



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

Chairman

Joseph F. Passiment, JR.

Vice Chairman

D. Paul Sommerville

Council Members

Michael E. Covert

Gerald Dawson

Brian E. Flewelling

York Glover, SR.

Chris Hervochon

Alice G. Howard

Mark Lawson

Lawrence P. McElynn

Stu Rodman

County Administrator

Ashley M. Jacobs

Clerk to Council

Sarah W. Brock

Administration Building

Robert Smalls Complex

100 Ribaut Road

Contact

Post Office Drawer 1228

Beaufort, South Carolina 29901-1228

(843) 255-2180

www.beaufortcountysc.gov

County Council Agenda

Monday, April 13, 2020 at 6:00 PM

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

THIS MEETING WILL CLOSED TO THE PUBLIC. CITIZEN COMMENTS AND PUBLIC HEARING COMMENTS WILL BE ACCEPTED IN WRITING VIA EMAIL TO THE CLERK TO COUNCIL AT SBROCK@BCGOV.NET OR PO DRAWER 1228, BEAUFORT SC 29901. CITIZENS MAY ALSO CALL 843-255-2041 TO SIGN UP FOR PUBLIC COMMENT PARTICIPATION BY PHONE AND CAN COMMENT DURING THE MEETING THROUGH FACEBOOK LIVE

1. CALL TO ORDER – Chairman Passiment
2. PLEDGE OF ALLEGIANCE AND INVOCATION - Council Member Flewelling
3. APPROVAL OF AGENDA
4. CHAIRMAN'S MINUTE
5. ADMINISTRATOR'S REPORT

PROCLAMATIONS

6. Proclamation of Beaufort County Council declaring March as Sexual Assault Awareness Month

CITIZEN COMMENTS

7. CITIZEN COMMENT - (Every member of the public who is recognized to speak shall limit comments to three minutes - Citizens may email sbrock@bcgov.net, comment on our Facebook Live stream or call 843-255-2041 to participate in Citizen Comment)

COMMITTEE REPORTS

8. LIAISON AND COMMITTEE REPORTS

PUBLIC HEARINGS AND ACTION ITEMS

9. Public Hearing and Second Reading of an Ordinance authorizing the conveyance of real property associated with boundary of 50' Right of Way known as Fiddler Drive located on Lady's Island

10. Public Hearing and Second Reading of an Ordinance authorizing the County Administrator to execute a Facility Use Agreement encumbering property owned by Beaufort County known as Fort Fremont Preserve

11. Public Hearing and Second Reading of an Ordinance authorizing the County Administrator to execute the Widgeon Point Preserve 2020 Joint Ownership and Operating Agreement with the Beaufort County Open Land Trust

- [12.](#) Public Hearing and Second Reading of an Ordinance amending Beaufort County Ordinance Number 1975-2, EMS Service Fees
- [13.](#) Public Hearing and Third Reading of an Ordinance amending the Beaufort County Code of Ordinances, Section 74-64, Adoption of Building Codes
- [14.](#) Public Hearing and Third Reading of an Ordinance authorizing the County Administrator to execute two lease agreements encumbering property owned by Beaufort County known as a portion of TMS#R600 013 000 0005 0000, R600 013 000 003C 0000, AND R600 008 000 003F 0000 [Olsen Tract]
- [15.](#) Public Hearing and Third Reading of an Ordinance to appropriate grant awards to local entities from the County's Local (3%) Accommodations Tax and Local Hospitality Tax Collections for the year ending June 30, 2019
- [16.](#) Public Hearing and Third Reading of an Ordinance conveying real property (right of way) from Beaufort County to SCDOT - For the Boundary Street Renovation Project

CONSENT AGENDA

17. Consent Agenda (Please look to page 3)

EXECUTIVE SESSION

18. Pursuant to SC Code Section 30-4-70(2) the receipt of legal advice where the legal advice relates to a pending claim, or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the county in an adversary situation involving the assertion against the county of a claim.
19. **Matters Arising Out of the Executive Session**

END OF EXECUTIVE SESSION

20. CITIZEN COMMENT - (Every member of the public who is recognized to speak shall limit comments to three minutes - Citizens may email sbrock@bcgov.net, comment on our Facebook Live stream or call 843-255-2041 to participate in Citizen Comment)
21. ADJOURNMENT

CONSENT AGENDA

Items Originating from the Community Services Committee

- [1.](#) First Reading of an Ordinance regarding a Local Option Sale Tax Referendum Ordinance
- [2.](#) Request for an enterprise software conversion from an on-premise to Software as a Service (SaaS)

Items Originating from the Natural Resources Committee

- [3.](#) An Ordinance authorizing the County Administrator to Execute the Necessary Documents for the purchase of approximately 12 Acres of Real Property known as Tax Map Serial Numbers R100 020 000 0165 0000, R100 020 000 047C 0000, AND R100 020 000 0047 0000 and also known as the Port Royal Island Battlefield.

END OF CONSENT AGENDA



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY ASSOICATED WITH BOUNDARY OF 50' RIGHT OF WAY KNOWN AS FIDDLER DRIVE LOCATED ON LADY'S ISLAND

Council Committee:

Public Facilities Committee

Meeting Date:

April 6, 2020

Committee Presenter (Name and Title):

Brittany Ward, Beaufort County Deputy Attorney; Patty Wilson, Beaufort County Right of Way Manager

Issues for Consideration:

Beaufort County paved Fiddler Drive as part of paving contract 31. During this time period, County Maintained roads were considered prescriptive Right of Way and although the County does not have a clear instrument of ownership, plats dating back to the 1970's and prior Beaufort County Tax maps designate Fiddler Drive as a ROW. The County has maintained the road for over 25 years. County paving plans are dated May 12, 2006 with County Council approval of the paving contractor on June 26, 2006. County Council also approved restriping of the road on October 27, 2014. The County has invested a lot of time and money into improving and maintaining the road. Title research reflects the County's interest in the road. Surveys and plats of surrounding subdivisions and parcels include the 50' ROW so there does not appear to be a conflict of ownership with other adjacent properties.

Points to Consider:

Green Heath, LLC is trying to clear up acreage discrepancies associated with parcel R200 010 000 0022 0000 which abuts Fiddler Drive on Lady's Island. Green Heath, LLC is requesting a Quit Claim Deed and Certificate of Abandonment associated with a "GAP" area outside the platted 50 ROW. Green Heath, LLC has provided a Quit Claim Deed for any interest they have in Fiddler Drive. By the County accommodating Green Heath, LLC, the County will also have recorded documents that can be used in support of the County's claim on the ROW.

Funding & Liability Factors:

Fiddler Drive is a County Maintained Road with Liability responsibilities.

Council Options:

Approve or disapprove County Quit Claim Deed and Certificate of Abandonment to Green Heath, LLC and Quit Claim Deed From Green Heath, LLC to County

Recommendation:

Approve County Quit Claim Deed and Certificate of Abandonment to Green Heath, LLC and Quit Claim Deed From Green Heath, LLC to County

ORDINANCE 2020/ ____

**AN ORDINANCE AUTHORIZING THE CONVEYANCE OF REAL PROPERTY
ASSOCIATED WITH BOUNDARY OF 50' RIGHT OF WAY KNOWN AS FIDDLER
DRIVE LOCATED ON LADY'S ISLAND**

WHEREAS, Beaufort County ("County") has ownership interests in the Right of Way known as Fiddler Drive located on Lady's Island, said interest is supported by County maintenance history in excess of 25 years, plats dating back to the 1970's and prior County Tax Maps; and

WHEREAS, the County paved Fiddler Drive as part of contract 31 according to Road Improvement Plans dated May 12, 2006 designed by Beaufort County Engineering Department; and

WHEREAS, Green Heath, LLC is trying to clear up a boundary gap between Fiddler Drive 50' Right of way and parcel R200 010 000 0022 0000 which abuts Fiddler Drive Right of Way; and

WHEREAS, Green Heath, LLC is requesting Beaufort County grant a Quit Claim Deed attached as Exhibit "A" and an associated Certificate of Abandonment attached as Exhibit "B"; and

WHEREAS, Green Heath, LLC desires to grant Beaufort County any interest in Fiddler Drive 50' Right of Way more particularly described in the Quit Claim Deed attached as Exhibit "C"; and

WHEREAS, Beaufort County Council has determined that it is in its best interest to convey to Green Heath, LLC real property described in Quit Claim Deed attached as Exhibit "A" and the associated Certificate of Abandonment attached as Exhibit "B" and accept conveyance from Green Heath, LLC a Quit Claim Deed for Right of Way associated with Fiddler Drive as described in attached Exhibit "C"; and

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

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

1. the County Administrator is hereby authorized to execute the quit claim deed referenced herein and as shown in Exhibit A; and
2. the County Administrator is hereby authorized to execute the Certificate of Abandonment referenced herein and as shown in Exhibit B; and

3. the County Administrator is hereby authorized to accept conveyance of real property associated with 50' Right of Way known as Fiddler Drive from Green Heath, LLC referenced herein and as shown in Exhibit C.

