of County Council and to be attested by the Clerk to County Council as of the day and year first above written.

BEAUFORT COUNTY, SOUTH CAROLINA

Signature: _____

Name: Joseph Passiment
Title: Chair, Beaufort County Council

(SEAL)
ATTEST:

Signature: _____
Name: Sarah W. Brock
Title: Clerk to County Council

IN WITNESS WHEREOF, the Company has caused this Credit Agreement to be executed in its name and on its behalf by its authorized officer as of the day and year first above written.

MRGSC PROPERTY, LLC

Signature: _____

Name: _____

Title: _____

EXHIBIT A
LEGAL DESCRIPTION

That certain parcel of real property located in the County of Beaufort, State of South Carolina, containing 3.00 acres, and shown as Beaufort County tax map parcel R120-024-0000-00445, Lot 15 in the Beaufort Commerce Park.

EXHIBIT B
ANNUAL CERTIFICATION

MRGSC PROPERTY, LLC

Real Property Value (as it would be defined in Section 12-44-50 using gross cost as the applicable fair market value) = \$ _____

Real Property FILOT Tax Payment = Real Property Value x 6% x .2731 = \$ _____

Personal Property Value (as it would be defined in Section 12-44-50 including the applicable statutory depreciation) = \$ _____

Personal Property FILOT Tax Payment = Personal Property Value x 6% x .2731 = \$ _____

Total FILOT Tax Payment = Real Property FILOT Tax Payment + Personal Property FILOT Tax Payment = \$ _____

Compliance Notes to County Auditor:

The SSRCs should be determined by first calculating the ad valorem taxes that would be due based upon the DOR certification issued directly to the County (but applying the full millage rate to all amounts, whether designed as “exempt” or “non-exempt” by DOR). The SSRCs under Section 2 of the Special Source Revenue Credit Agreement dated _____, 2020 between Beaufort County, South Carolina and Project Stone (the “Credit Agreement”) should be determined by subtracting the Total FILOT Tax Payment above from the ad valorem taxes that would be due based upon the ad valorem tax calculations as described in this paragraph. The difference in these figures is the Net Fee Payment, as defined in Section 2 of the Credit Agreement. The Net Fee Payment should equal the “Total FILOT Tax Payment” as defined above.

The County Auditor should check the calculation of the Total FILOT Tax Payment by determining the gross cost of all land, buildings, and building improvements listed in the Company’s applicable PT-300 filing, multiplying that total by 6% and a millage rate of .2731. This figure should match the Real Property FILOT Tax Payment described above. The County Auditor should then take the depreciated value of all machinery and equipment from the DOR certification (whether it is listed as exempt or non-exempt) and multiply that total by 6% and a millage rate of .2731. This figure should match the Personal Property FILOT Tax Payment described above. It may be helpful for the County Auditor to provide copies of the DOR certification to the Company upon receipt in order to avoid any confusion with the calculations.

Note to Company: A copy of a separate PT-300 schedule filed with SCDOR listing only assets placed in service in the Investment Period, as defined in the Credit Agreement must be included with this filing.

THIS CERTIFICATION SHALL BE FILED ANNUALLY WITH THE
BEAUFORT COUNTY AUDITOR, 100 RIBAUT RD BEAUFORT, SC 29902

ON OR BEFORE AUGUST 1 OF EACH YEAR.

INTERGOVERNMENTAL AGREEMENT

This **INTERGOVERNMENTAL AGREEMENT** (this “*Agreement*”) is entered into this [] day of [], 2021 (the “*Effective Date*”), by and between the City of Beaufort, South Carolina (the “*City*”), a municipality and political subdivision of the State of South Carolina (the “*State*”), and Beaufort County, South Carolina (the “*County*”), a county and political subdivision of the State, each a “*Party*” and together the “*Parties*.”

RECITALS

WHEREAS, the County and Jasper County, South Carolina (“*Jasper*” and together with the County, the “*Counties*”) are authorized pursuant to Article VIII, Section 13(D) of the Constitution of South Carolina 1895, as amended, and South Carolina Code Annotated Section 4-1-170 (collectively, the “*MCIP Law*”) to jointly develop a multi-county industrial or business park within the geographical boundaries of one or both of the member counties.

WHEREAS, a company identified as MRGSC Property, LLC (f/k/a Project Garden) (the “*Company*”) has proposed establishing or expanding certain manufacturing facilities on property located within the County and the City (the “*Project*”), and has requested that the County place the Project within a multi-county industrial or business park (the “*Park*”) under the MCIP Law.

WHEREAS, the Counties plan to enter into or have entered into a “Multi-County Park Agreement (REHC, LLC; Triple B Restaurant Holdings, LLC; GlassWRXSC, LLC; MRGSC Property, LLC)” (the “*Master Agreement*”), the provisions of which govern (i) the operation of the Park, including the sharing of expenses and revenues of the Park, and (ii) the manner in which the fee-lieu of tax (“*FILOT*”) revenue is to be distributed to each of the taxing entities within each of the Counties, including the standard 1% allocation of FILOT revenue to Jasper (the “*Master Agreement Jasper Allocation*”).

WHEREAS, to the best of the County’s knowledge, the Project Property (as defined herein) is currently included in the Agreement for Development of Joint County Industrial and Business Park between the County and Jasper dated December 31, 1999 (the “*Prior MCIP Agreement*”), but the County is unable to locate the Prior MCIP Agreement.

WHEREAS, the County acknowledges that the Project Property will not be effectively included in the Master Agreement prior to the expiration of the Prior MCIP Agreement with respect to such property, but the County is unable to determine such expiration date definitively.

WHEREAS, in order to eliminate uncertainty with respect to such expiration date, the County has agreed to modify the revenue allocation provisions governing revenues collected and distributed by the County pursuant to the Prior MCIP Agreement to ensure that such allocations are identical to the allocations in the Master Agreement and Section 3 of this Agreement.

WHEREAS, upon information and belief, the Prior MCIP Agreement also provides for a standard 1% allocation of FILOT revenue to Jasper (the “*Prior MCIP Agreement Jasper Allocation*”).

WHEREAS, the County and the Company have entered into, or intend to enter, into a Special Source Revenue Credit Agreement (the “*SSRC Agreement*”) wherein the Company, prior to payment of the Master Agreement Jasper Allocation, will be provided a special source revenue

credit (synthetic FILOT), the terms of which provide that FILOT revenues due and owing by the Company will be computed utilizing a 6% assessment ratio and a fixed millage rate (the “*SSRC Provisions*”). The FILOT revenues that remain after application of the Master Agreement Jasper Allocation or Prior MCIP Agreement Jasper Allocation, as applicable, and the SSRC Provisions is defined for the purposes herein as the “*Net FILOT Revenue.*”

WHEREAS, the properties related to the Project, as is hereinafter more specifically described in Exhibit A hereto (“*Project Property*”), within the Park encompass a portion of the City, and, pursuant to Section 4-1-170(C) of the MCIP Law, the County must obtain the consent of the City prior to the creation of the Park.

WHEREAS, the Project Property has been recently annexed into the City and the FILOT revenues derived therefrom may be the subject of an ongoing dispute between the City and the Burton Fire District (“*Burton*”).

WHEREAS, the City and the County desire to enter into this Agreement to: (i) identify the location of the Project Property; (ii) confirm the City’s commitment and consent to the creation of the Park; and (iii) provide the methodology for distribution of Net FILOT Revenues to the City.

WHEREAS, the City and the County, each acting by and through their respective governing bodies, have authorized the execution and delivery of this Agreement.

NOW THEREFORE, in consideration for the mutual covenants, promises, and consents contained in this Agreement, the Parties agree as follows:

1. Binding Agreement; Representations.

(A) This Agreement serves as a written instrument setting forth the entire agreement between the Parties and shall be binding on the Parties, their successors and assigns.

(B) Each of the Parties represents and warrants that: (i) it has the full legal right, power, and authority to enter into this Agreement and carry out and consummate all other transactions contemplated by this Agreement; (ii) it has duly authorized the execution, delivery, and performance of its obligations under this Agreement and the taking of any and all actions as may be required on its part to carry out, give effect to, and consummate the transactions contemplated by this Agreement; and (iii) this Agreement constitutes a legal, valid, and binding obligation of each respective Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors’ rights generally, and subject, as to enforceability, to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law.

2. Location of the Park; Consent; Limitations.

(A) The Park consists of certain property described in the Master Agreement and includes certain property located in the City, specifically including the Project Property as is hereinafter more specifically described in Exhibit A hereto.

(B) Subject to the terms, conditions and provisions hereof, the City consents to the creation of the Park and the inclusion of the Project Property therein.

(C) The County shall not enlarge or diminish the boundaries of the Park through the addition or subtraction of the property located within the City without receiving the City's prior written consent to any such enlargement or diminution.¹

(D) During the pendency of this Agreement, no amendments or modifications to the SSRC Provisions, the Master Agreement Jasper Allocation, or the Prior MCIP Agreement Jasper Allocation, the terms of which change the distribution of Net FILOT Revenues, shall be permitted without the written consent of the City.

(E) Upon the termination of the Prior MCIP Agreement in accordance with its terms, the Parties agree that the terms of the Master Agreement, as supplemented by the terms of this Agreement, shall control.

3. **Distribution of Net FILOT Revenue.**

(A) The City's share of the Net FILOT Revenues (the "*City's FILOT Portion*") shall be calculated in the manner set forth at South Carolina Code Annotated Section 12-44-80(A) as if the Project were not located in a Park.

(B) In the event that Burton is determined to be legally entitled to some allocation of the City's FILOT Portion, through (i) a determination of a court of competent jurisdiction, (ii) through an agreement between the City and Burton, or (iii) upon written request of the City, then the Parties agree, and as permitted by the MCIP Law, that the County shall allocate to Burton the sum of \$1.00 per year from the City's FILOT Portion.

4. **Termination.** The City and County agree that this Agreement shall terminate concurrently with the SSRC Agreement.

5. **Records.** The Parties covenant and agree that, upon the request of either, the other will provide to the requesting Party copies of the FILOT records and distributions pertaining to Project Property, as such records become available in the normal course of City and County procedures.

6. **Severability.** In the event and to the extent, and only to the extent, that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any 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 Agreement.

7. **Conflicts.** To the extent any provisions of this Agreement conflict with the provisions of any other agreement between the Parties, the terms and provisions of this Agreement shall control in all circumstances.

[Remainder of Page Intentionally Left Blank]

¹ Contemporaneously with the execution of this Agreement, the City has additionally authorized a separate agreement related to Project Glass, which is also located within the Park.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officials as of the Effective Date.

CITY OF BEAUFORT, SOUTH CAROLINA

By: _____
City Manager

(SEAL)

ATTEST:

By: _____
City Clerk

[Signature Page of the County on Following Page]

[Signature Page of City]

**BEAUFORT COUNTY,
SOUTH CAROLINA**

By: _____
Chairman,
Beaufort County Council

(SEAL)

ATTEST:

By: _____
Clerk to County Council

EXHIBIT A

LEGAL DESCRIPTION - PROJECT GARDEN/MRGSC Property, LLC

That certain parcel of real property located in the County of Beaufort, State of South Carolina, containing 3.00 acres, and shown as Beaufort County tax map parcel R120-024-0000-00445, Lot 15 in the Beaufort Commerce Park.

Section 2. It is hereby found, determined, and declared by the County Council, as follows:

- (a) The Project will constitute a “project” as said term is referred to and defined in the Act, and the County’s actions herein will serve the purposes and in all respects conform to the provisions and requirements of the Act.
- (b) The Project and the payments set forth herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made and the anticipated costs and benefits to the County.
- (c) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.
- (d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.
- (e) The purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes.
- (f) The inducement of the location or expansion of the Project within the County and State is of paramount importance.
- (g) The benefits of the Project to the public will be greater than the costs.

Section 3. The form, terms, and provisions of the SSRC Agreement presented to this meeting are hereby approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the SSRC Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council and/or the County Administrator are authorized, empowered, and directed to execute, acknowledge, and deliver the SSRC Agreement in the name of and on behalf of the County, and thereupon to cause the SSRC Agreement to be delivered to the Company. The SSRC Agreement is to be in substantially the form now before this meeting and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of Counsel to the County, such official’s execution thereof to constitute conclusive evidence of such official’s approval of any and all changes or revisions therein from the form of the SSRC Agreement now before this meeting.

Section 4. The Chairman of the County Council and/or the County Administrator, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the SSRC Agreement and the performance of all obligations of the County under and pursuant to the SSRC Agreement.

Section 5. The provisions of this Ordinance are hereby declared to be separable, and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

Section 6. All orders, resolutions, ordinances, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed, and this Ordinance shall take effect and be in full force from and after its passage and approval.

(SIGNATURE PAGE TO FOLLOW)

SPECIAL SOURCE REVENUE CREDIT AGREEMENT

by and between

TRIPLE B RESTAURANT GROUP LLC,

TRIPLE B RESTAURANT HOLDINGS LLC,

and

BEAUFORT COUNTY, SOUTH CAROLINA

_____, 2020

SPECIAL SOURCE REVENUE CREDIT AGREEMENT

This SPECIAL SOURCE REVENUE CREDIT AGREEMENT (“Credit Agreement”) is made and entered into as of _____, 2020, by and among BEAUFORT COUNTY, SOUTH CAROLINA (“County”), a body politic and corporate and a political subdivision of the State of South Carolina (“State”), acting by and through the Beaufort County Council (“County Council”) as the governing body of the County, Triple B Restaurant Group LLC (“Company A”), and Triple B Restaurant Holdings LLC (“Company B”) (Company A and Company B collectively referred to as “Company”).