DONE this ____ day of _____ 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

Third and Final Reading:

Public Hearing:

Second Reading:

First Reading:

Exhibit "A"
Beaufort County Quit Claim Deed to Green Heath, LLC

Exhibit "A"

----- SPACE ABOVE THIS LINE FOR RECORDING DATA -----

Return recorded document to:

David L. Tedder, P.A..
1001 Craven Street
Beaufort, SC 29902

STATE OF SOUTH CAROLINA

QUITCLAIM DEED

COUNTY OF BEAUFORT

KNOW ALL MEN BY THESE PRESENTS, that **BEAUFORT COUNTY**, a political subdivision of the State of South Carolina (hereinafter "Grantor"), in consideration of the sum of Ten and NO/100 Dollars (\$10.00), to Grantor in hand paid at and before the sealing of these presents by **GREEN HEATH, LLC**, a South Carolina limited liability company (hereinafter "Grantee"), whose address is c/o Fred Trask, P.O. Box 1256, Beaufort, SC 29901, for which the receipt whereof is hereby acknowledged, has granted, bargained, conveyed, released and does forever quitclaim unto the said Grantee, its Successors and Assigns forever, all of Grantor's right, title and interest in and to the following described property, to-wit:

SEE ATTACHED LEGAL DESCRIPTION

TOGETHER with all and singular, the rights, members, hereditament and appurtenances to the said Premises belonging, or in anywise incident or appertaining thereto.

TO HAVE AND TO HOLD, all and singular, the said premises before mentioned unto the said Grantee, its Successors and Assigns, forever – so that neither the said Grantor nor its successors and assigns, nor any other person or persons, claiming under Grantor or them, shall at any time hereinafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part of parcel thereof, forever.

WITNESS the Hand and Seal of the undersigned, this _____ day of _____, 2020.

**BEAUFORT COUNTY, a political subdivision of the State
of South Carolina**

By: _____
Ashley M. Jacobs, County Administrator

WITNESSES:

Signature of 1st Witness

Signature of 2nd Witness/Notary Public

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

I, _____ the undersigned Notary Public, do certify that Ashley M. Jacobs, County Administrator of Beaufort County, a political subdivision of the State of South Carolina, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my official seal this _____ day of _____, 2020.

Notary Public
Name of Notary: _____
My Commission Expires: _____

[NOTARIAL SEAL]

EXHIBIT "A"

LEGAL DESCRIPTION

ALL that certain piece, parcel or tract of land situate, lying and being on Lady's Island, Beaufort County, South Carolina, containing 0.603 acres, more or less, and being more particularly shown and designated as "Area 1 (To Be Acquired By Parcel A) 26,286.56 Sq. Ft. 0.603 Ac" on Sheet 1 of 3 on that certain plat prepared by Jeremy W. Reeder, P.L.S., last revised January 3, 2020, and recorded in Plat Book _____ at Page _____ 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.

ALSO, ALL that certain piece, parcel or tract of land situate, lying and being on Lady's Island, Beaufort County, South Carolina, containing 0.050 acres, more or less, and being more particularly shown and designated as "Area 2 (To Be Acquired By Parcel B, 2,181.32 Sq. Ft. 0.050 Ac" on Sheet 1 of 3 on that certain plat prepared by Jeremy W. Reeder, P.L.S., last revised January 3, 2020, and recorded in Plat Book _____ at Page _____ 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.

Exhibit “B”
Beaufort County Certificate of Abandonment

Exhibit “B”

EXHIBIT "A"
LEGAL DESCRIPTION

ALL that certain piece, parcel or tract of land situate, lying and being on Lady's Island, Beaufort County, South Carolina, containing 0.603 acres, more or less, and being more particularly shown and designated as "Area 1 (To Be Acquired By Parcel A) 26,286.56 Sq. Ft. 0.603 Ac" on Sheet 1 of 3 on that certain plat prepared by Jeremy W. Reeder, P.L.S., last revised January 3, 2020, and recorded in Plat Book _____ at Page _____ 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.

ALSO, ALL that certain piece, parcel or tract of land situate, lying and being on Lady's Island, Beaufort County, South Carolina, containing 0.050 acres, more or less, and being more particularly shown and designated as "Area 2 (To Be Acquired By Parcel B, 2,181.32 Sq. Ft. 0.050 Ac" on Sheet 1 of 3 on that certain plat prepared by Jeremy W. Reeder, P.L.S., last revised January 3, 2020, and recorded in Plat Book _____ at Page _____ 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.

Exhibit “C”

Green Heath, LLC Quit Claim to Deed Beaufort County

Exhibit “C”

Prepared in the Law Office of David L. Tedder, P.A., 1001 Craven Street, Beaufort, SC 29902 **without benefit of title examination and without title certification**

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) QUIT-CLAIM DEED

KNOW ALL MEN BY THESE PRESENTS, That **GREEN HEATH, LLC, a South Carolina limited liability company** (hereinafter "Grantor"), in consideration of the premises and also in consideration of the sum of **TEN AND NO/100 (\$10.00) DOLLARS** to Grantor in hand paid at and before the sealing and delivery of these presents by **BEAUFORT COUNTY, a political subdivision of the State of South Carolina** (hereinafter "Grantee"), whose address is **P. O. Drawer 1228, Beaufort, SC 29901** (the receipt whereof is hereby acknowledged) has remised, released and forever quit-claimed, subject to the easements, restrictions, reservations and conditions ("Exceptions"), if any, and by these presents does remise, release and forever quit-claim unto the said Grantee, its Successors and Assigns forever, all of Grantor's right, title and interest in and to the following described real estate, to-wit:

SEE ATTACHED LEGAL DESCRIPTION

THIS CONVEYANCE IS MADE SUBJECT TO: All covenants, restrictions, easements and rights-of-ways of record affecting the property.

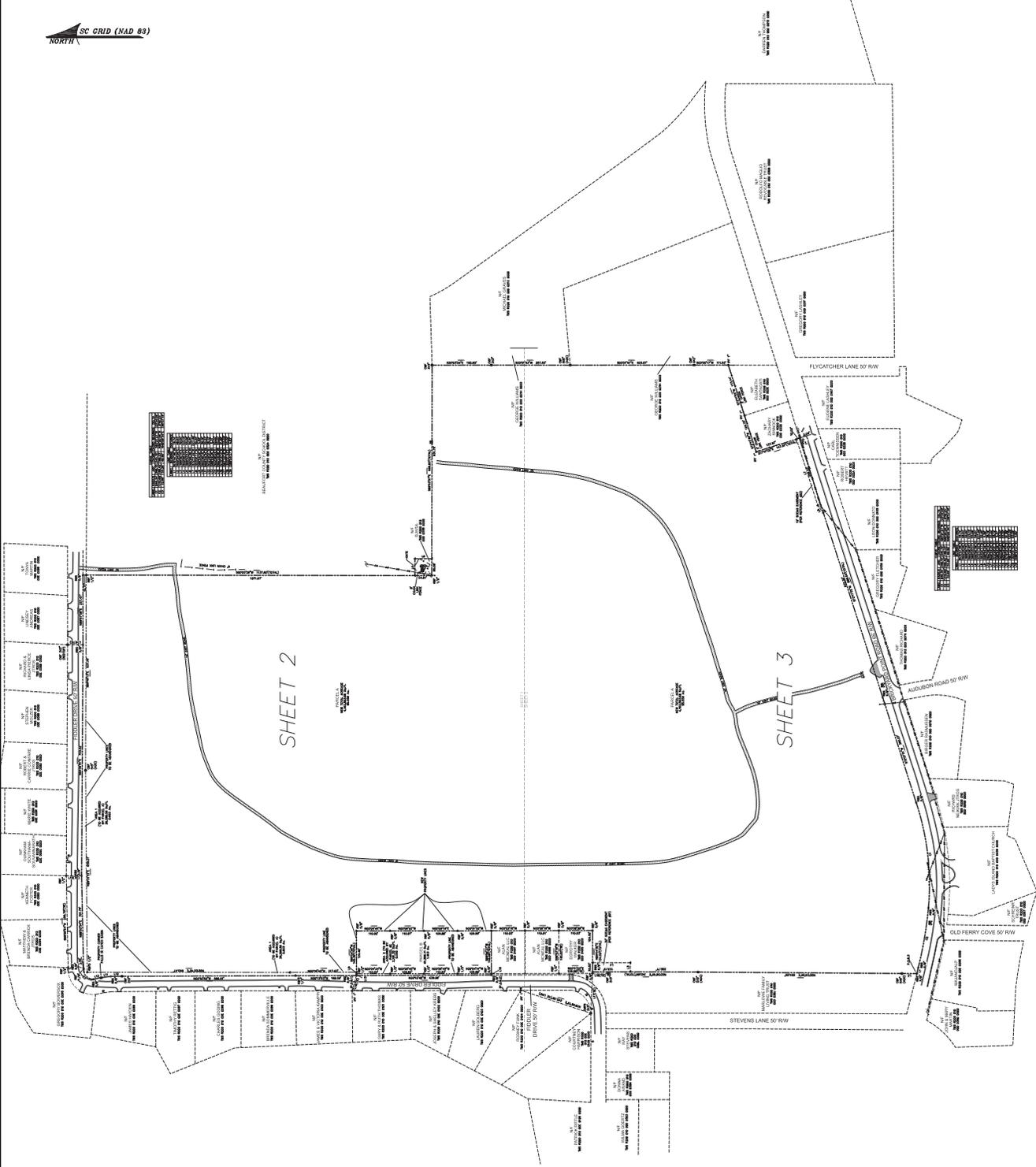
TOGETHER with, subject to the above Exceptions, if any, all and singular the rights, members, hereditaments and appurtenance to the said premises belonging or in anywise incident or appertaining.

TO HAVE AND TO HOLD, subject to the above Exceptions, if any, all and singular the said premises before mentioned unto the said Grantee, its Successors and Assigns, forever -- so that neither the said Grantor nor its successors and assigns, nor any other person or persons, claiming under Grantor or them, shall at any time hereinafter, by any way or means, have, claim or demand any right or title to the aforesaid premises or appurtenances, or any part of parcel thereof, forever.

LEGAL DESCRIPTION

ALL that certain piece, parcel or tract of land situate, lying and being on Lady's Island, Beaufort County, South Carolina, being a fifty (50') foot right-of-way known as Fiddler Drive, said property being shown and designated as "Fiddler Drive 50' R/W" on that certain plat prepared by Jeremy W. Reeder, P.L.S., last revised on January 3, 2020, and recorded in Plat Book _____ at Page _____ in the Office of the Register of Deeds for Beaufort County, South Carolina.

SC CRID (NAD 83)



- LEGEND**
- CONC. MONUMENT FOUND
 - ARTHUR OLIVER CHRISTENSEN
 - IRON PIPE FOUND - DISTURBED
 - IRON REBAR FOUND
 - IRON REBAR FOUND - DISTURBED
 - POINT OF BEGINNING
 - FENCE LINE
 - OVERHEAD POWER LINE
 - UNDERGROUND DRAINAGE LINE
 - EDGE OF DRIVEWAY
 - CONCRETE
 - GRAVEL
 - REGULATORY CONTROL VALVE
 - ELECTRIC JUNCTION BOX
 - WATER METER
 - WATER LATERAL OR SUBROUT
 - WATER VALVE
 - TRANSFORMER-ELECTRIC

ACREAGE CHART

PANSEL A	41,582,751.12 SQ. FT.	946.86 AC.
AREA 1 (TO BE ACQUIRED BY PANSEL A)	26,288,506 SQ. FT.	600.0 AC.
NEW PANSEL A TOTAL	41,745,257.24 SQ. FT.	950.86 AC.
PANSEL B	61,256,111 SQ. FT.	1,413 AC.
AREA 2 (TO BE ACQUIRED BY PANSEL B)	2,181,820.00 SQ. FT.	50.0 AC.
NEW PANSEL B TOTAL	63,437,931.00 SQ. FT.	1,463 AC.



- NOTES**
- THIS PARCEL APPEARS TO LIE IN FLOOD ZONE G.
 - VERTICAL DATUM IS SOUTH CAROLINA STATE PLANE CRID (NAD 83).
 - LEGEND IS LOCATED ON SHEET 1.
 - BROWARD NORTH ROAD RIGHT OF WAY IS PER REFERENCE #21 AND #22.
 - SEALING PLACEMENTS WERE SCALED IN PER REFERENCE #21 AND #22.

- REFERENCES**
- DEED BOOK 4674 PAGE 1308 W/ PLAT
 - DEED BOOK 4674 PAGE 1309 W/ PLAT
 - DEED BOOK 4674 PAGE 1310 W/ PLAT
 - DEED BOOK 4674 PAGE 1311 W/ PLAT
 - DEED BOOK 4674 PAGE 1312 W/ PLAT
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 - DEED BOOK 4674 PAGE 1400 W/ PLAT

8-11-2006
 COUNTY ENGINEERING DATED
 8-11-2006
 ASSOCIATED DATED 5-27-10



ATLAS SURVEYING, INC.

BRUNNEN'S COVE ROAD, SUITE #F
 PHONE: (843) 444-3274
 FAX: (843) 444-3275
 WEBSITE: WWW.ATLASURV.COM



PREPARED FOR:
FRED TRASK
 A SUBDIVISION/RECONSTRUCTION PLAN OF
 THE GLEASON TRACT,
 PARCELS A & B
 TAX PARCEL NO. P200 010 000 0032 0000
 LADY'S ISLAND
 BEAUFORT COUNTY, SOUTH CAROLINA

SHEET 7 OF 7

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DATE: 10/20/10
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 APPROVED BY: [Signature]

NOT VALID UNLESS OWNED BY THIS FIRM



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Friends of Fort Fremont Facility Use Agreement

Council Committee:

County Council - Natural Resources Committee recommended approval on March 2, 2020

Meeting Date:

March 23, 2020

Committee Presenter (Name and Title):

Stefanie M. Nagid, Passive Parks Manager

Issues for Consideration:

A Facility Use Agreement (FUA) between the County and the Friends of Fort Fremont (Friends) for the use of the Preserve and the interpretive center.

Points to Consider:

In April 2019, the County and the Friends entered into a Memorandum of Understanding authorizing the Friends to utilize the property according to a Facility Use Agreement and annual Operating Plan. County staff and Friends have agreed to the FUA terms and conditions, which specify in detail the use of the Property as an historic interpretive facility and the responsibilities of the Friends and the County.

Funding & Liability Factors:

There are no funding requirements. Liability is waived between the parties. County retains responsibility for the management and maintenance of the property and its structures as a public passive park.

Council Options:

1) Approve the FUA as written, 2) Approve the FUA with revisions, 3) Do not approve the FUA

Recommendation:

Approve and authorize the County Administrator to execute the Friends of Fort Fremont Facility Use Agreement as written.

ORDINANCE 2020/ _____

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A FACILITY USE AGREEMENT ENCUMBERING PROPERTY OWNED BY BEAUFORT COUNTY KNOWN AS FORT FREMONT PRESERVE

WHEREAS, Beaufort County (“County”) owns 17 acres of real property (“Property”) known as Fort Fremont Preserve located at 1124 Lands End Road and being recorded in the Beaufort County Register of Deeds in Deed Book 2044 at Page 1468, Deed Book 259 at Page 275 and Deed Book 2958 at Pages 481-488; and

WHEREAS, the County and Friends of Fort Fremont (“Friends”) have previously entered into a Memorandum of Understanding dated April 8, 2019 and wish to further specify Property authorization, use and responsibilities with a Facility Use Agreement, which is attached hereto and incorporated by reference as “Attachment A”; and

WHEREAS, pursuant to Beaufort County Rules and Procedures, Beaufort County Procurement Code, S.C. Code Ann. §4-9-130 and state common law, Council approval, an ordinance, and public hearing are required for the lease of any public land; and

WHEREAS, Beaufort County Council has determined that it is in its best interests to authorize the execution of the facility use agreement to the Friends.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL duly assembled, does hereby authorize the County Administrator to execute a Facility Use Agreement with Friends of Fort Fremont for the property known as Fort Fremont Preserve, as attached hereto and incorporated by reference as “Attachment A”.