WITNESSETH:

WHEREAS, pursuant to Title 4, Section 1, Code of Laws of South Carolina, 1976, as amended (“MCIP Act”), the County is authorized to develop multi-county industrial parks with other qualifying counties and, in its discretion, include within the boundaries of such parks the property of qualifying industries. The County has created or will create with Jasper County, South Carolina a multi-county industrial park (“Park”) pursuant to a multi-county industrial park agreement (“Park Agreement”) entered into pursuant to the terms of the MCIP Act; and

WHEREAS, in accordance with Article VIII, Section 13 of the South Carolina Constitution, real and personal property having a situs in a multi county industrial park, are exempt from all ad valorem taxation, however, the owners or lessees of such real and personal property are obligated to make, or cause to be made, annual payments in lieu of taxes to the County in the total amount equivalent to the ad valorem property taxes or other fee-in-lieu-of-taxes that would have been due and payable with respect to such real and personal property but for the location of such real and personal property within such park (each, a “Fee Payment”); and

WHEREAS, the County, acting by and through its County Council is authorized by Title 4, Chapter 1 of the Code of Laws of South Carolina 1976, as amended, including Sections 4-1-170 and 4-1-175 thereof, and Title 4, Chapter 29 of the Code of Laws of South Carolina 1976, as amended, including Section 4-29-68 (collectively, the “SSRC Act”), and Article VIII, Section 13 of the South Carolina Constitution (i) to provide credits (“Special Source Revenue Credits” (“SSRC”)) for the purpose of defraying certain costs, including, without limitation, the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the County or the Project (defined herein) and for improved and unimproved real estate and personal property, including machinery and equipment, used in the operation of a manufacturing facility or commercial enterprise, all to enhance the economic development of the County; and (ii) to expand, in conjunction with one or more other counties, a multi-county industrial park in order to facilitate the grant of SSRCs; and

WHEREAS, the Company is planning an investment consisting of the expenditure of approximately \$4,496,000 in taxable investment (“Investment”) in connection with the acquisition by construction, lease, and/or purchase of certain land, buildings, furnishings, fixtures, and/or equipment and the creation of approximately 43 new, full-time jobs for the purpose of expanding a manufacturing facility in the County (collectively, the “Project”); and

WHEREAS, the Project will comprise a portion of real property located entirely in the County of Beaufort, with improvements thereon, which is described more fully in Exhibit A, attached hereto (“Project Site”); and

WHEREAS, the County Council has determined that the Credit Agreement is an appropriate instrument to induce the Company to invest in the Project and create jobs in the County.

NOW, THEREFORE, IN CONSIDERATION of the respective representations and agreements contained in this Credit Agreement, the parties agree to the following:

Section 1. Representations of the Company and County.

Section 1.1 The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) Company A and Company B are corporations duly organized, validly existing, and in good standing, under the laws of the State of South Carolina, have power to enter into this Credit Agreement, and by proper corporate action have been duly authorized to execute and deliver this Credit Agreement.

(b) The Company is or intends to become the owner of the Project Site.

(c) This Credit Agreement has been duly executed and delivered by both Company A and Company B and constitutes the legal, valid, and binding obligation of Company A and Company B, enforceable in accordance with its terms except as enforcement thereof may be limited by bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally.

(d) Neither the execution and delivery of this Credit Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Credit Agreement, will result in a material breach of any of the terms, conditions, or provisions of any corporate restriction or any agreement or instrument to which Company A or Company B is now a party or by which it is bound, or will constitute a default under any of the foregoing, or result in the creation or imposition of any lien, charge, or encumbrance of any nature whatsoever upon any of the property or assets of Company A or Company B, other than as may be created or permitted by this Credit Agreement.

(e) The agreement of the County to enter into this Credit Agreement and provide the SSRCs has been instrumental in inducing the Company to make the Investment in the Project.

Section 1.2 The County makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The County is a body politic and corporate and a political subdivision of the State which acts through the County Council as its governing body and by the provision of the Act is authorized and empowered to enter into the transactions contemplated by the Credit Agreement

and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Credit Agreement and any and all other agreements described herein or therein.

(b) Neither the execution and delivery of this Credit Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Credit Agreement, will result in a material breach of any of the terms, conditions, or provisions of any agreement or instrument to which the County is now a party or by which it is bound, or will constitute a default under any of the foregoing

Section 2. Fee Payments and SSRCs.

The County grants an annual SSRC to the Company, for a period of twenty (20) years (“Credit Period”) against each annual Fee Payment due for Investment made in the Project that has been placed into service beginning in 2020 and by December 31, 2025 (“Investment Period”). Any SSRC provided under this Credit Agreement shall be used to reimburse the Company for eligible expenditures, as permitted by the SSRC Act, which includes the cost of designing, acquiring, constructing, improving, or expanding the infrastructure serving the Project and Project Site, for improved or unimproved real estate, or for machinery and equipment. In no event shall the aggregate amount of SSRCs received as of any point in time exceed the amount of the Company’s aggregate amount of expenses toward such eligible expenditures as of such time. The SSRCs shall be calculated as follows:

Real Property Ad Valorem Tax Payment calculated as a standard property tax without regard to this Credit Agreement	Real Property Ad Valorem Tax Payment
Personal Property Ad Valorem Tax Payment calculated as a standard property tax without regard to this Credit Agreement	Personal Property Ad Valorem Tax Payment
Real Property Value (as it would be defined in Section 12-44-50 using gross cost as the applicable fair market value) x 6% Assessment Ratio x Fixed Millage Rate of 0.285 =	Real Property FILOT Tax Payment
Personal Property Value (as it would be defined in Section 12-44-50 including the applicable statutory depreciation) x 6% Assessment Ratio x Fixed Millage Rate of 0.285 =	Personal Property FILOT Tax Payment
(Real Property Ad Valorem Tax Payment + Personal Property Ad Valorem Tax Payment) – (Real Property FILOT Tax Payment + Personal Property FILOT Tax Payment) =	Annual SSRC

In calculating the Real Property Ad Valorem Tax Payment and Personal Property Ad Valorem Tax Payment, the Company agrees to waive Section 3(g) of Article X of the South Carolina Constitution as well as Section 12-37-220 (B)(32) and (34) of the Code of Laws of South Carolina. **[NOTE TO COUNTY AUDITOR: IN PREPARING OR REVIEWING ANNUAL CALCULATIONS, APPLY THE FULL MILLAGE RATE, WITHOUT REDUCTION FOR ANY ABATEMENT, TO BOTH THE “EXEMPT” AND “NON-EXEMPT” AMOUNTS CERTIFIED BY DOR IN CALCULATION THE AD VALOREM TAX AMOUNTS.]**

In order to assist the County in preparing the annual tax bills, both Company A and Company B shall file an annual certification with the County Auditor on or before August 1 of each year in the form attached hereto as Exhibit B. Further, Company A and Company B shall each file a

separate schedule with its annual PT-300 filing (or successor form) with the South Carolina Department of Revenue to include only assets placed in service in the Investment Period described above. This separate schedule should be clearly and unambiguously designated as “BEAUFORT COUNTY 2020 SSRC ASSETS,” and a copy of the schedule should be provided to the County Auditor each year in connection with the filing of Exhibit B. Failure to file Exhibit B shall constitute a waiver of the SSRC for the applicable year.

The County shall credit the annual SSRC against the Fee Payment of the corresponding year to result in a “Net Fee Payment” to be due to the County from Company A and Company B.

Section 3. Minimum Investment

(a) In the event that Company A and Company B do not make a combined capitalized investment in the County of at least \$2.5 million in the Project within and as of the end of the Investment Period, the SSRC as described in Section 2 above shall terminate both prospectively and retroactively, and Company A and/or Company B, as applicable, shall repay to the County any shortfall in the Net Fee Payments each applicable entity made under this Credit Agreement and the payments that would have been due and payable had this Credit Agreement not been in effect. In the event the Company makes a capitalized investment in the County of at least \$2.5 million in the Project within and as of the end of the Investment Period, but fails to maintain at least \$2.5 million of capitalized investment in the County within and as of the last day of any property tax year following the end of the Investment Period, the SSRC as described in Section 2 above shall terminate prospectively only. This repayment obligation is a contractual obligation, and the Company hereby waives any statute of limitations defense that would in any way reduce the amount of this obligation. For purposes of this paragraph, capitalized investments shall be calculated based on gross cost without regard to depreciation.

(b) Any amounts determined to be owing pursuant to this Section 3 shall be subject to interest at the rates in effect for the late payment of ad valorem taxes and shall be due within 90 days after the last day of the Investment Period.

Section 4. Project Shall Remain in the Park. The County shall use its best efforts to ensure that the Project, once placed in the Park, will remain in the Park for a period not less than 20 years. If, for any reason, the Park Agreement is modified to exclude the Project, or is otherwise terminated, then the County will use its best efforts to ensure that the Project shall be immediately placed into another multi-county park arrangement to which the County is party and that would enable the Company to receive the SSRCs set forth in this Credit Agreement.

Section 5. Administration Expenses. The Company shall pay the County’s legal fees incurred with the review and preparation of this Agreement. Such fees shall be paid within thirty (30) days of the Company’s receipt of an invoice for such legal fees.

Section 6. Notices. Any notice, election, demand, request, or other communication to be provided under this Credit Agreement shall be effective when delivered to the party named below or three business days after deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party may subsequently furnish, in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

AS TO THE COUNTY: Beaufort County, South Carolina
 Attn: County Attorney
 100 Ribaut Road
 Beaufort, SC 29902

WITH A COPY TO: Haynsworth Sinkler Boyd, P.A.
 Attn: William R. Johnson
 P.O. Box 11889
 Columbia, SC 29211-1889

AS TO THE COMPANY: Triple B Restaurant Group LLC
 [enter contact info]

 Triple B Restaurant Holdings LLC
 [enter contact info]

Section 7. Binding Effect. This Credit Agreement is binding, in accordance with its terms, upon and inure to the benefit of Company A, Company B, and each of its respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises, and agreements of this Credit Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 8. Counterparts. The parties may execute this Credit Agreement in any number of counterparts, in original or by facsimile or electronic means, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 9. Governing Law. This Credit Agreement and all documents executed in connection with this Agreement are construed in accordance with and governed by the laws of the State of South Carolina. To the extent of any conflict between the provisions of this Credit Agreement and the SSRC Act, the SSRC Act controls.

Section 10. Amendments. The parties may modify or amend this Credit Agreement only in a writing signed by the parties.

Section 11. Further Assurance. From time to time the County shall execute and deliver to the Company any additional instruments as the Company reasonably requests to evidence or effectuate the purposes of this Credit Agreement, subject to any approvals required to be obtained from County Council.

Section 12. Severability. If any provision of this Credit Agreement is illegal, invalid, or unenforceable for any reason, the remaining provisions remain unimpaired and any illegal, invalid, or unenforceable provision are reformed to effectuate most closely the legal, valid, and enforceable intent and to afford the Company with the maximum benefits to be derived under this Credit Agreement and the SSRC Act, it being the intention of the County to offer the Company

the strongest inducement possible to encourage the Company to proceed with the Project in the County.

Section 13. Assignment. This Credit Agreement may be assigned in whole or in part only with the prior written consent or subsequent written ratification of the County.

Section 14. Limited Obligation. THIS CREDIT AGREEMENT AND THE SPECIAL SOURCE REVENUE CREDITS BECOMING DUE HEREUNDER ARE LIMITED OBLIGATIONS OF THE COUNTY PROVIDED BY THE COUNTY SOLELY FROM THE FEE PAYMENTS RECEIVED BY THE COUNTY FOR THE PROJECT PURSUANT TO THE PARK AGREEMENT, AND DO NOT AND SHALL NEVER CONSTITUTE A GENERAL OBLIGATION OR AN INDEBTEDNESS OF THE COUNTY OR ANY MUNICIPALITY WITHIN THE MEANING OF ANY CONSTITUTIONAL PROVISION (OTHER THAN THE PROVISIONS OF ARTICLE X, SECTION 14(10) OF THE SOUTH CAROLINA CONSTITUTION) OR STATUTORY LIMITATION AND DO NOT AND SHALL NEVER CONSTITUTE OR GIVE RISE TO A PECUNIARY LIABILITY OF THE COUNTY OR ANY MUNICIPALITY OR A CHARGE AGAINST THEIR GENERAL CREDIT OR TAXING POWER. THE FULL FAITH, CREDIT, AND TAXING POWER OF THE COUNTY OR ANY MUNICIPALITY ARE NOT PLEDGED FOR THE SPECIAL SOURCE REVENUE CREDITS.

Section 15. Indemnification.

(a) Company A and Company B both shall and agrees to indemnify and save the County harmless against and from all claims by or on behalf of any person, firm or corporation arising from the conduct or management of, or from any work or thing done on, the Project during the term of this Credit Agreement, and Company further, shall indemnify and save the County harmless from all claims arising during the term of this Credit Agreement from (i) any condition of the Project, (ii) any breach or default on the part of the Company in the performance of any of its obligations under this Credit Agreement, (iii) any act of negligence of the Company or any of its agents, contractors, servants, employees or licensees related to the Project, (iv) any act of negligence related to the Project of any assignee of the Company, or of any agents, contractors, servants, employees or licensees of any assignee of the Company, or (v) any environmental violation, condition, or effect related to the Project. Company A and Company B each shall indemnify and save the County harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon, and upon notice from the County, the Company shall defend the County in any such action, prosecution or proceeding.

(b) Notwithstanding the fact that it is the intention of the parties that the County, its agents, officers, or employees, shall not incur pecuniary liability by reason of the terms of this Credit Agreement, or the undertakings required of the County hereunder, or by reason of the performance of any act requested of it by the Company, including all claims, liabilities or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, should the County, its agents, officers or employers incur any such pecuniary liability other than as a result of their own negligence or willful or intentional misconduct, Company A and Company B shall indemnify and hold them harmless against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and expenses incurred in

connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Company shall defend them in any such action, prosecution or proceeding.

(c) These indemnification covenants shall be considered included in and incorporated by reference in any subsequent documents related to the Project or this Credit Agreement that the Company requests the County sign, and any other indemnification covenants in any subsequent documents shall not be construed to reduce or limit the above indemnification covenants.

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Credit Agreement to be executed in its name and on its behalf by the Chair of County Council and to be attested by the Clerk to County Council as of the day and year first above written.

BEAUFORT COUNTY, SOUTH CAROLINA

Signature: _____

Name: Joseph Passiment

Title: Chair, Beaufort County Council

(SEAL)

ATTEST:

Signature: _____

Name: Sarah W. Brock

Title: Clerk to County Council

IN WITNESS WHEREOF, the Company has caused this Credit Agreement to be executed in its name and on its behalf by its authorized officer as of the day and year first above written.

TRIPLE B RESTAURANT GROUP LLC

Signature: _____
Name: _____
Title: _____

TRIPLE B RESTAURANT HOLDINGS LLC

Signature: _____
Name: _____
Title: _____

EXHIBIT A
LEGAL DESCRIPTION

ALL that certain piece, parcel or tract of land, with improvements thereon, situate, lying and being in the Town of Port Royal, Beaufort County, South Carolina, containing 0.59 acres, more or less, and being more particularly shown as Parcel "F" on that certain plat prepared by David E. Gasque, R.L.S., dated October 14, 2019, and recorded in Plat Book 152 at Page 181 in the Office of the Register of Deeds for Beaufort County, South Carolina (this plat supersedes that plat dated September 20, 2019, and recorded in Plat Book 152 at Page 150 in the Office of the Register of Deeds for Beaufort County, South Carolina). For a more complete description as to metes, courses, distances and bounds of said property, reference may be had to the aforementioned plat.

This is the same property conveyed to Triple B Restaurant Holdings, LLC by deed from Grey Ghost Property Holdings, LLC, recorded in Book 3806 at Page 1628 in the Office of the Register of Deeds for Beaufort County, South Carolina.