Adopted this ____ day of _____, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah Brock, Clerk to Council

- Chronology:
- Third Reading
- Second Reading
- Public Hearing
- First Reading

ATTACHMENT A

COUNTY OF BEAUFORT)
)
STATE OF SOUTH CAROLINA) **FACILITY USE AGREEMENT**

THIS FACILITY USE AGREEMENT (“Agreement”) is made and entered into on this ____ day of _____, 2020, between **Beaufort County**, a political subdivision of the State of South Carolina, (“County”) having a mailing address of County of Beaufort, Attention Beaufort County Administrator, P.O. Drawer 1228, Beaufort, South Carolina 29901-1228, and **Friends of Fort Fremont Historical Park, Inc.**, a nonprofit corporation organized under the laws of the State of South Carolina, (“Friends”) having a mailing address of P.O. Box 982, St. Helena Island, South Carolina 29920; collectively hereinafter referred to as the “Parties”.

WHEREAS, the County is the owner of certain real property in Beaufort County, South Carolina known as the Fort Fremont Preserve (“Property”) by virtue of the general warranty deed recorded in the Beaufort County Register of Deeds in Deed Book 2044 at Page 1468, Deed Book 259 at Page 275 and Deed Book 2958 at Pages 481-488; and

WHEREAS, the County and Friends have previously entered into a Memorandum of Understanding dated April 8, 2019, and is attached hereto and incorporated by reference as “Exhibit A”; and

WHEREAS, this Agreement is supplementary to, and does not supplant the aforementioned Memorandum of Understanding, and is subject to the terms and conditions stated therein; and

WHEREAS, the Parties intend by this Agreement to establish the rights, duties, and obligations in respect to the use of the Property.

NOW, THEREFORE, in consideration of the Property and in consideration of the mutual promises, covenants, terms and conditions set forth herein, the Parties mutually agree as follows:

- 1. DESCRIPTION OF PROPERTY.** All that certain, piece, parcel or tracts of land, with buildings, structures, equipment and improvements known as Fort Fremont Preserve located at 1124 Lands End Road, St. Helena Island, County of Beaufort, State of South Carolina.

- 2. TERM.** The initial term of this Agreement shall cover a period of twelve months (12) months, commencing on the 1st day of July, 2020, and terminating on the 30th day of June, 2021, unless terminated sooner pursuant to the provisions of this Agreement.
 - a. **Renewal.** This Agreement may be extended for four (4) additional one-year periods thereby extending the possible termination date until June 30, 2025 upon the written approval of the Parties. Any renewal shall include the same terms and conditions set forth in the initial term.

- 3. COMPENSATION.** In substitution to a monetary sum, Friends agrees to pay, without demand, to County as rent for the Property, the sum of ZERO AND NO/100 DOLLARS (\$0.00) per month, in exchange for considerations and obligations as outlined heretofore.

4. **HEAT, WATER, TELEPHONE and OTHER UTILITY CHARGES.** County shall be responsible for paying all utility expenses associated with the Property.

5. **HOURS OF OPERATION.** Friends shall be allowed the use of the Property from dawn to dusk, Monday through Sunday. Friends will provide greeters to staff the interpretive center building between the hours of 10:00am and 2:00pm, Fridays and Saturdays, for the term of this Agreement. Any additional interpretive center staffing will be mutually agreed upon by Friends and the County. The general public shall have access and use of the Property from dawn to dusk, Monday through Sunday, and access and use of the interpretive center display rooms during the Friends staffing hours.

6. **OPERATING PLAN.** Friends shall provide to County an Operating Plan at the initial execution of this Agreement. Thereafter, Friends shall provide to County an Operating Plan on or before May 1 of each year for the County to review. The Operating Plan will be made effective from July 1st through June 30th of the following year. The Parties agree to mutually cooperate in the development of the Operating Plan.

- a. **Purpose.** The Operating Plan shall provide the Parties with an overview of the activities and functions scheduled throughout the year, along with any specific groups that may use the Property on a scheduled basis for purposes of education or tourism.
- b. **Activities and Functions.** The Operating Plan shall describe the tourist related activities scheduled throughout the applicable year; including, but not limited to, greeting bus tours, school groups and providing services to tour groups. Additionally, a description of how Friends intends to manage the participants of the said activity or function, and the number of Friends' staff will be present shall be included in the Operating Plan.

7. **USE OF PROPERTY.** The Property shall be used and occupied by Friends exclusively as an historic interpretive facility, and neither the Property nor any part thereof shall be used at any time during the term of this Agreement by Friends for any other purpose than more particularly described herein. Friends shall comply with all the sanitary laws, ordinances, rules, and orders of appropriate governmental authorities affecting the cleanliness, occupancy, and preservation of the Property during the term of this Agreement.

a. **Use Defined.** Use of the Property is more particularly described as follows:

- i. Friends may use the Property for storage of artifacts and/or equipment as approved by the Passive Parks Manager. Any Friends' property such as the diorama, displays, reference material, and electromagnetic media stored on the Property will be the responsibility of the Friends, and the County is not liable for its loss or damage. The County reserves the right to relocate or remove any such artifact and/or equipment in order to meet the needs of the County upon 24-hour notice to the Friends via email, or immediately upon an emergency situation.

ii. Friends is authorized to engage in tourist related activities including, but not limited to, greeting bus tours, school groups and providing services to tour groups, according to terms of the annual Operating Plan, as approved by the County.

iii. Friends is authorized to purchase and sell interpretive, recreational and historic literature and materials to visitors on the Property at its own expense. If Friends pay for the literature and materials, Friends may retain and use the proceeds to pay the costs associated with purchasing and selling the materials. All materials purchased and/or developed by Friends for sale on the Property will receive final approval from the Passive Parks Manager. Friends agree to use any net proceeds to support the Friends non-profit mission.

iv. Friends is authorized to apply for grants as well as seek in-kind and financial donations to support County preservation, promotional, and educational objectives for the Property. Grant applications/proposals will be submitted to the County for approval prior to the application submittal date. Depending on the nature of the grant or donation, the funds may be administered by either Friends or the County as the Parties mutually agree is most appropriate. All solicitations authorized under this provision shall be in accordance with the South Carolina Solicitation of Charitable Funds Act Section 33-56-10 et seq. and other applicable State and Federal law.

v. Friends will greet visitors and provide orientation, talks, and answer questions as described in the annual Operating Plan.

vi. Friends will provide docents, as described in the annual Operating Plan, to lead tours of the Property.

vii. Friends may use the interpretive center conference room for monthly board meetings, free of charge, pursuant to the County's Passive Parks Facility Rental Policy.

viii. Any requested events on the Property, whether County or Friends sponsored or by third-parties, will be coordinated and scheduled by the County through the use of the Passive Parks Facility Rental Policy. Friends will inform the County of any requests for reservation or use that is not already authorized by this Agreement.

County retains management and decision-making authority on the Property including, but not limited to, maintenance, security, repairs, and improvement projects.

b. ***Compliance with Laws.*** Friends shall not make or permit any use of the Property which will be unlawful, improper, or contrary to any applicable law or ordinance, including without limitation all zoning, building, or sanitary statutes, codes, rules, regulations or ordinances, or which will make voidable or increase the cost of any insurance maintained on the Property by County.

8. CONDITION OF THE PROPERTY. Friends is fully familiar with the physical condition of the Property. County has made no representation in connection with the Property and shall not be liable for any latent defects therein; provided, however, that if such latent defects

render the Property un-useable for the purposes of this Agreement, Friends may at its option, and upon written notice to County, terminate this Agreement.

Friends stipulates that they have examined the Property, including the grounds and all buildings, structures and improvements, and that Friends are fully aware of the conditions of the Property at the time of this Agreement.

9. FRIENDS OBLIGATIONS. Friends agrees and shall maintain the interpretive center on the Property as follows: (1) comply with all obligations primarily imposed by applicable provisions of building and housing codes materially affecting health and safety; (2) keep the Property reasonably safe and clean; (3) dispose from the interpretive center building all garbage, rubbish, and other waste in a reasonably clean and safe manner; (4) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating air-conditioning, and other facilities and appliances in the Property ; (5) not deliberately or negligently destroy, deface, damage, impair, or remove any part of the Property or knowingly permit any person to do so who is on the Property with the Friend's permission or who is allowed access to the Property by Friends; (6) provide notice to the County of any issues on the Property regarding damage or destroyed items; (7) conduct themselves and require other persons on the Property with the Friend's permission or who are allowed access to the Property by Friends to conduct themselves in a manner that will not disturb the public or neighboring property owner's peaceful enjoyment of their Property; (8) dispel or cause to have dispelled from the property any individual(s) who do not have the express authorization or permission to occupy said Property either from Friends or the County; and (9) comply with this Agreement and rules and regulations which are enforceable pursuant to S.C. Code of Laws Section 27-35-75.

In addition to the obligations stated above, Friends shall also assist the County in educating visitors about the prohibition of metal detection and shall report the unauthorized use of metal detectors to the County.

10. MAINTENANCE AND REPAIRS. County will, at its sole expense, keep and maintain the Property and appurtenances in good and sanitary condition during the term of this Agreement and any renewal thereof subject to applicable law, the County shall keep and maintain the Property and all equipment and fixtures thereon or used therewith, whole and of the same kind, quality and description and in such good repair, order and condition as the same are at the beginning of the Term of this Agreement or may be put in thereafter, reasonable and ordinary wear and tear and damage by fire and other unavoidable casualty (not due to County or Friends negligence) only excepted. County shall have the sole authority on any decision to repair or replace any items. If any repair or replacement is needed that is due to the negligence of the Friends, Friends shall be responsible for the costs of such repairs and/or replacements.

11. ALTERATIONS AND IMPROVEMENTS. Friends and County will mutually agree to a decorating plan for the interpretive center building, including but not limited to placement of the diorama, displays, signage, media and reference materials. Any work done by the Friends or County shall be done in accordance with all applicable laws and regulations, with a proper permit, using first class materials and in a workmanlike manner. Any and all improvements must be approved by the County prior to the commencement of said alteration or improvement.

The improvements and or fixtures caused to be located or affixed to the real estate shall become the property of the County at the end of the Term of this Agreement, unless County has provided written approval to Friends to retain and remove such items. In the event that Friends is granted permission to remove any fixtures or improvements, said removal costs shall be the sole responsibility of Friends. Should any damage or defacement be caused to occur as a result of the removal of any fixture, Friends agrees to repair any damage to the satisfaction of the County.

12. LOCKS. Friends agrees not to change any locks on any door, mailbox, gate, or otherwise. Should it become necessary, from time to time, for the County to change out any locks on the Property, County will provide notice to Friends and ensure that Friends continues to have uninterrupted access for the remainder of the Term of this Agreement.

13. LOCKOUT. If Friends becomes locked out of the Property, Friends shall contact the County to regain entry.

14. RIGHT OF INSPECTION. County and their agents shall have the unfettered right at all times during the term of this Agreement and any renewal thereof to enter the Property for any reason whatsoever, without notice.

15. INSURANCE. County has obtained insurance to cover liability and fire damage to the Property. Friends must obtain, and annually provide a copy of to the County, a Commercial General Liability Insurance policy with a minimum amount of \$1 million, listing the County as an additional insured, to cover damage or loss resulting from Friend's negligence.

16. QUIET ENJOYMENT / PERMITTED OCCUPANTS. County covenants that upon Friend's performance of the covenants and obligations herein contained, Friends shall peacefully and quietly have, hold, and enjoy the Property for the agreed term. County shall not allow or permit the Property to be occupied for purposes that may injure the reputation, safety, or welfare of the Property. County shall have the right to terminate this agreement should Friends fail to comply with the terms of this provision.

17. SURRENDER OF PROPERTY. At the expiration of the Term of this Agreement, Friends shall quit and surrender the Property in as good state and condition as they were at the commencement of this Agreement, reasonable use and wear thereof excepted.

18. ABANDONMENT. If County's right of entry is exercised following abandonment of the Property by Friends, then County may consider any property belonging to Friends and left on the Property to also have been abandoned, in which case County may keep or dispose of all such property in any manner County shall deem proper and is hereby relieved of all liability for doing so.

19. DEFAULT. In the event that Friends shall default in the observance or performance of any other of Friend's covenants, agreements or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof, County may elect to enter upon said Property and to take possession thereupon, whereupon this Agreement shall absolutely terminate

and it shall be no defense to Friends that previous violations of any covenants have been waived by County either expressly or impliedly. Any such election by County shall not discharge Friend's obligations under this Agreement.

20. TERMINATION. Friends agrees to quit and deliver up the Property peaceably and quietly to County at the expiration or other termination of this Agreement. This Agreement may be terminated by either party prior to the date identified in Section 2, upon sixty (60) days written notice, or upon the occurrence of any default event as set forth in Section 19.

21. INDEMNIFICATION. Friends hereby agrees to indemnify and hold harmless the County against and from any and all claims or property damage, or personal injury, arising out of or with respect to Friend's use of the Property or from any activity, work, or thing done, permitted or suffered by Friends in or about the Property .

22. NOTICES. All official notices as required by this Agreement shall be given in hand or in writing through certified mail addressed to the receiving Party's address shown in the initial paragraph of this Agreement. Such notice shall be deemed delivered, if by hand when hand delivered or if by mail when deposited with the U.S. Postal Service. Additionally, all informal notices by County to Friends, or Friends to County, shall be given in writing through email.

23. OTHER PROVISIONS.

a. ***Independent Parties.*** It is mutually agreed that County is independent of Friends, and as such Friends shall exercise complete control over the actions performed by its employees, volunteers, or contractors. Additionally, the Parties mutually agree that this Agreement is for the sole purpose of the provisions of services set forth in this Agreement and does not establish an agency or employment relationship.

b. ***Mutual Cooperation.*** The Parties shall cooperate with each other, and will use all reasonable efforts to cause the fulfillment of the terms and conditions of this Agreement.

c. ***Disputes.*** All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including but not limited to breach thereof, shall be first submitted to an agreed upon mediator. The Parties shall be equally responsible for the cost of mediation.

d. ***Conflicting Terms.*** If the terms of this Agreement conflict with the terms included in any prior agreements, including but not limited to, the Memorandum of Understanding dated April 8, 2019; then terms in this Agreement shall prevail.

e. ***Amendment or Modification.*** This Agreement cannot be amended or modified orally or by a single party. No amendment or modification to this Agreement shall be valid unless in writing and signed by both Parties to this Agreement.

b. ***Binding Effect.*** This Agreement is to take effect as a sealed instrument; sets forth the entire agreement between the parties; is binding upon and inured to the benefit of the parties

hereto and may be cancelled, modified, or amended only by written instrument signed by both County and Friends.

c. ***No Third Party Beneficiaries.*** This Agreement is intended solely for the benefit of the Parties and not for the benefit of any other person or entity.

d. ***Assignment and Subletting.*** Friends shall not assign this Agreement, or sublet or grant any concession of license to use the Property or any part thereof. An assignment, subletting, concession of license, or an assignment or subletting by operation of law, shall be void and shall at County's option, terminate this Agreement.

e. ***Counterparts.*** This Agreement may be executed in multiple counterparts, and all such executed counterparts shall constitute the same agreement. The Parties agree that this Agreement may be communicated by use of a fax or other electronic means, such as electronic mail and the internet, and that the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed valid and binding upon the Parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents.

f. ***Captions.*** The section headings appearing in this Agreement are for convenience of reference only and are not intended to any extent for the purpose, to limit or define the test of any section or any subsection hereof.

g. ***Severability.*** If any portion of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

h. ***Waiver.*** No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving its rights. No delay or omission by either party to exercise any right or remedy it has under this Agreement shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any covenant or breach of this Agreement shall not constitute or operate as a waiver of any succeeding breach of the covenant or of any other covenant.

i. ***Applicable Law.*** This Agreement is enforceable in the State of South Carolina and shall in all respects be governed by, and constructed in accordance with, the substantive Federal laws of the United States and the laws of the State of South Carolina. Any claims for default, non-performance or other breach shall be filed in Beaufort County, South Carolina.

Signature Page to Follow

IN WITNESS THEREOF, the Parties hereto have executed this Facility Use Agreement the day and year first above written.

COUNTY:
Beaufort County

Witness

By: _____
Ashley M. Jacobs, County Administrator

Witness

FRIENDS:
Friends of Fort Fremont Historical Park, Inc.

Witness

By: _____
Name: _____
Its: _____

Witness

NOTICE: State law establishes rights and obligations for parties to rental agreements. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person.

NOW, THEREFORE, under the authority of the Community Development Code in Division 5.10.10 Historic Preservation of Historic Properties, the parties agree to the following:

DEFINITIONS

As used throughout this Agreement, the following items shall have meaning set forth below:

“County” shall mean The Beaufort County Government and all departments that fall within the structure of the Beaufort County Council and the Beaufort County Administration.