TMP R113-010-000-0375-0000

EXHIBIT B
ANNUAL CERTIFICATION

TRIPLE B RESTAURANT GROUP LLC/TRIPLE B RESTAURANT HOLDINGS LLC
(TO BE FILED BY EACH ENTITY)

Real Property Value (as it would be defined in Section 12-44-50 using gross cost as the applicable fair market value) = \$_____

Real Property FILOT Tax Payment = Real Property Value x 6% x .2731 = \$_____

Personal Property Value (as it would be defined in Section 12-44-50 including the applicable statutory depreciation) = \$_____

Personal Property FILOT Tax Payment = Personal Property Value x 6% x .2731 = \$_____

Total FILOT Tax Payment = Real Property FILOT Tax Payment + Personal Property FILOT Tax Payment = \$_____

Compliance Notes to County Auditor:

The SSRCs should be determined by first calculating the ad valorem taxes that would be due based upon the DOR certification issued directly to the County (but applying the full millage rate to all amounts, whether designed as “exempt” or “non-exempt” by DOR). The SSRCs under Section 2 of the Special Source Revenue Credit Agreement dated _____, 2020 between Beaufort County, South Carolina and Project Stone (the “Credit Agreement”) should be determined by subtracting the Total FILOT Tax Payment above from the ad valorem taxes that would be due based upon the ad valorem tax calculations as described in this paragraph. The difference in these figures is the Net Fee Payment, as defined in Section 2 of the Credit Agreement. The Net Fee Payment should equal the “Total FILOT Tax Payment” as defined above.

The County Auditor should check the calculation of the Total FILOT Tax Payment by determining the gross cost of all land, buildings, and building improvements listed in the Company’s applicable PT-300 filing, multiplying that total by 6% and a millage rate of .2731. This figure should match the Real Property FILOT Tax Payment described above. The County Auditor should then take the depreciated value of all machinery and equipment from the DOR certification (whether it is listed as exempt or non-exempt) and multiply that total by 6% and a millage rate of .2731. This figure should match the Personal Property FILOT Tax Payment described above. It may be helpful for the County Auditor to provide copies of the DOR certification to the Company upon receipt in order to avoid any confusion with the calculations.

Note to Company: A copy of a separate PT-300 schedule filed with SCDOR listing only assets placed in service in the Investment Period, as defined in the Credit Agreement must be included with this filing.

THIS CERTIFICATION SHALL BE FILED ANNUALLY WITH THE

BEAUFORT COUNTY AUDITOR, 100 RIBAUT RD BEAUFORT, SC 29902
ON OR BEFORE AUGUST 1 OF EACH YEAR.

INTERGOVERNMENTAL AGREEMENT

This **INTERGOVERNMENTAL AGREEMENT** (this “*Agreement*”) is entered into this [] day of [], 2021 (the “*Effective Date*”), by and between the Town of Port Royal, South Carolina (the “*Town*”), a municipality and political subdivision of the State of South Carolina (the “*State*”), and Beaufort County, South Carolina (the “*County*”), a county and political subdivision of the State, each a “*Party*” and together the “*Parties.*”

RECITALS

WHEREAS, the County and Jasper County, South Carolina (“*Jasper*” and together with the County, the “*Counties*”) are authorized pursuant to Article VIII, Section 13(D) of the Constitution of South Carolina 1895, as amended, and South Carolina Code Annotated Section 4-1-170 (collectively, the “*MCIP Law*”) to jointly develop a multi-county industrial or business park within the geographical boundaries of one or both of the member counties.

WHEREAS, a company identified as Triple B Restaurant Holdings (f/k/a Project Burger) (the “*Company*”) has proposed establishing or expanding certain manufacturing facilities on property located within the County and the Town (the “*Project*”), and has requested that the County place the Project within a multi-county industrial or business park (the “*Park*”) under the MCIP Law.

WHEREAS, the Counties plan to enter into or have entered into a “Multi-County Park Agreement (REHC, LLC; Triple B Restaurant Holdings, LLC; GlassWRXSC, LLC; MRGSC Property, LLC)” (the “*Master Agreement*”), the provisions of which govern (i) the operation of the Park, including the sharing of expenses and revenues of the Park, and (ii) the manner in which the fee-lieu of tax (“*FILOT*”) revenue is to be distributed to each of the taxing entities within each of the Counties, including the standard 1% allocation of FILOT revenue to Jasper (the “*Jasper Allocation*”).

WHEREAS, the County and the Company have entered into, or intend to enter, into a Special Source Revenue Credit Agreement (the “*SSRC Agreement*”) wherein the Company, prior to payment of the Jasper Allocation, will be provided a special source revenue credit (synthetic FILOT), the terms of which provide that FILOT revenues due and owing by the Company will be computed utilizing a 6% assessment ratio and a fixed millage rate (the “*SSRC Provisions*”). The FILOT revenues that remain after application of the Jasper Allocation and the SSRC Provisions is defined for the purposes herein as the “*Net FILOT Revenue*”.

WHEREAS, the properties related to the Project (“*Project Property*”) within the Park encompass a portion of the Town, and, pursuant to Section 4-1-170(C) of the MCIP Law, the County must obtain the consent of the Town prior to the creation of the Park.

WHEREAS, the Town has previously enacted Ordinance No. 2011-23 dated February 8, 2012, the provisions of which established and approved the “Town of Port Royal, South Carolina Seaport Redevelopment Plan” (the “*Seaport TIF*”) - the terms of which constitute a “redevelopment plan” as such term is defined in South Carolina Code Annotated Section 31-6-30(5).

WHEREAS, pursuant to South Carolina Code Annotated Section 4-29-68(F), the FILOT revenues derived within any “Redevelopment Project Area” (as defined in South Carolina Code

Annotated Section 31-6-30(7)) shall be allocated in accordance with the ordinance creating and approving the redevelopment plan as if the FILOT revenues remained ad valorem taxes, and all revenues collected in the redevelopment project area that are not subject to the ordinance creating and approving the redevelopment plan become payments in lieu of taxes.

WHEREAS, the property within the Town subject to the Seaport TIF constitutes a Redevelopment Project Area as described in the foregoing recital.

WHEREAS, respecting the Seaport TIF: (i) the County Assessor is responsible for determining the “Total Initial Assessed Value” and the “Incremental Assessed Value”, as such terms are respectively defined in the Seaport TIF;¹ (ii) ad valorem taxes applicable to the Total Initial Equalized Assessed Value, if any, shall be paid to the respective taxing districts (by the County Treasurer) in the manner required by law in the absence of the Seaport TIF (“*Baseline Taxes*”); and (iii) ad valorem taxes applicable to the Incremental Assessed Value shall be captured as the revenues of the Seaport TIF (“*TIF Revenues*”) and deposited into the Special Tax Allocation Fund (as defined in the Seaport TIF).

WHEREAS, the Project Property is located within the Redevelopment Project Area and the FILOT revenues derived thereunder shall be distributed in conformity with the terms of the Seaport TIF as provided in Section 3 of this Agreement.

WHEREAS, the Town and the County desire to enter into this Agreement to: (i) identify the location of the Project Property; (ii) confirm the Town’s commitment and consent to the creation of the Park; (iii) ratify and confirm the existence of the Seaport TIF and the distribution of Net FILOT Revenues thereunder; and (iv) provide the methodology for distribution of Net FILOT Revenues to the Town if and when the Seaport TIF is terminated.

WHEREAS, the Town and the County, each acting by and through their respective governing bodies, have authorized the execution and delivery of this Agreement.

NOW THEREFORE, in consideration for the mutual covenants, promises, and consents contained in this Agreement, the Parties agree as follows:

1. **Binding Agreement; Representations.**

(A) This Agreement serves as a written instrument setting forth the entire agreement between the Parties and shall be binding on the Parties, their successors and assigns.

(B) Each of the Parties represents and warrants that: (i) it has the full legal right, power, and authority to enter into this Agreement and carry out and consummate all other transactions contemplated by this Agreement; (ii) it has duly authorized the execution, delivery, and performance of its obligations under this Agreement and the taking of any and all actions as may be required on its part to carry out, give effect to, and consummate the transactions contemplated by this Agreement; and (iii) this Agreement constitutes a legal, valid, and binding obligation of each respective Party, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency and similar laws affecting creditors’ rights generally, and subject, as to enforceability,

¹ Upon information and belief, the Total Initial Assessed Value is \$0.00, and therefore the Incremental Assessed Value shall capture all assessed value growth within the Seaport TIF.

to general principles of equity regardless of whether enforcement is sought in a proceeding in equity or at law.

2. Location of the Park; Consent; Limitations.

(A) The Park consists of certain property described in the Master Agreement and includes certain property located in the Town, specifically including the Project Property as is hereinafter more specifically described in Exhibit A hereto.

(B) Subject to the terms, conditions and provisions hereof, the Town consents to the creation of the Park and the inclusion of the Project Property therein.

(C) The County shall not enlarge or diminish the boundaries of the Park through the addition or subtraction of the property located within the Town without receiving the Town's prior written consent to any such enlargement or diminution.²

(D) During the pendency of this Agreement, no amendments or modifications to the SSRC Provisions or the Jasper Allocation, the terms of which change the distribution of Net FILOT Revenues, shall be permitted without the written consent of the Town.

3. Distribution of Net FILOT Revenue under Seaport TIF.

(A) The Town agrees that the FILOT revenues derived from the Company within the Park shall be directly reduced by the amount attributable to the SSRC Provisions and the Jasper Allocation. Thereafter, the Net FILOT Revenues shall be distributed as follows:

(i) amounts otherwise attributable as Baseline Taxes, if any, shall be distributed in the manner set forth at South Carolina Code Annotated Section 12-44-80(A) as if the Project were not located in a Park; and

(ii) amounts otherwise attributable as TIF Revenues shall be transferred to the Town for deposit into the Special Tax Allocation Fund, subject, however to the terms of Seaport TIF pertaining to distribution of revenues derived from the Seaport TIF. The County makes no representations and assumes no responsibility as to the portion of the TIF Revenues allocable to Beaufort County School District ("*BCSD*") under the Seaport TIF, and the Town is solely responsible for making any distributions of TIF Revenues to BCSD under the terms of the Seaport TIF.

(B) In the event the Seaport TIF is terminated prior to the termination of this Agreement for any reason, the Net FILOT Revenues shall be subject to distribution under the provisions of Section 4 below.

4. Distribution of Net FILOT Revenue After Seaport TIF. In the event the Seaport TIF terminates prior to the termination of this Agreement, the Town's share of the Net FILOT Revenues that remain after the allocation of the SSRC Provisions and the Jasper Allocation shall be calculated in the manner set forth at South Carolina Code Annotated Section 12-44-80(A) as if the Project were not located in a Park.

² Contemporaneously with the execution of this Agreement, the Town has additionally authorized a separate agreement related to Project Stone, which is also located within the Park.

5. **Termination.** The Town and County agree that this Agreement shall terminate concurrently with the SSRC Agreement.

6. **Records.** The Parties covenant and agree that, upon the request of either, the other will provide to the requesting Party copies of the FILOT records and distributions pertaining to Project Property, as such records become available in the normal course of Town and County procedures.

7. **Severability.** In the event and to the extent, and only to the extent, that any provision or any part of a provision of this Agreement shall be held invalid or unenforceable by any 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 Agreement.

8. **Conflicts.** To the extent any provisions of this Agreement conflict with the provisions of any other agreement between the Parties, the terms and provisions of this Agreement shall control in all circumstances.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their duly authorized officials as of the Effective Date.

TOWN OF PORT ROYAL, SOUTH CAROLINA

By: _____
Town Manager

(SEAL)

ATTEST:

By: _____
Town Clerk

[Signature Page of the County on Following Page]

[Signature Page of Town]

**BEAUFORT COUNTY,
SOUTH CAROLINA**

By: _____
Chairman,
Beaufort County Council

(SEAL)

ATTEST:

By: _____
Clerk to County Council

EXHIBIT ALEGAL DESCRIPTION - PROJECT BURGER/TRIPLE B RESTAURANT HOLDINGS LLC

ALL that certain piece, parcel or tract of land, with improvements thereon, situate, lying and being in the Town of Port Royal, Beaufort County, South Carolina, containing 0.59 acres, more or less, and being more particularly shown as Parcel "F" on that certain plat prepared by David E. Gasque, R.L.S., dated October 14, 2019, and recorded in Plat Book 152 at Page 181 in the Office of the Register of Deeds for Beaufort County, South Carolina (this plat supersedes that plat dated September 20, 2019, and recorded in Plat Book 152 at Page 150 in the Office of the Register of Deeds for Beaufort County, South Carolina). For a more complete description as to metes, courses, distances and bounds of said property, reference may be had to the aforementioned plat.

This is the same property conveyed to Triple B Restaurant Holdings, LLC by deed from Grey Ghost Property Holdings, LLC, recorded in Book 3806 at Page 1628 in the Office of the Register of Deeds for Beaufort County, South Carolina.

TMP R113-010-000-0375-0000



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
AN ORDINANCE TO LEVY AND IMPOSE A ONE PERCENT LOCAL OPTION SALES AND USE TAX WITHIN BEAUFORT COUNTY, SOUTH CAROLINA, PURSUANT TO SECTION 4-10-10 ET SEQ., OF THE SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED; TO DEFINE THE SPECIFIC PURPOSE OF THE TAX; TO IMPOSE CONDITIONS AND RESTRICTIONS UPON THE USE OF THE PROCEEDS OF THE TAX; TO PROVIDE FOR A COUNTY-WIDE REFERENDUM FOR THE IMPOSITION OF THE TAX; TO PROVIDE FOR THE CONDUCT OF SUCH REFERENDUM; TO PROVIDE FOR THE ADMINISTRATION OF THE TAX; AND OTHER MATTERS RELATING THERETO
MEETING NAME AND DATE:
Executive Committee April 5, 2021
PRESENTER INFORMATION:
<i>Kurt Taylor, County Attorney</i> <i>10 minutes</i>
ITEM BACKGROUND:
<i>County Council has expressed interest in holding a referendum regarding whether to impose a 1% local option sales tax. This ordinance calls for the referendum</i>
PROJECT / ITEM NARRATIVE:
See above
FISCAL IMPACT:
<i>n/a</i>
STAFF RECOMMENDATIONS TO COUNCIL:
Recommend approval
OPTIONS FOR COUNCIL MOTION:
<i>Motion to approve/deny Ordinance regarding a referendum to impose a 1% local option sales tax.</i>

ORDINANCE 2021/_____

AN ORDINANCE TO LEVY AND IMPOSE A ONE PERCENT LOCAL OPTION SALES AND USE TAX WITHIN BEAUFORT COUNTY, SOUTH CAROLINA, PURSUANT TO SECTION 4-10-10 ET SEQ., OF THE SOUTH CAROLINA CODE OF LAWS, 1976, AS AMENDED; TO DEFINE THE SPECIFIC PURPOSE OF THE TAX; TO IMPOSE CONDITIONS AND RESTRICTIONS UPON THE USE OF THE PROCEEDS OF THE TAX; TO PROVIDE FOR A COUNTY-WIDE REFERENDUM FOR THE IMPOSITION OF THE TAX; TO PROVIDE FOR THE CONDUCT OF SUCH REFERENDUM; TO PROVIDE FOR THE ADMINISTRATION OF THE TAX; AND OTHER MATTERS RELATING THERETO.

WHEREAS, the South Carolina General Assembly enacted Title 4, Chapter 10, Section 10, Code of Laws of South Carolina, 1976, as amended (the “Code”), which empowers the Beaufort County Council (the “Council”) to levy and impose a one percent (1%) sales and use tax on the gross proceeds of sales within Beaufort County (the “County”) for the purpose of allowing a credit against a taxpayer’s county and municipal ad valorem tax liability and for funding county and municipal operations;

WHEREAS, the Council is dedicated to the reduction of property taxes and is committed, not only to minimizing the cost of public services, but also to seeking alternative revenue sources that can be used to replace property taxes, and it is of the opinion and belief that all County property owners, and homeowners in particular, can benefit from implementation of a location option sales tax; and

WHEREAS, the County, acting by and through its County Council, desires to reduce the property tax burden annually imposed upon the citizens of the County by calling for a referendum to adopt a one percent (1%) local option sales tax authorized pursuant to Section 4-10-20 of the Code, and further authorizes and directs the County Administrator to make arrangements as necessary to schedule such referendum for November 2, 2021:

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY BEAUFORT COUNTY COUNCIL, in a meeting duly assembled that:

Section 1. Imposition of a One Percent Local Option Sales Tax

- 1.1.** A Referendum on the question of imposing a one percent (1%) local option sales and use tax (the “Tax”), authorized pursuant to Section 4-10-20 of the Code, in Beaufort County, South Carolina shall be held on November 2, 2021 mutatis mutandis.
- 1.2.** The Tax shall be imposed only if approved by a majority of the qualified electors voting in favor of imposing such Tax in a duly noticed referendum held on November 2, 2021.
- 1.3.** The Tax, if approved, shall be imposed on July 1, 2022, provided that the County notifies the South Carolina Department of Revenue and the South Carolina Treasurer of the results of the referendum, by delivering certified copies of a resolution adopted by the Council no later than December 31, 2021.

Pursuant to Subsection 4-10-90(B) of the Code, after deducting the amount of refunds made and the costs to the South Carolina Department of Revenue for administering the Tax (not to exceed one-half of one percent of the fund or seven hundred fifty thousand dollars, whichever is greater), the South Carolina Treasurer shall deposit the revenue collected from the Tax into a Local Sales and Use Tax Fund for Beaufort County which shall consist of two separate funds: the Property Tax Credit Fund and the County/Municipal Revenue Fund.

- 1.4.** The Tax imposed by this Ordinance is in addition to all other local sales and use taxes and applies to the gross proceeds of sales in the applicable jurisdiction which are subject to the tax imposed by Chapter 36 of Title 12 of the Code, and the enforcement provisions of Chapter 54 of Title 12 of the Code. The gross proceeds of the sale of items subject to a maximum tax in S.C. Code §12-36-2110 and Article 17 of Chapter 36 of Title 12 of the Code are exempt from the tax imposed by this Ordinance.
- 1.5.** The Tax imposed by this Ordinance also applies to tangible personal property subject to the use tax in Section 12-36-1310 of the Code. Taxpayers required to remit taxes under Section 12-36-1310 of the Code, shall identify the county, municipality or both, in which the tangible personal property purchased at retail is stored, used, or consumed in this State.
- 1.6.** Utilities are required to report sales in the County in which consumption of the tangible personal property occurs.
- 1.7.** A taxpayer subject to the tax imposed by S.C. Code §12-36-920, who owns or manages rental units in more than one county shall report separately in his sales tax return the total gross proceeds from business done in each county.
- 1.8.** The gross proceeds of sales of tangible personal property delivered after the imposition date of the tax levied by this Ordinance in the County, either pursuant to the terms of a construction contract executed before the imposition date, or a written bid submitted before the imposition date, culminating in a construction contract entered into before or after the imposition date, are exempt from the Tax provided in this section if a verified copy of the contract is filed with the Department of Revenue within six (6) months after the imposition of the Tax.
- 1.9.** Notwithstanding the imposition date of the Tax imposed by this Ordinance, with respect to services that are billed regularly on a monthly basis, the Tax is imposed beginning on the first day of the billing period beginning on or after the imposition date.
- 1.10.** The Tax imposed pursuant to this Ordinance shall be collected and administered by the South Carolina Department of Revenue and deposited with the State Treasurer where it shall be credited to an account established by the County, which is separate and distinct from the General Fund of the State of South Carolina. After deducting the amount of any refunds made and costs to the Department of Revenue for administering the Tax, the State Treasurer shall then distribute the revenues in accordance with Section 4-10-40 through 4-10-90 of the Code, for the purposes aforesaid. The State Treasurer may correct misallocation by adjusting subsequent distributions, but these adjustments must be made in the same fiscal year as the misallocation.
- 1.11.** The Department of Revenue shall furnish data to the State Treasurer and to the Beaufort County Treasurer for the purpose of calculating distributions and estimating revenues. The information, which must be supplied upon request includes, but is not limited to, gross receipts, net taxable sales, and tax liability by taxpayers. Information about a specific taxpayer is

considered confidential and is governed by the provisions of Section 12-54-240 of the Code. Any person violating the provisions of this section shall be subject to penalties provided in Section 12-54-240 of the Code.

Section 2. Order to Hold Referendum and Duties of Election Commission

- 2.1. Upon receipt of this Ordinance, the County Election Commission (the "Commission") shall conduct a Referendum on the question of imposing the Tax in the County. A Referendum for this purpose must be held on November 2, 2021.
- 2.2. A Notice of Referendum, substantially similar in form to **Appendix A** attached hereto and incorporated by reference herein shall be published in compliance with the provisions of Section 7-13-35 and 4-15-50 of the Code, as amended, not less than sixty (60) days prior to the Referendum, not later than two (2) weeks after such first notice is published, and once not less than fifteen (15) days prior to the occasion set for the holding of the Referendum.
- 2.3. A public hearing must be conducted at least fourteen (14) days before the Referendum after publication of a notice setting forth the date, time, and location of the public hearing. The notice must be published in a newspaper of general circulation in the County at least fourteen (14) days before the date fixed for the public hearing.
- 2.4. Pursuant to Section 7-13-355 of the Code, the Referendum question shall be submitted to the Board of Voter Registration and Elections of Beaufort County to be placed on the ballot no later than 12:00 noon on August fifteenth (15th) or, if August fifteenth (15th) falls on Saturday or Sunday, not later than 12:00 noon on the following business day.
- 2.5. All qualified electors desiring to vote in favor of imposing the tax for a particular purpose shall vote "yes" and all qualified electors opposed to levying the tax for a particular purpose shall vote "no". If a majority of the votes cast are in favor of imposing the Tax, then the Tax is imposed as provided herein; otherwise, the Tax is not imposed. The Commission shall conduct the Referendum and provide the results to the County pursuant to South Carolina election laws.
- 2.6. Upon receipt of the return of the Referendum, County Council shall, by resolution declare the results thereof. The results of the Referendum, as declared by resolution of Council, are not open to question except by suit or proceeding instituted within thirty (30) days from the date Council shall adopt a resolution declaring the results of such Referendum.
- 2.7. Expenses of the Referendum shall be paid by the governmental entities that would receive the proceeds of the Tax in the same proportion that those entities would receive the net proceeds of the Tax.

Section 3. Voter Registration and Elections Board

- 3.1. A certified copy of this Ordinance shall be filed with the Elections Board, accompanied by written notice from the Chairman of Council establishing the date for the Referendum as November 2, 2021. The Elections Board is hereby requested as follows:
 - a. To join in the action of the County in providing for the Notice of Referendum in substantially the form contained herein;

- b. To prescribe the form of a ballot to be used in the Referendum;
- c. To arrange for polling places for each precinct, or any part of a precinct within the County;
- d. To appoint Managers of Election;
- e. To provide a sufficient number of ballots or voting machines, as the case may be, for the Referendum;
- f. To conduct the Referendum, receive the returns thereof, canvass such returns, declare the results thereof, and certify such results to the County Council; and
- g. To take other steps and prepare such other means as shall be necessary or required by law in order to properly conduct the Referendum.

Section 4. Voting, Polling Places and Hours of Election

- 4.1. The voting precincts in the County shall be those designated pursuant to Section 7-7-1 of the Code, as amended. The polling places for each voting precincts shall be designated by the Board of Voter Registration and Elections of Beaufort County (the "Elections Board"). The Elections Board is authorized to change any of the locations of polling places for the Referendum as deemed necessary or advisable. Appropriate changes are to be made to the Notice of Referendum.
- 4.2. The polls shall be opened at 7:00 a.m. and closed at 7:00 p.m. on the date fixed for the Referendum and shall be held open during said hours without intermission or adjournment.
- 4.3. The Referendum shall be conducted using either voting machines or paper ballots as provided by State law. Upon approval by the Elections Board, the form of ballots to be used in the Referendum and the instructions to voters appearing thereon shall be in substantially the form set forth in **Appendix B**.
- 4.4. Every person offering to vote must be at least eighteen (18) years of age on the date of the Referendum, must reside in the County and must be duly registered on the books of registration for Beaufort County as an elector in the precinct in which he or she resides and offers to vote on or before the date on which said books of registration are closed for the Referendum, and must present his or her registration certificate or valid South Carolina driver's license or other form of identification containing a photograph issued by the South Carolina Department of **Motor Vehicles**, if not licensed to drive. Any registered elector who meets the requirements set forth in the preceding sentence and who has moved his or her place of residence within the County after the date on which said books of registration are closed for the Referendum, but before the date of the Referendum, shall be entitled to vote in his or her previous precinct of residence in the Referendum.

Section 5. Severability

- 5.1. If any part of this Ordinance is held by a court of competent jurisdiction to be unconstitutional, illegal, or invalid for any reason, it shall be construed to have been the legislative intent of the County Council of Beaufort County, South Carolina, to pass this Ordinance without such unconstitutional, illegal or invalid provision, and the remainder of this Ordinance shall be deemed and held to be constitutional, lawful and valid as if such portion had not been included. If this Ordinance or any provision thereof is held by a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

- 5.2.** All ordinances, orders, resolutions, and actions of County Council inconsistent herewith are, to the extent of such inconsistency only, hereby repealed, revoked, and rescinded. All other parts and provisions of the Beaufort County Code of Ordinances not amended hereby, either explicitly or by implication, remain in full force and effect.

(THIS SPACE INTENTIONALLY LEFT BLANK)

APPENDIX A

NOTICE OF REFERENDUM FOR THE IMPOSITION OF A LOCAL OPTION SALES AND USE TAX IN BEAUFORT COUNTY, SOUTH CAROLINA November 2, 2021

NOTICE IS HEREBY GIVEN that pursuant to Ordinance No. 2021/_____, enacted by Beaufort County Council on _____, 2021, and the requirements as codified in Section 4-10-10 et seq., Code of Laws of South Carolina, 1976, as amended, a referendum will be held in Beaufort County on November 2, 2021 (the “Referendum”), for the purpose of submitting to the qualified electors of Beaufort County the following question:

Must a one percent sales and use tax be levied in Beaufort County for the purpose of allowing a credit against a taxpayer’s county and municipal ad valorem tax liability and for the purpose of funding county and municipal operations in the Beaufort County area?

CONDITIONS AND RESTRICTIONS ON THE USE OF TAX REVENUE COLLECTED FROM THE LOCAL OPTION SALES AND USE TAX:

If approved, the total revenue collected shall be applied as a credit against the payment of any costs charged by the South Carolina Department of Revenue in connection with the collection and administration of such tax, then for the purpose of funding county and municipal operations, and against a taxpayer’s county and municipal ad valorem tax liability.

INSTRUCTIONS TO VOTER:

If the voter wishes to vote in favor of the question, fill in the oval next to the words, “Yes, In favor of the question;” if the voter wishes to vote against the question, fill in the oval next to the words, “No, Opposed to the question.”

Explanation:

The purpose of the Referendum is to allow the qualified electors of Beaufort County to determine whether or not a one percent (1%) sales and use tax should be levied in Beaufort County for the purpose of allowing a credit against a taxpayer’s county and municipal ad valorem tax liability (property taxes) and for the purpose of funding county and municipal operations in the Beaufort County area.

If this sales and use tax is approved, State law provides that seventy-one percent (71%) of the revenue received by a county and municipality may be used to provide a credit against the property tax liability of taxpayers in the county and municipality and that twenty-nine percent (29%) may be used specifically for the purpose of funding county and municipal operations in the Beaufort County area.

Voting, Polling Places and Hours of Election:

The polls shall be opened from 7:00 a.m. until 7:00 p.m. at the polling places designated above and shall be open during these hours without intermission or adjournment. Appropriate vote recorders will be provided at the polling places for the casting of ballots on the aforesaid question. Managers of Election will be appointed by the **Board of Voter Registration and Elections of Beaufort County**. The Managers of Election shall see that each person offering to vote takes the oath that he or she is qualified to vote at this referendum according to the Constitution of this State and that he or she has not voted

previously in this referendum.

Every person offering to vote (a) must be at least eighteen (18) years of age on the date of the referendum; (b) must reside in Beaufort County; (c) must be duly registered on the books of registration for Beaufort County as an elector in the precinct in which he or she resides and offers to vote on or before the date on which the books of registration are closed for the referendum; and (d) must present his or her current and valid form of identification as required by South Carolina law in effect as of the date of the referendum.

Any person eligible to register who has been discharged or separated from his service in the Armed Forces of the United States prior to **October 1, 2021**, and returned home too late to register at the time when registration is required is entitled to register for the purpose of voting in the referendum up to 5:00 p.m. on the day of the Referendum. This application for registration must be made to the **Board of Voter Registration and Elections of Beaufort County**, and if qualified, the person must be issued a registration notification stating the precinct in which he or she is entitled to vote and a certification of the managers of the precinct that he or she is entitled to vote and should be placed on the registration rolls of the precinct. Persons who become of age during the thirty (30) day period preceding the Referendum shall be entitled to register before the closing of the books if otherwise qualified.