“Friends” shall mean the Friends of Fort Fremont Historical Park, Inc. or any entity performing services under this Agreement, and shall include all personnel (officers, directors, members, or volunteers) thereof.

“Preserve” shall mean the Fort Fremont Preserve including the land, buildings, and structures that fall within the parcel boundaries.

TERM

The initial term of this Agreement shall cover a period of twelve (12) months commencing on the date entered, unless terminated sooner pursuant to the provisions of the Agreement. The term of this Agreement may be extended for four (4) additional one-year periods upon the written approval of both the County and the Friends.

AUTHORIZATION

The County hereby authorizes the Friends to access and utilize the Preserve, and to provide services to the citizens and visiting public at the Preserve, subject to the terms and conditions stated in the Facility Use Agreement and annual Operating Plan.

MUTUAL SUPPORT

The Friends may use any monies and gifts raised to further support the purposes of the Preserve. The County agrees to use gifts or monies derived from special events held at the Preserve sponsored by the Friends to support the shared mission of the parties.

COMPENSATION

This agreement does not obligate County funds. Any endeavor involving reimbursement or contribution of funds between the parties to this agreement will be handled in accordance with applicable laws, regulations and procedures. The Friends will provide non-compensated volunteers to the County.

HISTORIC PRESERVATION, SAFETY, MAINTENANCE, UPKEEP AND APPEARANCE

The Friends may use the Preserve to provide interpretive displays, services, assistance, and activities as provided for in the Facility Use Agreement and Operating Plan and as approved by the County.

The following guidelines shall apply:

- a. The County shall be responsible for historic preservation and safety of the Preserve.
- b. The County shall be responsible for all exterior and interior maintenance and repair, for all grounds maintenance, and for janitorial services.
- c. The County shall provide and pay for all utility services necessary for the operation of the Preserve, as determined by the County.
- d. The Friends shall comply with all the sanitary laws, ordinances, rules, and orders of appropriate governmental authorities affecting the cleanliness, occupancy, and preservation of the premises.
- e. The Friends shall keep the premises reasonably safe and clean by locking the interpretive center upon exiting and disposing of garbage, rubbish, and other waste generated during the Friends use of the Preserve in a clean and safe manner.
- f. The Friends will use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating air-conditioning, and other facilities and appliances in the premises. Air-conditioning and heating settings will be agreed upon by both parties.
- g. The Friends will not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or knowingly permit any person to do so who is on the premises with the Friends permission or who is allowed access to the premises by the Friends.
- h. The Friends shall notify the County of any structural/utility problems and/or vandalism.

FISCAL OPERATION

The Friends shall conduct its fiscal operations in accordance with accepted business practices in compliance with IRS mandates for non-profit organizations.

OPERATING PLAN

The Friends shall annually, by December 1, submit to the Passive Parks Manager an Operating Plan for the ensuing calendar year which shall be subject to the approval by the County. The Friends rights under this Agreement are conditioned upon the existence of an approved Operating Plan. The Operating Plan shall include proposed services, activities, events, and/or programs the Friends plan for the Preserve.

ANNUAL REPORT

The Friends shall annually, by March 1, submit to the Passive Parks Manager an Annual Report for the previous year's operation at the Preserve.

APPEALS OF PASSIVE PARKS MANAGER

Any decision of the Passive Parks Manager authorized under this Agreement that affects Friends, may be directly appealed to County Council. An authorized representative of Friends may submit a written request to the County Administrator to appeal a decision of the Passive Parks Manager. Upon receiving a written request for an appeal, the County Administrator shall place the item on the next scheduled County Council meeting that allows for meeting all notice requirements for meetings of public bodies under the South Carolina Freedom of Information Act.

ACCESS TO PREMISES

The County shall have the right of access to any portion of the premises at any time by any of its officers, employees, or agents to ensure compliance with the terms of this agreement, or for any other reason in carrying out its responsibilities for the operation of the Preserve.

The Friends shall have access to the premises to carry out its responsibilities as agreed upon in the Facility Use Agreement and Operating Plan.

ADVERTISEMENT

The Friends shall acknowledge the County in any advertising related to activities undertaken pursuant to this Agreement. Any advertising or display materials shall clearly identify the Preserve or facility as a County Passive Park. The County shall acknowledge the Friends in appropriate publications and announcements, in accordance with County policies and State and Federal law.

AMENDMENTS

This Agreement may not be altered, amended, or waived except by written instrument executed by both parties.

ASSIGNMENT

No transfer or assignment of this Agreement in whole or in part shall be made unless approved in writing by the County.

COMPLIANCE WITH LAWS

In the performance of this Agreement, the Friends shall comply with all applicable federal and state laws, including the IRS, as now in effect or hereafter enacted or amended. Nothing herein shall be interpreted as a waiver by either party of any provision of South Carolina or Federal law.

DISCLAIMER OF RELATIONSHIP

Nothing contained in this Agreement nor any act of the County and/or the Friends shall be deemed or construed by either of the parties, nor by any third person, to create any other legal relationship between the parties, including, but not limited to, that of employer/employee, third-party beneficiary, principal, agent, limited or general partnership, joint venture, landlord/tenant, or other relationship.

INTELLECTUAL PROPERTY

The Friends retain all intellectual property rights to any material they develop, subject to review and approval by the Passive Parks Manager, unless County funds are used in the development of said material.

TERMINATION

This Agreement may be terminated for convenience by either party with 90 days written notice. The Agreement may be terminated by either party with 30 days written notice for breach of terms. This Agreement will automatically terminate if the Friends lose its tax-exempt 501(c)(3) status. The Facility Use Agreement, as referenced herein, is automatically terminated if this Agreement is terminated.

INSURANCE

Friends shall maintain at all times no less than \$1,000,000 in general liability insurance coverage (each occurrence) and no less than \$2,000,000 general liability insurance in the aggregate. The County shall be named as an additional insured on the Friends insurance policy.

AUTHORITY

The parties herein represent and warrant each to the other that they have all the requisite power and authority to enter into this Agreement and perform their obligations under this Agreement.

WITNESSES:

BEAUFORT COUNTY

Cheryl Harris

Sarah W. B.

EMC

[Signature]

By: [Signature]

Name: John Weaver

Title: Interim County Administrator

Date: 3/29/2019

FRIENDS OF FORT FREMONT
HISTORICAL PARK, INC.

By: Roderick E. Keating

Name: RODERICK E. KEATING

Title: President Board of Directors

Date: 4/8/2019

Approved as to Form:

By: Thomas J. Keaveny

Name: Thomas J. Keaveny, II

Title: County Attorney

Date: April 2, 2019



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Widgeon Point Preserve 2020 Joint Ownership and Operating Agreement

Council Committee:

County Council - Natural Resource Committee recommended approval on March 2, 2020

Meeting Date:

March 23, 2020

Committee Presenter (Name and Title):

Stefanie M. Nagid, Passive Parks Manager

Issues for Consideration:

A Joint Ownership and Operating Agreement between the County and BCOLT for Widgeon Point Preserve.

Points to Consider:

With the construction of the new passive park improvements at Widgeon Point Preserve, revisions to the original 2008 Joint Ownership Agreement are necessary. County staff and BCOLT agree to the 2020 Joint Ownership and Operating Agreement as written and the 2008 Joint Ownership Agreement will be terminated.

Funding & Liability Factors:

County will maintain the property and appropriate insurance for constructed structures.
County will retain all revenue from property rental, which will be used towards property maintenance.

Council Options:

1) Approve the 2020 Joint Ownership and Operating Agreement as written; 2) Approve the 2020 Joint Ownership and Operating Agreement with revisions; 3) Do not approve the 2020 Joint Ownership and Operating Agreement

Recommendation:

Approve and authorize the County Administrator to execute the Widgeon Point Preserve 2020 Joint Ownership and Operating Agreement as written.