The last day on which persons may register in order to be eligible to vote in the Referendum will be:

In-person: No later than 5:00 pm Friday, October 1, 2021
Email, Fax, or Online: No later than 11:59 pm Sunday, October 3, 2021
By Mail: Must be postmarked by Monday, October 4, 2021

The process of examining the return-addressed envelopes containing absentee ballots will begin at 9:00 a.m. on the day before the Referendum in the office of the Board of Voter Registration and Elections of Beaufort County at 15 John Galt Road, Beaufort, South Carolina 29906. The ballot herein envelopes and ballots will be tabulated beginning at 9:00 a.m. on the date of the Referendum in the office of the Board of Voter Registration and Elections of Beaufort County at 15 John Galt Road, Beaufort, South Carolina 29906.

Voters who are blind, who are otherwise physically handicapped, or who are unable to read or write are entitled to assistance in casting their ballot. This assistance may be given by anyone the voter chooses except his or her employer, an agent of his or her employer, or an officer or agent of his or her union. The Managers of Election must be notified if assistance is needed. Voters who are unable to enter their polling place due to physical handicap or age may vote in the vehicle in which they drove or were driven to the polls. When notified, the manager will help voters effectuate this curbside voting provision. Registered voters may be eligible to vote by absentee ballot. Persons wishing more information concerning absentee balloting should contact the Board of Voter Registration and Elections of Beaufort County at 843.255.6900.

The Board of Voter Registration and Elections of Beaufort County shall hold a hearing on ballots challenged in the Referendum on **November 5, 2021**, at 10:00 a.m. in the office of the Board of Voter Registration and Elections of Beaufort County at 15 John Galt Road, Beaufort, South Carolina 29906.

APPENDIX B

**FORM OF BALLOT
OFFICIAL BALLOT – REFERENDUM**

**LOCAL QUESTION NUMBER _____
AUTHORIZATION TO IMPOSE A ONE PERCENT (1%) LOCAL OPTION SALES TAX TO
REDUCE PROPERTY TAX ON PERSONS IN BEAUFORT COUNTY**

Precinct _____

No. _____

Initials of Issuing Officer

Local Question No. _____

Must a one percent (1%) sales and use tax be levied in Beaufort County for the purpose of allowing a credit against a taxpayer’s county and municipal ad valorem tax liability and for the purpose of funding county and municipal operations in the Beaufort County area?

CONDITIONS AND RESTRICTIONS ON THE USE OF TAX REVENUE COLLECTED FROM THE LOCAL OPTION SALES AND USE TAX:

If this sales and use tax is approved, State law provides that seventy-one percent (71%) of the revenue received by a county and municipality may be used to provide a credit against the property tax liability of taxpayers in the county and municipality and that twenty-nine percent (29%) may be used specifically for the purpose of funding county and municipal operations in the Beaufort County area.

INSTRUCTIONS TO VOTER:

If the voter wishes to vote in favor of the question, fill in the oval next to the words, “Yes, In favor of the question;” if the voter wishes to vote against the question, fill in the oval next to the words, “No, Opposed to the question.”

Yes, In favor of the question

No, Opposed to the question

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

First Reading:
Second Reading:

Sarah Brock, Clerk to Council

Public Hearing:
Third and Final Reading:



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
<i>An Ordinance amending Ordinance number 2020/19 which established the solid waste and recycling enterprise fund</i>
MEETING NAME AND DATE:
County Council, April 26, 2021
PRESENTER INFORMATION:
<i>Kurt Taylor, County Attorney</i> <i>5 minutes</i>
ITEM BACKGROUND:
Now that council has determined not to establish a solid waste user fee, the ordinance adopted last year to establish the Solid waste Enterprise Fund needs to be modified slightly.
PROJECT / ITEM NARRATIVE:
See above
FISCAL IMPACT:
<i>n/a</i>
STAFF RECOMMENDATIONS TO COUNCIL:
Recommend approval
OPTIONS FOR COUNCIL MOTION:
<i>Motion to approve amendments to Ordinance 2020/19</i>

ORDINANCE NO. 2021/____

AN ORDINANCE AMENDING ORDINANCE 2020/19, WHICH ESTABLISHED A SOLID WASTE AND RECYCLING ENTERPRISE SYSTEM FOR THE PURPOSE OF PLANNING, DESIGNING, CONSTRUCTING, FUNDING, AND MAINTAINING SOLID WASTE AND RECYCLING MANAGEMENT PROGRAMS, PROJECTS, AND FACILITIES; AND OTHER MATTERS RELATED THERETO.

WHEREAS, the County Council of Beaufort County (the “*County Council*”) the governing body of Beaufort County, South Carolina (the “*County*”) has been granted authority by the South Carolina General Assembly, in accordance with the constitution and laws of the State of South Carolina (the “*State*”), “to enact regulations, resolutions, and ordinances, not inconsistent with the Constitution and general law of this State, including the exercise of these powers in relation to health and order in counties or respecting any subject as appears to them necessary and proper for the security, general welfare, and convenience of counties or for preserving health, peace, order, and good government in them.” S.C. Code Ann. § 4-9-25; and

WHEREAS, in addition to the general powers described above, S.C. Code Ann. § 44-55-1210 provides that the County Council has express authority to determine “by ordinance or resolution . . . that the county shall engage in the collection and disposal of solid waste” and to levy service charges “against persons for whom collection services are provided whether such services are performed by the county, a municipality or a private agency”; and

WHEREAS, the solid waste services of the County are currently funded as part of the general fund of the County from *ad valorem* property taxes; and

WHEREAS, the County Council has determined that in order to most effectively meet its responsibilities under State law and to ensure adequate and equitable funding for its solid waste and recycling services, that the County shall form a solid waste and recycling enterprise system, provide for the flexibility to impose solid waste and recycling user fees in the future if approved by County Council, and establish a special solid waste and recycling enterprise fund to provide for the operations and capital needs of the solid waste enterprise system; and

WHEREAS, based on the recommendation of the Solid Waste and Recycling Board, established under Ordinance 2007/37, the County Council enacted Ordinance 2020/19 to form the solid waste and recycling enterprise system, and establish the solid waste and recycling enterprise fund as provided herein; and

WHEREAS, County Council has now determined that it is appropriate to establish a separate millage for funding the enterprise fund, rather than creating a user fee, which necessitates some modifications to ordinance 2020/19

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL, duly assembled, as follows. The below modifications are hereby adopted to change the text of ordinance 2020/19:

SECTION 1. RECITALS INCORPORATED BY REFERENCE. The recitals stated above are incorporated by reference as if fully restated herein.

SECTION 2. AMENDMENT TO BEAUFORT COUNTY CODE OF ORDINANCES. In order to properly implement the Solid Waste and Recycling Enterprise System (as defined hereinbelow), certain amendments, supplement and additions to Chapter 62 – “Solid Waste”, Article I – “In General” of the Beaufort County Code of Ordinances as provided hereinbelow.

A. Section 62-1 is amended and restated in its entirety as follows:

Sec. 62-1 – Establish and Administration of Solid Waste and Recycling Enterprise System

(a) There is hereby created the “Solid Waste and Recycling Enterprise System” of the County. The Solid Waste and Recycling Enterprise System shall be operated as an administrative division of the County under the responsibility of the Beaufort County Director of Solid Waste and Recycling. The County Administrator and the Director of Solid Waste and Recycling are authorized to (i) establish and organize the County’s solid waste and recycling facilities as necessary for their useful and efficient operation, (ii) to establish necessary procedures, policies and guidelines for the use of the County’s solid waste and recycling facilities, and (iii) to recommend appropriate millage or fee and rate schedules for consideration and approval by County Council, including any appropriate exemptions. Any millage, fee, charge or rate recommendations shall be based upon considerations that the County’s Solid Waste and Recycling Enterprise System will be self-supporting, and adequately funded by all users and classes of users. Fees, charges, and rates shall not be charged to commercial or industrial users as they do not presently and directly benefit from the solid waste and recycling disposal services provided by the County; provided, however, fees, rates, and charges may be charged to all or a portion of such classes of users should such users directly benefit from County solid waste and recycling services in future periods. The County Administrator and the Director of Solid Waste and Recycling are further directed to keep County Council advised as to the progress in accomplishing these requirements.

(b) These provisions shall be applicable within the County and all County-owned solid waste and recycling facilities.

In addition to solid waste and recycling disposal services, other solid waste and recycling services may be provided within the County. Such other solid waste and recycling services may be provided within the corporate limits of a municipality in the County by contract with an individual, corporation or municipal governing body in the event (1) the municipality is not providing such services and has not budgeted or applied for funds for such services, or (2) permission of the municipal governing body has been obtained in connection with the provision of such services; otherwise, the County shall not render such services within such municipality.

The County finds, after due investigation, that the Solid Waste and Recycling Enterprise System programs, presently consisting of solid waste and recycling disposal, do not conflict, or compete in any way, with the solid waste and recycling services of the municipalities within the County and are entirely complementary thereof and separate therefrom. To the extent that a municipality engages in solid waste disposal, the County shall not engage in such service within such municipality, and appropriate fee exemptions, if necessary, shall be implemented.

The Director of Solid Waste and Recycling may request assistance from the various departments and other officials of the county or municipalities, as may be necessary for the orderly implementation of this chapter. Agreements, including any intergovernmental agreements with municipalities within the County, necessary or desirable and regulations promulgated to carry out this chapter are authorized and shall be subject to prior review and approval of County Council.

B. Section 62-2 shall be supplemented by the addition of new paragraph (c), as follows:

(c) In addition to the foregoing authority, purposes, and general matters, the County finds the Solid Waste and Recycling Enterprise System shall subserve the following additional purposes:

- (i) To promote the public health, safety and welfare;
- (ii) To ensure that solid waste is transported, stored, treated, processed and disposed of in a manner adequate to protect human health, safety and welfare and the environment;
- (iii) To promote the reduction, recycling, reuse and treatment of solid waste and the recycling of materials which would otherwise be disposed of as solid waste;

(iv) To provide an efficient method for the collection, transportation, storage, handling, treatment, reduction, recycling, reuse and disposal of solid waste in the county through the establishment, construction and operation of solid waste collection sites and other facilities for the use and benefit of residents of the County and other municipalities, entities or persons who contract for the use of County facilities for the collection of permitted solid waste in accordance with county ordinances and regulations; and

(v) To protect and preserve the quality of the environment and to conserve and recycle natural resources.

C. Section 62-6 shall be added as follows:

Sec. 62-6 – Uniform Service Charges.

(a) The County Council shall impose millage as part of its annual budget process to fund the Solid Waste and Recycling Enterprise System. At any point in the future, County Council may, by ordinance imposed uniform service charges, and rates fees, and charges. The proceeds from the millage, uniform service charges, and rates, fees and charges established by County Council shall be used to pay in whole or in part the costs of acquiring, equipping, operating, and maintaining facilities and sites for the collection, transportation, storage, handling, separation, treatment, reduction, recycling, reuse, and disposal of household solid waste generated within the County.

(b) If imposed, there shall be a uniform residential solid waste fee annually imposed upon the owner of record of each residence in the County, including all single and multi-family homes, mobile homes, and all lease and rental properties, in accordance with the then prevailing fee schedule, subject to the rules and regulations governing the Solid Waste and Recycling Enterprise System, and further subject to any applicable exemptions, which exemptions shall include, but not be limited to, a complete or partial exemption for users in any municipality within the County to the extent the respective municipality provides a service in lieu of the County. In addition to fees, charges, and rates with respect to solid waste and recycling disposal services, fees, charges, and rates in connection with other solid waste and recycling services may be imposed within the corporate limits of a municipality in the County by contract with an individual, corporation, or municipal governing body to the extent the County is providing solid waste and recycling services in a municipality pursuant to Section 62-1(b).

Residential solid waste fees, if imposed, shall be levied as a uniform assessment by the county auditor and placed upon the annual real estate tax notice

and collected by the county treasurer, pursuant to state law. The fiscal officers of the county shall have the authority to nulla bona or abate these fees to the same extent and under the same conditions as they do for a comparable tax.

(c) Further, if residential solid waste charges are imposed, there shall be imposed a late fee and supplemental processing charge, for all solid waste fees not timely remitted to the county treasurer by March 16 of the year when due. For all past due accounts in excess of one year, the county shall impose an additional annual penalty. The County shall pursue all legal remedies available to it to recover past due amounts, and shall hold the property owner or record responsible for all costs of collection, including reasonable attorney fees, as a part of such collection efforts and as a part of the fees imposed by County Council pursuant to state law, in order that lawful tax-paying citizens not be forced to subsidize those taxpayers who do not pay this lawful fee in a timely manner.

D. Section 62-7 shall be added as follows:

Sec. 62-7 – Special Fund

All taxes, charges, rates, fees, or other revenues collected pursuant to this chapter shall be deposited to a special fund to be known as the Solid Waste and Recycling Enterprise Fund, and all funds deposited in the Solid Waste and Recycling Enterprise Fund shall be expended for the administration, operation, and maintenance of the County solid waste and recycling programs and the acquiring, constructing, renovating, and equipping of apparatus and facilities necessary or convenient therefor. Should the County issue bonds or enter into other obligations the proceeds of which benefit the Solid Waste and Recycling Enterprise System, it may secure such bonds and other obligations with a pledge of all or a portion of the revenues deposited to or derived from the Solid Waste and Recycling Enterprise Fund. Nothing shall prohibit the creation of sub-funds or accounts as may be necessary or appropriate.

SECTION 3. PUBLIC HEARING. Prior to the imposition of any user fees or charges, a public hearing shall be held in compliance with Section 6-1-330 of the Code of Laws of South Carolina 1976, as amended prior to third and final reading of this ordinance.

SECTION 4. SEVERABILITY. If any Section, Subsection, or Clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining Sections, Subsections and Clauses shall not be affected thereby.

SECTION 5. CONFLICTING ORDINANCES REPEALED. If any Section, Subsection, or Clause of this ordinance shall conflict with any Section, Subsection or Clause of a

preceding ordinance of the County, then the preceding Section, Subsection or Clause is hereby repealed and no longer in effect.

SECTION 6. EFFECTIVE DATE; IMPLEMENTATION. This ordinance shall be effective upon enactment hereof; provided, however, that the provisions hereof shall not be implemented until the effective date of the Fee Ordinance.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joe Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

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



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
An ordinance authorizing the execution and delivery of Utility Easements #901550 & 901551 encumbering property owned by Beaufort County.
MEETING NAME AND DATE:
County Council Meeting Monday, April 26, 2021
PRESENTER INFORMATION:
Jared Fralix, P.E., Assistant County Administrator, Engineering (5 Minutes)
ITEM BACKGROUND:
Item approved by Public Facilities Committee on 4-19-2021 Beaufort County has requested electrical services for a shed located on the Public Works South Complex. Dominion Energy needs easements on County Parcels R600 040 000 0005 0000 & R600 039 000 0285 0000 to facilitate this request.
PROJECT / ITEM NARRATIVE:
The Public Works building located at 9 Benton Field Road (R600 039 000 0285 0000) has electrical services, however, the Southeastern property corner where the shed is located does not have electrical services. Dominion plans on providing service from County Parcel R600 040 000 0005 0000 which abuts the southern property line and is identified in Exhibit "A" of the requested easements.
FISCAL IMPACT:
N/A
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends granting Utility Easements #901550 & 901551.
OPTIONS FOR COUNCIL MOTION:
<i>Motion to approve</i> granting Utility Easements #901550 & 901551. <i>Motion to deny</i> granting Utility Easements #901550 & 901551.
(Next Step) Move PFC action to County Council vote on 4/26/2021

Easement # 901550

INDENTURE, made this _____ day of _____, 2021 by and between **Beaufort County** of the State of South Carolina, hereinafter called "Grantor" (whether singular or plural), and the **DOMINION ENERGY SOUTH CAROLINA, INC.**, a South Carolina corporation, having its principal office in Cayce, South Carolina, hereinafter called "Grantee".

WITNESSETH:

That, in consideration of the sum of One Dollar (\$1.00) received from Grantee, Grantor, being the owner of land situate in the County of **Beaufort**, State of South Carolina, hereby grants and conveys to Grantee, its successors and assigns, the right to construct, extend, replace, relocate, perpetually maintain and operate an overhead or underground electric line or lines consisting of any or all of the following: poles, conductors, lightning protective wires, municipal, public or private communication lines, cables, conduits, pad mounted transformers, guys, push braces and other accessory apparatus and equipment deemed by Grantee to be necessary or desirable, upon, over, across, through and under land described as follows: a tract or lot of land containing **25.00 acres**, more or less, and being the same lands conveyed to Grantor by deed of **Low Country School, Inc.**, dated or recorded **8/4/1988**, and filed in the Register of Deeds office for **Beaufort** County in **Deed Book 507 at Page 779**.

All that certain piece, parcel, or tract of land, lying and being in Bluffton Township and being shown in Plat Book 35 at Page 228. The easement is for the Grantee's facilities more fully shown on Exhibit "A", attached hereto and made a part hereof, as reference only.

TMS: R600 040 000 0005 0000

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

Together also with the right (but not the obligation) from time to time to trim, cut or remove trees, underbrush and other obstructions that are within, over, under or through a strip of land ("Easement Space") extending Fifteen (15) feet on each side of any pole lines and Five (5) feet on each side of any underground wires and within, over, under or through a section of land extending Twelve (12) feet from the door side(s) of any pad mounted transformers, elbow cabinets, switchgears or other devices as they are installed; provided, however, any damage to the property of Grantor (other than that caused by trimming, cutting or removing) caused by Grantee in maintaining or repairing said lines, shall be borne by Grantee; provided further, however, that Grantors agree for themselves, their successors and assigns, not to build or allow any structure to be placed on the premises in such a manner that any part thereof will exist within the applicable above specified Easement Space, and in case such structure is built, then Grantor, or such successors and assigns as may be in possession and control of the premises at the time, will promptly remove the same upon demand of Grantee herein. Grantor further agrees to maintain minimum ground coverage of thirty six (36) inches and maximum ground coverage of fifty four (54) inches over all underground primary electric lines. Together also with the right of entry upon said lands of Grantor for all of the purposes aforesaid.

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

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

WITNESS:

Beaufort County

By: _____ (SEAL)

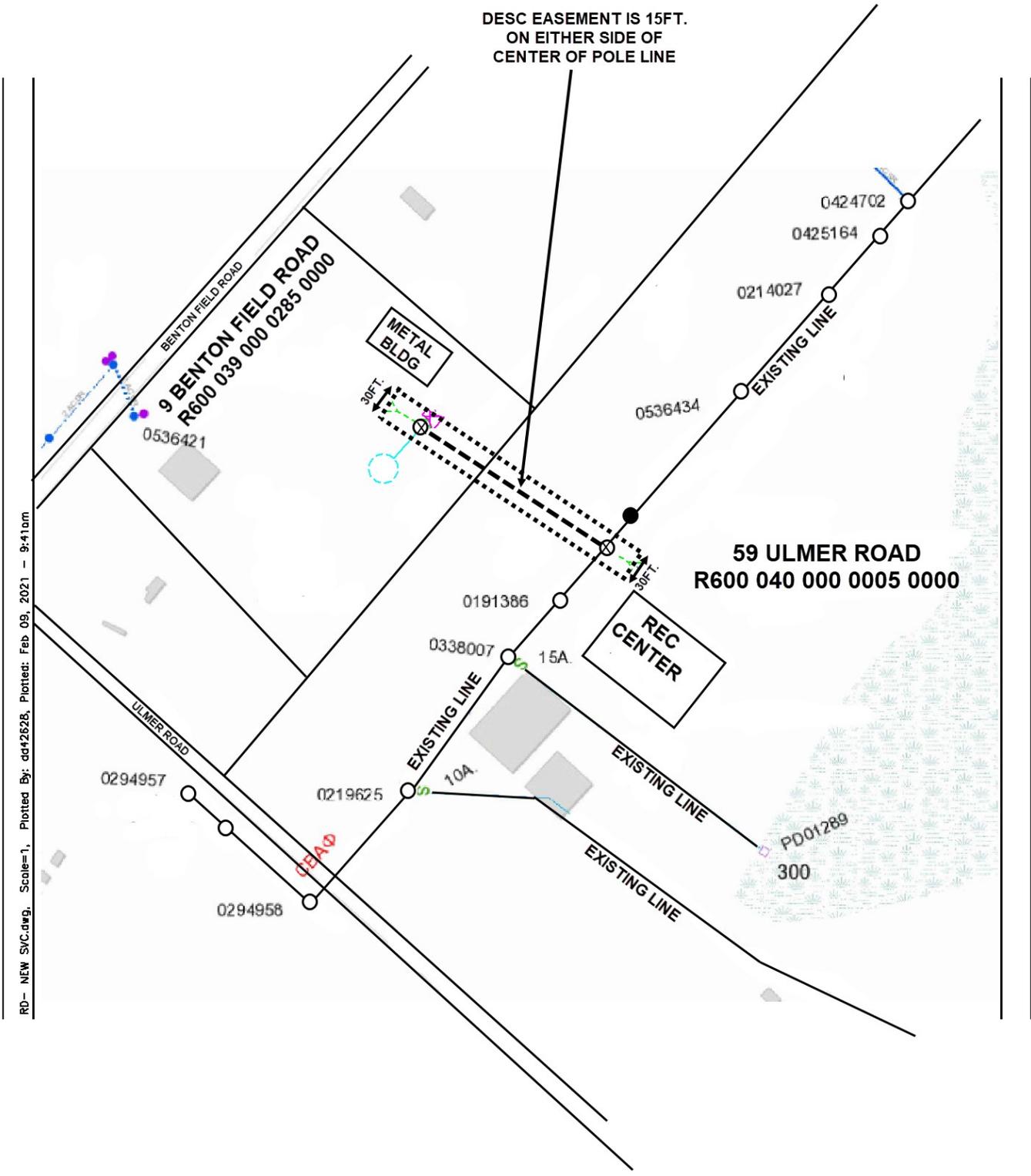
1st Witness

Print Name: _____

2nd Witness

Title: _____

EXHIBIT "A"



RD- NEW SVC.dwg, Scale=1, Plotted By: dd42628, Plotted: Feb 09, 2021 - 9:41am

Easement # 901551

INDENTURE, made this _____ day of _____, 2021 by and between **Beaufort County** of the State of South Carolina, hereinafter called "Grantor" (whether singular or plural), and the **DOMINION ENERGY SOUTH CAROLINA, INC.**, a South Carolina corporation, having its principal office in Cayce, South Carolina, hereinafter called "Grantee".

WITNESSETH:

That, in consideration of the sum of One Dollar (\$1.00) received from Grantee, Grantor, being the owner of land situate in the County of **Beaufort**, State of South Carolina, hereby grants and conveys to Grantee, its successors and assigns, the right to construct, extend, replace, relocate, perpetually maintain and operate an overhead or underground electric line or lines consisting of any or all of the following: poles, conductors, lightning protective wires, municipal, public or private communication lines, cables, conduits, pad mounted transformers, guys, push braces and other accessory apparatus and equipment deemed by Grantee to be necessary or desirable, upon, over, across, through and under land described as follows: a tract or lot of land containing **3.99 acres**, more or less, and being the same lands conveyed to Grantor by deed of **Alan A. Ulmer, Jr., etal**, dated or recorded **4/1/1992**, and filed in the Register of Deeds office for **Beaufort County** in **Deed Book 595 at Page 1746**.

All that certain piece, parcel, or tract of land, lying and being in Bluffton Township and being shown as 3.99 acres on a plat in Deed Book 595 at Page 1748. The easement is for the Grantee's facilities more fully shown on Exhibit "A", attached hereto and made a part hereof, as reference only.

TMS: R600 039 000 0285 0000

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

Together also with the right (but not the obligation) from time to time to trim, cut or remove trees, underbrush and other obstructions that are within, over, under or through a strip of land ("Easement Space") extending Fifteen (15) feet on each side of any pole lines and Five (5) feet on each side of any underground wires and within, over, under or through a section of land extending Twelve (12) feet from the door side(s) of any pad mounted transformers, elbow cabinets, switchgears or other devices as they are installed; provided, however, any damage to the property of Grantor (other than that caused by trimming, cutting or removing) caused by Grantee in maintaining or repairing said lines, shall be borne by Grantee; provided further, however, that Grantors agree for themselves, their successors and assigns, not to build or allow any structure to be placed on the premises in such a manner that any part thereof will exist within the applicable above specified Easement Space, and in case such structure is built, then Grantor, or such successors and assigns as may be in possession and control of the premises at the time, will promptly remove the same upon demand of Grantee herein. Grantor further agrees to maintain minimum ground coverage of thirty six (36) inches and maximum ground coverage of fifty four (54) inches over all underground primary electric lines. Together also with the right of entry upon said lands of Grantor for all of the purposes aforesaid.

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

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

WITNESS:

Beaufort County

By: _____ (SEAL)

1st Witness

Print Name: _____

2nd Witness

Title: _____

ORDINANCE NO. __

AN ORDINANCE CONSENTING TO THE INCLUSION OF CERTAIN PROPERTY IN A JOINT COUNTY INDUSTRIAL PARK WITHIN THE TOWN OF PORT ROYAL, SOUTH CAROLINA; APPROVING CERTAIN INTERGOVERNMENTAL AGREEMENTS BY AND BETWEEN THE TOWN AND BEAUFORT COUNTY, SOUTH CAROLINA; AND OTHER MATTERS RELATED THERETO.

NOW THEREFORE, be it ordained by the Town Council of the Town of Port Royal (the “*Town Council*”), the governing body of the Town of Port Royal, South Carolina (the “*Town*”), in a meeting duly assembled as follows:

Section 1 Findings. The Town Council hereby makes the following findings of fact in connection with the enactment of this ordinance (this “*Ordinance*”):

(1) The Town is a body politic and corporate located in Beaufort County, South Carolina (the “*County*”), entitled to exercise all the powers and privileges provided to municipal corporations in the State of South Carolina (the “*State*”).

(2) The County is authorized pursuant to Article VIII, Section 13(D) of the Constitution of South Carolina 1895, as amended, and Section 4-1-170 of the Code of Laws of South Carolina 1976, as amended (together, the “*MCIP Law*”) to enter into agreements (a “*Park Agreement*”) with other counties within the State for the purpose of creating joint county industrial and business parks (a “*Park*”). Pursuant to Section 4-1-170(C) of the MCIP Law, if any Park encompasses all or a portion of a municipality, the counties must obtain the consent of the municipality prior to the creation of the Park.

(3) Two companies, one identified as Project Burger (Triple B Restaurant Holdings, LLC) and another identified as Project Stone (REHC, LLC) (together, the “*Companies*”) have proposed establishing or expanding certain manufacturing facilities on property located within the County and the Town (the “*Projects*”), and have requested that the County place the Projects within a Park and enter into fee agreements pursuant to Title 12, Chapter 44 of the Code of Laws of South Carolina 1976, as amended, which provide for the payment a negotiated fee-in-lieu-of-tax (“*FILOT*”) with respect to certain property of the Companies.

(4) The Town and the County desire to enter into two separate Intergovernmental Agreements (together, the “*IGAs*”) pursuant to which the Town will evidence its consent to the inclusion of the Projects within a Park and the County will agree to a certain allocation of FILOTs paid with respect to property situated within the Park to the Town.

Section 2 Approval of IGAs. The IGAs, the forms of which are attached to this Ordinance at **Exhibits A and B**, respectively, are hereby approved. The Mayor is hereby authorized to execute and deliver the IGAs and, with the advice of counsel, to approve such changes to the final form of the IGAs as are necessary and convenient to carry out the intent of this Ordinance and which are not adverse to the interests of the Town, and the execution and the delivery of the final form of the IGAs by the Mayor is to serve as conclusive evidence of the approval thereof by the Town.

Section 3 Effective Date; Repealer. This Ordinance is to be effective as of the date of its second and final reading. All prior ordinances and resolutions conflicting with the provisions of this Ordinance are hereby repealed.

DONE AND ENACTED in a meeting duly assembled this ___ day of ___, 2021

**TOWN OF PORT ROYAL, SOUTH
CAROLINA**

Mayor

(SEAL)

ATTEST:

Clerk to Council

First Reading: _____, 2021
Second Reading: _____, 2021

EXHIBIT A

Form of Agreement – Project Burger

EXHIBIT B
Form of Agreement – Project Stone

RESOLUTION 2021/ 11

A RESOLUTION TO AUTHORIZE THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE A LEASE AGREEMENT BETWEEN BEAUFORT COUNTY, THE TOWN OF HILTON HEAD ISLAND AND THE HISTORIC MITCHELVILLE FREEDOM PARK FOR THE PROPERTY KNOWN AS THE BEACH CITY ROAD PARCELS

WHEREAS, Beaufort County (“County”) and the Town of Hilton Head Island (“Town”) are joint owners of certain real property in Beaufort County, South Carolina known as the Beach City Road parcels (R510 005 000 010A 000, R510 005 000 010B 0000, R510 005 000 010I 0000, R510 005 000 0248 0000, R510 005 000 0329 0000) (“Property”) on Hilton Head Island under and by virtue of deeds recorded in the Beaufort County Register of Deeds at Deed Book 3149, Page 1500 and Deed Book 3210, Page 2689, Beaufort County, South Carolina; and

WHEREAS, the County is the owner of a 50% undivided interest in the Property and the Town is the owner of a 50% undivided interest in the Property; and

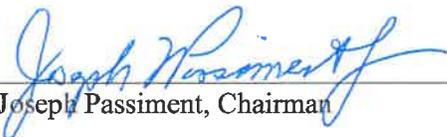
WHEREAS, the County and Town approved the Historic Mitchelville Freedom Park Landscape and Interpretive Master Plan dated February 2020, which illustrates the use of the Property by the Historic Mitchelville Freedom Park and is attached hereto and incorporated by reference as “Attachment A”; and

WHEREAS, the County, Town and the Historic Mitchelville Freedom Park wish to enter into a long-term lease agreement, which details the intended use, management, maintenance and operation of the Property for public access, education and interpretation.