ORDINANCE 2020/ ____

**AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE
THE WIDGEON POINT PRESERVE 2020 JOINT OWNERSHIP AND OPERATING
AGREEMENT WITH THE BEAUFORT COUNTY OPEN LAND TRUST**

WHEREAS, Beaufort County (“County”) and the Beaufort County Open Land Trust (“BCOLT”) are joint owners of certain real property in Beaufort County, South Carolina known as Widgeon Point Preserve (R600 007 000 0001 0000) on Lemon Island under and by virtue of that certain general warranty deed dated August 23, 2007 and recorded at Deed Book 02616, Pages 1609-1614, Beaufort County, South Carolina recorded (said real property being referred to hereinafter as “Property”); and

WHEREAS, the County is the owner of a 7/8 undivided interest in the Property and BCOLT is the owner of 1/8 undivided interest in the Property; and

WHEREAS, the County and BCOLT previously entered into a joint ownership agreement dated August 26, 2008; and

WHEREAS, the County and BCOLT desire to terminate the aforementioned agreement and enter into the Joint Ownership and Operating Agreement attached hereto and incorporated by reference as “Attachment A”; and

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

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council, duly assembled, does hereby authorize the County Administrator to execute the Widgeon Point Preserve 2020 Joint Ownership and Operating Agreement with Beaufort County Open Land Trust, attached hereto as Attachment A and incorporated herein fully as if repeated verbatim.

Adopted this ____ day of _____, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

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

3. TERM

The term of this Agreement shall cover a period of twenty-five (25) years, commencing on the entered upon date, unless terminated sooner pursuant to the provisions in this Agreement. The term of this Agreement may be extended for three (3) additional twenty-five (25) year terms upon the mutual agreement and written approval of both the County and BCOLT.

4. USE OF PROPERTY

The Property shall be used as a nature preserve and passive park for passive recreation open to the public; and subject to all applicable County rules and regulations. It is further intended that the Natural Area of the Property, which is generally designated as that area between the interior bridge and the Port Royal Sound and as further shown in "Exhibit B", be restricted from structural improvements, excluding signage, benches and picnic tables, with the remainder of the Property being used for passive park buildings and structures.

a. **Access to Property.** The Property shall be open to the public seven (7) days a week from dawn to dusk. Pursuant to Ordinance 2018/53 Section 91-104, operating hours shall be posted at the Property's designated entrance.

b. **Scheduling of Events.** County shall be responsible for scheduling events and functions on the Property, will maintain a schedule and calendar of such events and shall develop a method of sharing such event information with BCOLT.

c. **Private Functions.** County may offer to rent the Property and/or its facilities, in whole or part, for private functions at a rental rate stipulated by the Passive Park Facility Rental Policy. All revenue generated by the private functions shall be retained by County to be utilized for passive park operations, maintenance and management expenses incurred by County under the terms of this Agreement.

d. **BCOLT Events.** In addition to the events open to the public and private events or functions as provided for above, BCOLT shall be entitled to use the Property for events and functions at no cost to BCOLT. BCOLT events and functions may be scheduled after consultation with County to determine that another event or function is not scheduled on the same time and date. BCOLT shall be responsible for any and all site and grounds set-up and clean-up necessary as the result of any BCOLT event.

5. ROUTINE AND MAJOR MAINTENANCE

County shall be responsible for routine and major maintenance of the Property. Routine and major maintenance shall include but not be limited to grass cutting, debris removal, maintenance and repair of the barns, fences, gates, trails, roads, bridges, and other structures now or hereinafter erected on the Property. County shall also be responsible for paying the utility costs for electricity, water and the portable toilet facility.

BCOLT shall be responsible for coordinating volunteer efforts to assist the County's routine maintenance efforts, upon mutual consent between BCOLT and the County's Passive Parks Manager.

6. MAJOR ALTERATIONS AND CAPITAL IMPROVEMENTS

Any major alterations or capital improvements on the Property shall be mutually agreed to by both Parties and shall be undertaken under the supervision of the County and their policies and procedures. The cost of

such major repairs or capital improvements shall be the County's responsibility. For purposes of this Agreement the term "major alteration" or "capital improvement" shall be deemed to be any alteration or capital improvement having a cost or expense including all labor, materials, permits, and related items totaling in excess of \$2,500.00.

7. INSURANCE

County shall obtain a policy or policies of insurance providing fire insurance protection with extended coverages to include windstorm and hail damage at replacement cost on all buildings and structures on the Property. In addition, County and BCOLT each shall at all times maintain a policy of general liability insurance with limits of liability of at least \$1,000,000.00 per occurrence. All policies of insurance shall identify the County and BCOLT as named insureds.

8. SECURITY AND INSPECTIONS

It shall be the duty of County to assure adequate security is maintained on the Property through the maintenance of the fences and gates and assuring that gates and secured areas are locked when the Property is not in use.

It shall be the duty of BCOLT to adhere to the security plan and measures, as mutually agreed upon by the Parties, and to assure that gates and secured areas remain locked when the Property and/or its structures are not in use.

9. NOTICE

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

To BCOLT:	Beaufort County Open Land Trust Attn: Executive Director P.O. Box 75 Beaufort, SC 29901
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To County:	Beaufort County Attn: County Administrator P.O. Box 1228 Beaufort, SC 29901
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10. BREACH OF CONTRACT

If a party to this Agreement determines that the other party is in breach of the terms of this Agreement, the claiming party shall notify the other party of the breach with a First Notice and request voluntary compliance. In the event that voluntary cure is not agreed upon within sixty (60) days of receipt of First Notice, the claiming party shall give written notice to the other party of such breach with a Second Notice and demand corrective action. If the noticed party fails to cure the breach within sixty (60) days after receipt of the Second Notice, the claiming party may bring an action of law or in equity in a court of competent jurisdiction.

11. TERMINATION

Either party shall have the right to terminate this Agreement for any reason upon six (6) months' prior written notice beginning with the delivery to and acceptance of the designated authority of the other party. In the event either party wishes to terminate this Agreement, the noticing party shall offer to purchase the ownership interest of the other party in the Property based upon a current professional (MAI) appraisal of the Property. The noticed party shall have sixty (60) days to respond to the terminating notice.

BCOLT shall not convey its ownership interest in the Property without express approval of the South Carolina Conservation Bank.

12. OTHER PROVISIONS

a. **Definition of Terms.** For the purpose of this Agreement, all terms, specifically "passive park" and "passive recreation", shall be defined pursuant to Beaufort County Ordinance 2018-53.

b. **Mutual Cooperation.** The Parties shall cooperate with each other, and will use all reasonable efforts to cause the fulfillment of the terms and conditions of this Agreement.

c. **Liability.** To the extent the law provides, each Party shall be responsible for its own acts, omissions and negligence and shall not be responsible for the acts, omission and negligence of the other Party. Neither party shall be liable to the other party for any claims, demands, expenses, liabilities or losses (including attorney's fees) which may arise out of any acts or failures to act by the other party, its employees or agents, in connection with the performance of services or responsibilities pursuant to this Agreement.

d. **Disputes.** All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including but not limited to breach thereof, shall be first submitted to an agreed upon mediator. The disputing party shall be responsible for cost of mediation.

e. **Entire Agreement.** This Agreement contains the entire agreement between the Parties pertaining to the subject matter contained herein. All prior agreements by or between the Parties shall be deemed to have merged into this Agreement, including the Widgeon Point Joint Ownership Agreement dated August 26, 2008. If there are conflicting terms between this Agreement and any documents merged into this Agreement, this Agreement shall supersede.

f. **Amendment or Modification.** This Agreement cannot be amended or modified orally or by a single party. No amendment or modification to this Agreement shall be valid unless in writing and signed by both Parties to this Agreement.

g. **Binding Nature and Assignment.** This Agreement shall bind the Parties and their respective successors in interest as may be permitted by law. Neither party to this Agreement may assign their rights or obligations arising under this Agreement without the prior written consent of the other party.

h. **No Third Party Beneficiaries.** This Agreement is intended solely for the benefit of the Parties and not for the benefit of any other person or entity.

i. **Counterparts.** This Agreement may be executed in multiple counterparts, and all such executed counterparts shall constitute the same agreement. The Parties agree that this Agreement may be communicated by use of a fax or other electronic means, such as electronic mail and the internet, and that

the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed valid and binding upon the Parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents.

j. **Captions.** The section headings appearing in this Agreement are for convenience of reference only and are not intended to any extent for the purpose, to limit or define the test of any section or any subsection hereof.

k. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

l. **Waiver.** No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving its rights. No delay or omission by either party to exercise any right or remedy it has under this Agreement shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any covenant or breach of this Agreement shall not constitute or operate as a waiver of any succeeding breach of the covenant or of any other covenant.

m. **Applicable Law.** This Agreement is enforceable in the State of South Carolina and shall in all respects be governed by, and constructed in accordance with, the substantive Federal laws of the United States and the laws of the State of South Carolina. Any claims for default, non-performance or other breach shall be filed in Beaufort County, South Carolina.