NOW THEREFORE, BE IT RESOLVED, BY BEAUFORT COUNTY COUNCIL, duly assembled, does hereby authorize the Interim County Administrator to execute the Beach City Road Parcels Lease Agreement with the Town of Hilton Head Island and the Historic Mitchelville Freedom Park, attached hereto as “Attachment B” and incorporated herein fully as if repeated verbatim.

Adopted this 12th day of April, 2021.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: 
Joseph Passiment, Chairman

ATTEST:



Sarah Brock
Clerk to Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Contract extension for Phase II Planning Services to Wood and Partners, Inc. for completion of civil and architect plans for Whitehall Park
MEETING NAME AND DATE:
County Council, May 10, 2021
PRESENTER INFORMATION:
Stefanie M. Nagid, Passive Parks Manager 5 minutes
ITEM BACKGROUND:
Natural Resource Committee approved bid and contract for Phase I Planning Services in October 2019 Natural Resource Committee approved recommendation for Phase II Planning Services contract extension on May 3, 2021
PROJECT / ITEM NARRATIVE:
Wood and Partners, Inc. was the selected bidder in the planning services bid (RFP #073119) for Whitehall Park. The bid included a provision to allow the selected bidder to provide a proposal for Phase II planning services, which include civil and architect plans, permitting and geotechnical investigation, and construction oversight. Wood and Partners, Inc. has provided an acceptable proposal for Phase II planning services.
FISCAL IMPACT:
County Council approved a total of \$600,000 from the Rural and Critical bond funds to be used towards planning and construction of Whitehall Park (R2019/23 and R2019/49). To date, \$28,247.50 of those funds have been expended. Wood and Partners, Inc. proposal for Phase II planning services will encumber \$136,900 of funds in account 45020011-54417.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of the contract extension.
OPTIONS FOR COUNCIL MOTION:
Motion to approve a contract extension to Wood and Partners, Inc. in the amount of \$136,900 for Phase II Planning Services for Whitehall Park.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

Item 1.

ITEM TITLE:
Contract extension for Phase II Planning Services to Wood and Partners, Inc. for completion of civil and architect plans for Whitehall Park
MEETING NAME AND DATE:
Natural Resource Committee, May 3, 2021
PRESENTER INFORMATION:
Stefanie M. Nagid, Passive Parks Manager 10 minutes
ITEM BACKGROUND:
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PROJECT / ITEM NARRATIVE:
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FISCAL IMPACT:
County Council approved a total of \$600,000 from the Rural and Critical bond funds to be used towards planning and construction of Whitehall Park (R2019/23 and R2019/49). To date, \$28,247.50 of those funds have been expended. Wood and Partners, Inc. proposal for Phase II planning services will encumber \$136,900 of funds in account 45020011-54417.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of the contract extension.
OPTIONS FOR COUNCIL MOTION:
Motion to recommend approval to County Council for a contract extension to Wood and Partners, Inc. in the amount of \$136,900 for Phase II Planning Services for Whitehall Park.



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

TO: Councilwoman Alice Howard, Chairwoman, Natural Resources Committee

FROM: Dave Thomas, CPPPO, Purchasing Director

SUBJ: **Recommendation of Contract Extension for Whitehall Park Phase II Planning Services for Beaufort County**

DATE: April 16, 2021

BACKGROUND: On July 31, 2019, Beaufort County received eight proposals for planning services for Whitehall Park in Beaufort, South Carolina. This service included conceptual park planning, stakeholder workshops, and presentations to County and City councils. It also included a provision for the selected bidder to be approved to provide additional civil and architect planning services for project management consistency. The selected bidder at the time was Wood and Partners, Inc. The Passive Parks Manager would like to execute the additional services provision as provided for in the original bid solicitation and proposal and hire Wood and Partners, Inc. to provide Phase II planning services, which will include civil and architect drawings, construction details and specifications, permitting and geotechnical investigations, and construction oversight.

FUNDING: The Phase II planning services will cost \$136,900.00. Funding is from the Rural and Critical Preservation Bond Fund (45020011-54417), as approved by Council on May 28, 2019 via Resolution 2019/23. As of March 31, 2021, there was \$571,752.50 in the aforementioned account.

FOR ACTION: Natural Resources Committee meeting on Monday, May 3, 2021 and County Council on Monday, May 10, 2021.

RECOMMENDATION: The Planning and Zoning Department recommends that the Natural Resources Committee and County Council approve the contract extension to Wood and Partners, Inc. in the amount of \$136,900.00 for the aforementioned Phase II Planning Services from the funding source listed above.

CC: Eric Greenway, Interim County Administrator
 Pinky Harriot, Budget Director
 Robert Merchant, Planning and Zoning Department Director
 Stefanie M. Nagid, Passive Parks Manager



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
APPROVAL OF APPOINTMENT
MEETING NAME AND DATE:
COUNTY COUNCIL <ul style="list-style-type: none">MAY 10, 2021
PRESENTER INFORMATION:
COUNCIL CHAIRMAN PASSIMENT
ITEM BACKGROUND:
SOUTHERN BEAUFORT COUNTY CORRIDOR BEAUTIFICAN BOARD FOR GIRARD HOFFMAN 1st TERM - DISTRICT 5 EXPIRES IN 2025
PROJECT / ITEM NARRATIVE:
APPOINTMENT FOR GIRARD HOFFMAN TO SOUTHERN BEAUFORT COUNTY CORRIDOR BEAUTIFICAN BOARD APPROVED ON MAY 3, 2021 AT NATURAL RESOURCES COMMITTEE MEETING.
FISCAL IMPACT:
N/A
STAFF RECOMMENDATIONS TO COUNCIL:
APPROVE, MODIFY OR REJECT
OPTIONS FOR COUNCIL MOTION:
MOTION TO (APPROVE, MODIFY, REJECT) APPOINTMENT FOR GIRARD HOFFMAN TO SOUTHERN BEAUFORT COUNTY CORRIDOR BEAUTIFICAN BOARD FOR FINAL APPROVAL .



Item 2.

County Council of Beaufort County selects citizens for service on Council appointed Boards, Agencies, Commissions, Authorities and Committees from a roster of individuals who have either volunteered or have been recommended for appointment. The Clerk to Council uses this form to keep an up-to-date roster of volunteers and to provide Council basic information about each volunteer.

Top Three Priorities: Please indicate by placing a "1", "2", or "3" alongside your choices.

BOARDS AND COMMISSIONS

- ___ Accommodations Tax (2% State)
- ___ Airports
- ___ Alcohol and Drug Abuse
- 3** ___ Assessment Appeals
- ___ Beaufort County Transportation
- ___ Beaufort-Jasper Economic Opportunity
- ___ Beaufort-Jasper Water & Sewer
- ___ Beaufort Memorial Hospital
- ___ Bluffton Township Fire
- ___ Burton Fire
- ___ Coastal Zone Management Appellate (inactive)
- ___ Construction Adjustments and Appeals
- ___ Daufuskie Island Fire
- ___ Design Review
- ___ Disabilities and Special Needs
- ___ Economic Development Corporation
- ___ Forestry (inactive)
- ___ Historic Preservation Review
- ___ Keep Beaufort County Beautiful
- ___ Lady's Island / St. Helena Island Fire
- ___ Library
- ___ Lowcountry Council of Governments
- ___ Lowcountry Regional Transportation Authority
- ___ Parks and Recreation
- ___ Planning *
- ___ Rural and Critical Lands Preservation
- ___ Sheldon Fire
- ___ Social Services (inactive)
- 2** ___ Solid Waste and Recycling
- 1** ___ Southern Beaufort County Corridor Beautification
- ___ Stormwater Management Utility
- ___ Zoning

DATE: 2/17/2021 NAME: Girard Hoffman

BEAUFORT COUNTY VOTER REGISTRATION NUMBER: [REDACTED]

OCCUPATION: Retired

TELEPHONE: (Home) [REDACTED] Office) [REDACTED] EMAIL: [REDACTED]

HOME ADDRESS: [REDACTED] STATE: SC ZIP CODE: [REDACTED]

MAILING ADDRESS: [REDACTED] STATE: SC ZIP CODE: [REDACTED]

COUNTY COUNCIL DISTRICT: 1 2 3 4 5 6 7 8 9 10 11

ETHNICITY: Caucasian African American Other

Are you presently serving on a Board, Agency, Commission, Authority or Committee? Yes No

If "yes", what is the name of the board and when does term expire? _____

- Please return completed form and a brief resume' either Email or U.S. Mail:
 - o Email: boardsandcommissions@bcgov.net
 - o U.S. Mail: Clerk to Council, County Council of Beaufort County, P.O. Drawer 1228, Beaufort, SC. 29901
- Applications without a brief resume' cannot be considered.
- Applications will be held three (3) years for consideration.
- All information contained on this application is subject to public disclosure.

YOU MUST BE A BEAUFORT COUNTY REGISTERED VOTER TO APPLY
YOU MUST ATTACH YOUR RESUME' WITH THIS APPLICATION TO BE CONSIDERED
 An incomplete application will be returned

* Anyone submitting an application to serve on the Planning Commission must fill out the questionnaire on page 2.

Applicant's Signature: Girard F Hoffman

Submit by Email

Brief Resume for Volunteer Position

I have been a resident of Beaufort (Battery Shores subdivision) since December 2019. I have a BS degree in Business Administration with a concentration in accounting. I spent my working career as a corporate accountant, financial planner, and auditor. My interest in becoming a volunteer is to support Beaufort County in its mission. As a retiree I have time available to devote to the Board activities and responsibilities.

Girard F Hoffman

[Redacted contact information]

Vaughn, Tithanie

From: Weitz, Kristina <kweitz@bcgov.net>
Sent: Monday, March 22, 2021 9:55 AM
To: Vaughn, Tithanie
Subject: RE: Can you check ?

He is active and in CC 5.

Respectfully,

Kristina Weitz
Voter Registration and Elections Manager

Board of Voter Registration and Elections of Beaufort County
15 John Galt Road – Post Office Box 1228
Beaufort, SC 29906 – Beaufort, SC 29901
Voice: (843) 255-6900 -- Fax: (843) 255-9429 -- Website: <https://www.beaufortcountysc.gov/vote/>

From: Vaughn, Tithanie <tithanie.vaughn@bcgov.net>
Sent: Friday, March 19, 2021 15:12
To: Weitz, Kristina <kweitz@bcgov.net>
Subject: Can you check ?

Good Afternoon,

Can you check :

Girard Hoffman



T. Vaughn
Senior Administrative Assistant to Clerk to Council
Beaufort County Government, SC
843-255-2182 (Office)



“ Success isn’t about how much money you make, it’s about the difference you make in people’s lives. “ – Michelle Obama



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
APPROVAL OF APPOINTMENT
MEETING NAME AND DATE:
COUNTY COUNCIL MEETING <ul style="list-style-type: none">• May 10, 2021
PRESENTER INFORMATION:
COMMITTEE CHAIRMAN HOWARD
ITEM BACKGROUND:
APPOINTMENT OF GAIL MURRAY (District 1) FILL THE NORTHERN BEAUFORT COUNTY OPENING ON THE ZONING BOARD OF APPEALS.
PROJECT / ITEM NARRATIVE:
CONSIDERATION OF APPOINTMENT FOR GAIL MURRAY TO ZONING BOARD OF APPEALS APPROVED ON MAY 3, 2021 AT THE NATURAL RESOURCES COMMITTEE MEETING.
FISCAL IMPACT:
N/A
STAFF RECOMMENDATIONS TO COUNCIL:
APPROVE, MODIFY OR REJECT
OPTIONS FOR COUNCIL MOTION:
MOTION TO (APPROVE, MODIFY, REJECT) APPOINTMENT GAIL MURRAY TO ZONING BOARD OF APPEALS FOR FINAL APPROVAL .

Beaufort County Boards/Commissions Application

Date 03/29/2021 Name Gail E Murray

Beaufort County Voter Registration Number [Redacted] Occupation Community Support Specialist

Phone (Home) [Redacted] Phone (Office) [Redacted] Email [Redacted]

Home Address [Redacted]

City [Redacted] State SC Zip Code [Redacted]

Mailing Address [Redacted]

City Yemassee State SC Zip Code [Redacted]

District 1 Ethnicity African American

Presently Serving on a Board/Agency/Commission/Authority or Committee?

Yes No

BOARDS AND COMMISSIONS

Top Three Priorities: Please indicate by placing a "1", "2", or "3" alongside your choices.

Accommodations Tax (2% State)

Airports

Alcohol and Drug Abuse

Assessment Appeals

Beaufort County Transportation

Beaufort -Jasper Economic Opportunity

Beaufort -Jasper Water & Sewer

Beaufort Memorial Hospital

Bluffton Township Fire

Burton Fire

Coastal Zone Management Appellate (inactive)

Construction Adjustments and Appeals

Daufuskie Fire

Design Review

DSN

Economic Development Corporation

Forestry (inactive)

Historic Preservation Review

Keep Beaufort County Beautiful

Lady's Island / St. Helena Island Fire

Library

2

Lowcountry Council of Governments

Lowcountry Regional Transportation Authority

Parks and Recreation

Planning *

Rural and Critical Lands Preservation

1

Sheldon Fire

Social Services (inactive)

Solid Waste and Recycling

Southern Beaufort County Corridor Beautification

Stormwater Management Utility

3

Zoning

**Beaufort County Planning Commission
Supplemental Application Questionnaire**

This questionnaire will assist the County Council in assessing your qualifications and experience for the Planning Commission vacancy.

Please explain why you want to serve on the Planning Commission.

What qualifications, experience and expertise make you a good candidate for the Planning Commission?

What role do you feel the Planning Commission plays in making Beaufort County a desirable community in which to live and work?

What do you believe are the most important planning issues facing the County during the next five years?

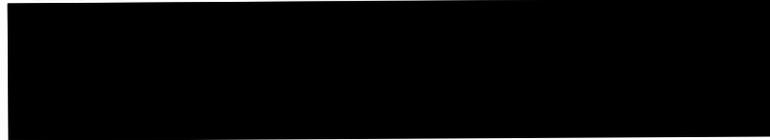
What previous experience have you had in serving on a Planning Commission? Give some examples of the items typically handled by the Planning Commission.

Attachments

 Gail Murray resume.docx

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GAIL MURRAY



Provide leadership and accountability in providing case management coordination services to include assessing, counseling, monitoring, planning, advocacy, and direct intervention to enable persons with disabilities to achieve and maintain competitive employment.

EDUCATION

OCTOBER 2005

MASTER OF ARTS, WEBSTER UNIVERSITY

Rehabilitation Counseling

MAY 2003

BACHELOR OF ARTS, UNIVERSITY OF SOUTH CAROLINA – BEAUFORT

Interdisciplinary Studies

CERTIFICATIONS AND ACTIVITIES

05/2007 Completed a Professional Development Leadership Program (PDLP) certification

06/2017 Nonviolent Crisis Prevention Intervention (CPI) certification

2017 Chairperson for the Vocational Assessment work group appointed to streamline and restructure the assessment procedures statewide for SC Vocational Rehabilitation.

2017 Wrote new job descriptions for several positions at the request of the Vocational Rehabilitation's Commissioner.

REFERENCES

- Carol Anderson - PO Box 15 West Columbia, SC 29170 – 843-230-4933 – canderson@SCVRD.net
- Felicia Johnson – PO Box 15 West Columbia, SC 29170 – 803-361-8711 – fphnson@SCVRD.net
- Allison Kitler – 919 Thunderbolt Dr. Walterboro, SC 29488 – 843-908-1179 – akitler@SCVRD.net

GAIL MURRAY

SKILLS

- Proficient in SCEIS and Covey
- Proficient in Microsoft Office (Outlook, Word, PowerPoint, Excel)
- Ability to analyze and evaluate complex issues
- Case Management
- Presenting information and negotiating resolutions
- Ability to lead and direct others

EXPERIENCE

10/2019- PRESENT

COMMUNITY SUPPORT SPECIALIST, BEAUFORT-JASPER EOC, INC.

Provide intake assistance to individuals following policies, procedures, case management procedures, administrative guideline and oral and written instructions. Make appropriate referrals for individuals to receive services from other agencies, programs, organizations, etc.

07/2015 – 06/2018

AREA DEVELOPMENT DIRECTOR, SC VOCATIONAL REHABILITATION DEPT.

Provide advanced planning, direction, and management to area/client services, supervisors, and agency officials towards the achievement of the agency mission of employment for eligible individuals with disabilities. Serve as an advanced resource in advising agency leadership and staff members on complex programmatic issues.

07/2008 – 06/2015

AREA SUPERVISOR, SC VOCATIONAL REHABILITATION DEPT.

Provided general/specific supervision of programmatic and administrative functioning of the assigned local area office operations in its mission to assist eligible clients to prepare for, achieve, and maintain competitive employment.

07/2007 – 06/2008

AREA CLIENT SERVICES MANAGER, SC VOCATIONAL REHABILITATION DEPT.

Serve as primary trainer for all staff regarding client service delivery and the rehabilitation process. Identify area trends and follow up on findings from QA. Develop training to address areas of concern to educate the staff on new initiatives, processes, policy changes, etc.

03/2006 – 06/2007

COUNSELOR, SC VOCATIONAL REHABILITATION DEPT.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
<i>Commercial Property Lease Agreement –30 Hunter Road, Hilton Head Island, SC 29926 - APAC-Atlantic Inc. (Fiscal impact: \$12,600.00 Incoming Funds)</i>
MEETING NAME AND DATE:
<i>Public Facilities Committee – April 19, 2021</i>
PRESENTER INFORMATION:
<i>Jared Fralix, PE, ACA Engineering Jon Rembold, C.M. Airports Director (alternate) (5 minutes)</i>
ITEM BACKGROUND:
<i>The property at 30 Hunter Road has been acquired by Beaufort County as of 4/1/2020 as part of the phased expansion of the aircraft ramp, the passenger terminal, and vehicle parking. The long-term plan for the property and the buildings includes demolition and use of the property as part of the airport projects.</i>
PROJECT / ITEM NARRATIVE:
<i>Since the buildings do not need to be removed from the property immediately, there is an opportunity to enter into a short-term lease with APAC-Atlantic, Inc., the contractor for the aircraft ramp expansion project. The contractor will use the facility as a project office for the duration of the project. This provides a financial benefit to the County through lease income.</i>
FISCAL IMPACT:
<i>Beaufort County/Hilton Head Island Airport will receive \$12,600.00 for a 6-month lease to APAC-Atlantic, Inc.</i>
STAFF RECOMMENDATIONS TO COMMITTEE:
<i>Approve the short-term lease agreement between Beaufort County and APAC-Atlantic, Inc.</i>
OPTIONS FOR COMMITTEE MOTION:
<i>Motion to approve /deny the 6 month lease agreement to APAC-Atlantic, Inc.</i>
Next step: County Council Meeting –April 26, 2021

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

**COMMERCIAL PROPERTY
LEASE AGREEMENT**

THIS COMMERCIAL PROPERTY LEASE AGREEMENT (“Lease”) is made and entered into this 1st day of April, 2021, by and between **Beaufort County**, a political subdivision of the State of South Carolina, hereinafter referred to as “Landlord” and APAC – Atlantic, Inc. hereinafter referred to as “Tenant”, collectively referred to as the “Parties”.

NOW, THEREFORE, Landlord, for and in consideration of the rents paid and to be paid, and the covenants, conditions, and stipulations to be kept and performed by Tenant, has granted, bargained, and conveyed for a month-to-month tenancy and by these presents does grant, bargain and convey unto Tenant, for the premises described herein below.

I. DESCRIPTION OF LEASED PREMISES. The premises to be conveyed is located at **30 Hunter Road (building 2 Suite C), Hilton Head Island, SC 29926**, hereinafter referred to as “Premises”.

II. RENTAL PAYMENT

2.1 *Payment of Rent.* Tenant shall pay to Landlord the monthly rental payments as described in this Section (“Rent”) during the Lease Term. If occupancy begins and/or ends on any day other than the first day of a month, rent shall be prorated for the month of commencement and/or month of termination and monthly rent collected in advance thereafter.

2.1.1 The term Rent shall be used in this Lease to describe the monthly rental amount owed during any term of tenancy, and is to include the Initial Rent when applicable according to the terms set forth in this Section.

2.1.2 *Initial Rent.* The initial monthly rental payment shall be in the amount of **Two Thousand, One Hundred (\$2,100.00) Dollars** (“Initial Rent”). The Initial Rent shall be effective as of the Commencement Date and shall remain in effect through the Lease Term or any Renewal Term.

2.2 *Payment of Rent.* The first rental payment shall be made on or before the Commencement Date. Tenant shall pay all rents due and owing, without deduction or set off, to Landlord at the address set forth in Section 10. All rental payments shall be made in the form of check or wire transfer.

2.3 *Late Payment of Rent.* Any rents not paid within five (5) days of the due date shall be deemed late and shall obligate Tenant to pay a late charge of ten percent (10%) of the sum then due.

2.4 *Security Deposit.* No Security Deposit required.

III. TERM, ASSIGNMENT AND SUBLETTING

3.1 *Term.* The lease term shall be for a term of months commencing on April 1st, 2021 (“Commencement Date”) and terminating on September 30, 2021 (“Termination Date”), hereinafter the Lease Term.

3.2 *Renewal.* This Lease may be renewed on a month-to-month basis if agreed upon in writing by the Parties; any one renewal term will be for a period not to exceed thirty (30) days (“Renewal Term”).

3.3 *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 demised premises, including the grounds and all buildings and improvements, and that they are, at the time of this Lease, in good order, repair, and in a safe, clean and tenantable condition. Tenant certifies that all conditions

required of the Landlord shall be fulfilled and that there are no defenses to the enforcement of the Lease by the Landlord.

Tenant is fully familiar with the physical condition of the Premises. 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 (following Section 9) to Landlord, terminate this Lease.

- 3.4 *Holding Over.* In no event shall there be any renewal of this Lease by operation of law, unless mutually agreed upon by the Parties, and if Tenant remains in possession of the Premises after the termination of this Lease and without a renewal or a new lease, Tenant shall be deemed to occupy the Premises as a tenant at will at a base rental rate equal to one hundred fifty percent (150%) percent of the existing rental rate together with percentage rent as provided under this Lease, and otherwise subject to all the covenants and provisions of this Lease insofar as the same are applicable to a month-to-month tenancy.
- 3.5 *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.
- IV. TERMINATION.** This Lease shall end on the Termination Date stated in Section 3.1 of this Lease. This Lease may be terminated by Landlord prior to the Termination Date upon providing a thirty (30) day notice from Landlord to Tenant and/or upon the occurrence of any default event as set forth in Section 9. **Tenant shall have no penalty for terminating this Lease prior to the Termination Date or prior to the end of any Renewal Term.**
- 4.1 *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.
- V. UTILITIES and MAINTENANCE.**
- 5.1 *Utilities.* **Landlord** agrees to provide, at its cost, **water and electricity.** Tenant shall be responsible for paying all other 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 gas, 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.
- 5.2 *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.
- VI. USE AND REPAIRS OF PREMISES**
- 6.1 *Use of Premises.* Tenant shall use the Premises for the sole purpose of conducting businesses as APAC-Atlantic, Inc. 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.

- 6.2 *Repairs of Premises.* Tenant shall at its own expense keep the Premises in good repair. Tenant shall not perform any additional work 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, pay to Landlord an amount sufficient to cover the repairs. The Landlord shall provide an itemized accounting of all amounts so sought for compensation.

VII. 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.

VIII. INSURANCE LIABILITY AND INDEMNIFICATION

- 8.1 *Insurance Liability.* Tenant hereby covenants and agrees to obtain and carry Commercial General Liability insurance during the tenancy in its entirety, whereby Tenant shall name the Landlord as an additional insured party and shall provide Landlord with a Certificate of Insurance. Tenant agrees to carry and will cause Tenant's subcontractors to carry workman's compensation and general liability insurance, personal and property damage insurance naming the Landlord as an additional insured party thereunder and shall provide Landlord with a Certificate of Insurance evidencing the same prior to commencement of the utilization of the Premises. All contracts and subcontracts shall expressly provide that Tenant or subcontractor shall hold Landlord harmless from and against any and all liability which may arise out of the work to be performed thereunder. If any mechanic's or other lien is filed against the Demised 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.

- 8.2 *Indemnity.* Tenant shall indemnify and shall hold the Landlord harmless from and defend the Landlord against any and all claims, demands, liability, costs, losses or expenses (including attorney's fees and costs) for any injury or death to any person or damage to any property whatsoever arising out of any act or omission of the Tenant or his agents, employees, contractors, invitees, licensees, tenants or assignees unless said claims, demands, liability, costs, losses in expenses (including attorney's fees and costs) result from Landlord's negligence or failure to perform any of Landlord's obligations hereunder. In case any action or proceeding is brought against the Landlord by reason of any such claims or liability, the Tenant agrees to cause such action or proceeding to be defended at its sole expense; provided, however, if the claim, demand or suit is a result of the active negligence of the Landlord and not a condition of the Premises for which Tenant has assumed responsibility then Tenant shall have no duty to defend the Landlord. The provisions of this Lease with respect to any claims or liabilities occurring or caused prior to any termination of this Lease shall survive such termination.

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 thereof.
 - (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 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 pursuant to the provisions of subparagraph 7.2(b) 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.

X. MISCELLANEOUS PROVISIONS

10.1 *Addresses and Notices.* All notices or other communications required or desired to be given with respect to this Lease shall be in writing and shall be delivered by hand or by recognized national courier service to the Premises (if to Tenant) or the address hereinafter provided, or sent by certified mail, return receipt requested, bearing adequate postage and properly addressed as hereinafter provided. Each notice given by mail shall be deemed given and received on the date such notice shall have been postmarked by the U.S. Postal Service; each notice delivered by hand or by courier service shall be deemed to have been given and received when actually received by the party intended to receive such notice. In the event of a change of address by either party, such party shall give written notice thereof in accordance with the foregoing, except that such notice of change of address shall be deemed to have been given only when actually received.

If to Landlord, To: Beaufort County Administrator
P.O. Drawer 1228
Beaufort, SC 29901

With Copy to: Beaufort County Airport
Attn: Jon Rembold, Airport Director
120 Beach City Road
Hilton Head Island, SC 29926
Phone: 843-255-2952
jrembold@bcgov.net

If to Tenant, To: APAC –Atlantic, Inc.
A CRH Company
Attn: Martin Blake, Project Manager, GA/SC Region
47 Telfair Place
Savannah, GA 31415
Phone: 912-443-3428
Email: blake.martin@apacatlantic.com

10.2 *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.

- 10.3 *Parking.* Each Tenant and their guests, invitees and employees of Tenant shall have a non-exclusive access to all parking spaces contained within the common area.
- 10.4 *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.
- 10.5 *Subordination and Attornment.* This Lease and all rights of Tenant hereunder are and shall be subject and subordinate to the lien of any mortgage, or other instrument in the nature thereof which may now or hereafter affect Landlord's fee title to the Premises and to any other instrument encumbering the fee title of the Premises and to any modifications, renewals, consolidations, extensions, or replacements thereof. In confirmation of such subordination, Tenant shall, upon demand, at any time or times, execute, acknowledge and deliver to Landlord or the holder of any such mortgage, or other instrument, without expense, any and all instruments that may be requested by Landlord to evidence the subordination of this Lease and all rights hereunder to the lien of any such mortgage, or other instrument, and each such renewal, modification, consolidation, replacement, and extension thereof. If the holder of any mortgage, or other instrument encumbering the fee title of the Premises shall hereafter succeed to the rights of Landlord, whether through conveyance or judicial sale, Tenant shall attorn to and recognize such successor as Tenant's landlord under this Lease and shall promptly execute and deliver any instrument that may be necessary to evidence such attornment. Upon such attornment, this Lease shall continue in full force and effect as a direct lease between such successor Landlord and Tenant, subject to all of the terms, covenants, and conditions of this Lease.
- 10.6 *Severability.* If any clause or provision of this Lease is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining parts of this Lease shall not be affected thereby, unless such invalidity is essential to the rights of both Parties in which event either Landlord or Tenant shall have the right to terminate this Lease upon written notice to the other party.
- 10.7 *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.
- 10.8 *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.
- 10.9 *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.
- 10.10 *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.
- 10.11 *Time is of the Essence.* Time is of the essence of this Lease.

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

LANDLORD:

Witness

Eric L. Greenway
Interim Beaufort County Administrator

Witness

TENANT:

Witness

By: Blake Martin
APAC-Atlantic, Inc. Project Manager

Witness