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

WITNESSES:

BEAUFORT COUNTY

By: _____
Name: Ashley M. Jacobs
Title: County Administrator

BEAUFORTY COUNTY
OPEN LAND TRUST

By: _____
Name: Kristin Williams
Title: Executive Director

EXHIBIT A

Legal Description

All those certain pieces, parcels or lots of land, situate, lying and being in the Bluffton Township, County of Beaufort, State of South Carolina, being the eastern part of Lemon Island, containing seven (7) parcels of high ground containing 51.28 acres, more or less, together with a portion of a Lake containing 20.74 acres, more or less, all of which is more fully shown on a plat entitled "Boundary Survey of 162.24 Acre Tract, Okatie Highway – S.C. Highway 170, A Section of Widgeon Point, Lemon Island, Okatie, Beaufort County, South Carolina", Prepared for the Trust for Public Land and Beaufort County, Dated July 18, 2007, prepared by Surveying Consultants, Terry G. Hatchell, R.L.S. S.C. No. 11059. For a more complete description as to metes, bounds, courses and distance, reference is made to the above referenced plat which is recorded in the Office of the Register of Deeds for Beaufort County in Plat Book 120 at Page 193.



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Updated Fee Schedule for Emergency Medical Services (EMS)

Council Committee:

County Council

Meeting Date:

March 23, 2020

Committee Presenter (Name and Title):

Philip Foot (Asst. County Administrator for Public Safety), Donna Ownby (EMS Director), and Marci Taylor (EMS Admin Specialist)

Issues for Consideration:

EMS User Fee Schedule was last reviewed in 2005.

Points to Consider:

Costs associated with providing citizens the highest quality EMS service, mileage rates, fuel, medications, and disposable supplies.

Funding & Liability Factors:

All fees collected are returned to the General Fund (GF) for county operations.

Council Options:

Approve an updated fee schedule or maintain fee schedule.

Recommendation:

Staff recommend adjustments to the fee schedule.

ORDINANCE NO. 2020 / --

AN ORDINANCE TO AMEND THE BEAUFORT COUNTY ORDINANCE NUMBER 1975-2 AND BEAUFORT COUNTY COUNCIL OCTOBER 24, 2005 UPDATE APPROVAL SO AS TO PROVIDE AN UPDATED FEE SCHEDULE FOR EMERGENCY MEDICAL SERVICES (EMS) AMBULANCE SERVICES

WHEREAS, Beaufort County currently provides for a fee schedule for the cost of Emergency Medical Services (EMS) ambulance service; and

WHEREAS, Beaufort County Council originally adopted a fee schedule in 1975 and subsequently updated the schedule in 2005; and

WHEREAS, Beaufort County believes the taxpayers of Beaufort County fund the basic operation to maintain a highly advance Emergency Medical Services (EMS) ambulance system for all citizens and visitors county-wide with ad valorem taxes; and

WHEREAS, Beaufort County desires to maintain the most advance Emergency Medical Service (EMS) for the citizens of Beaufort County by collecting updated user fees to off-set costs of maintaining such service.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that the following amendments be included within the Beaufort County Code of Ordinances as follows:

Beaufort County Emergency Medical Services (EMS) ambulance fee schedule:

<u>Level of Service</u>	<u>Current fee</u>	<u>Proposed fee</u>
ALS E A0427	\$725.00	NO CHANGE
BLS E A0429	\$255.00	\$535.00
ALS 2 A0433	\$1,070.00	NO CHANGE
SPECIALTY CARE TRANSPORT	\$355.00	\$1085.00
ALS TREATMENT NO TRANSPORT	\$100.00	\$150.00
BLS TREATMENT NO TRANSPORT	\$0.0	\$75.00
MILEAGE	\$7.25	\$17.25
ALS DISPOSABLE SUPPLIES	\$0.0	\$100.00
BLS DISPOSABLE SUPPLIES	\$0.0	\$50.00
IV SUPPLIES	\$0.0	\$50.00
OXYGEN SUPPLIES	\$0.0	\$50.00

Adopted this 5th day of MONTH, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____

Stu Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Amendment to Beaufort County Code of Ordinances, Section 74-64, Adoption of Building Codes

Council Committee:

County Council

Meeting Date:

February 24, 2020

Committee Presenter (Name and Title):

Charles Atkinson, Building Codes Director

Issues for Consideration:

Amendment to Beaufort County Code of Ordinances, Section 74-64 is requested to more clearly reflect the specific versions of mandatory codes that are currently enforced in Beaufort County.

Points to Consider:

Requested amendment will better reflect the specific version of state-mandated codes that are enforced in Beaufort County.

Funding & Liability Factors:

None.

Council Options:

Approve, Reject or Modify

Recommendation:

Staff recommendation is for approval.



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Olsen Tract Lease Agreements for Grazing Fields and Dwelling Unit

Council Committee:

County County Council

Meeting Date:

March 9, 2020

Committee Presenter (Name and Title):

Stefanie M. Nagid, Passive Parks Manager

Issues for Consideration:

The 2016 lease agreement with Mr. and Mrs. Olsen expired on December 15, 2019. Staff have negotiated two new lease agreements with Mr. and Mrs. Olsen and the dwelling unit Occupants.

Points to Consider:

As per the Olsen Tract Purchase Agreement dated December 4, 2016, the County and the Olsens entered into a 3-year lease agreement, which expired December 15, 2019. The Olsens and the dwelling unit Occupants would like to enter into new lease agreements, which provide 4 annual extensions beyond the first year term. The Olsens will be leasing 2 grazing fields and associated barns for their 1 horse and 2 donkeys. The dwelling unit Occupants will be leasing the dwelling unit and associated barn for their residential use.

Funding & Liability Factors:

\$500/month (\$6,000/year) revenue for the dwelling unit lease agreement
\$100/month (\$1,200/year) revenue for the field grazing lease agreement
County will be responsible for any maintenance and repairs over \$2,500

Council Options:

1) Approve the two lease agreements as written, 2) Approve the two lease agreements with revisions, 3) Do not approve the two lease agreements

Recommendation:

Approve and authorize the County Administrator to execute the two lease agreements as written.

ORDINANCE 2020/ _____

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE TWO LEASE AGREEMENTS ENCUMBERING PROPERTY OWNED BY BEAUFORT COUNTY KNOWN AS A PORTION OF TMS#R600 013 000 0005 0000, R600 013 000 003C 0000, AND R600 008 000 003F 0000

WHEREAS, Beaufort County owns 100.10 acres of real property (“Property”) known as R600 013 000 0005 0000, R600 013 000 003C 0000, and R600 008 000 003F 0000 located on the east side of Okatie Highway/Highway 170 and being recorded in the Office of the Register of Deeds for Beaufort County, South Carolina on December 15, 2016, in Book 3537 Pages 2869-2875; and

WHEREAS, pursuant to the original Property Purchase Agreement dated December 4, 2016 between Beaufort County and Mr. and Mrs. Olsen, the County agreed to enter into a lease agreement with the Olsens on a portion of the Property for the purposes of housing a caretaker and grazing and maintaining 1 horse and 2 donkeys for three (3) years; and

WHEREAS, the lease agreement between the parties dated December 15, 2016 expired on December 15, 2019; and

WHEREAS, the County, the Olsens and the Olsen’s caretaker wish to enter into new lease agreements beginning December 16, 2019 through December 15, 2020 and including up to four (4) possible annual extensions upon mutual agreement, attached hereto and incorporated by reference as “Attachment A” and “Attachment B”; and

WHEREAS, pursuant to Beaufort County Rules and Procedures, Beaufort County Procurement Code, S.C. Code Ann. §4-9-130 and state common law, Council approval, an ordinance, and public hearing are required for the lease of any public land; and

WHEREAS, Beaufort County Council has determined that it is in its best interests to authorize the execution of the lease agreements to Mr. and Mrs. Olsen, Mr. Newton and Ms. McMillan.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL duly assembled, does hereby authorize the new lease agreements beginning December 16, 2019 and terminating on December 15, 2020 with up to four (4) possible annual extensions upon mutual agreement to Mr. and Mrs. Olsen, Mr. Newton and Ms. McMillan for a portion of the property known as the Olsen Tract, as attached hereto and incorporated by reference as Attachment A and Attachment B.

Adopted this ____ day of _____, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah Brock, Clerk to Council

Chronology:

Third Reading

Second Reading

Public Hearing

First Reading

COUNTY OF BEAUFORT)
)
STATE OF SOUTH CAROLINA)

LEASE AGREEMENT

IN CONSIDERATION of the mutual promises, obligations and agreements herein set forth, this Lease Agreement (referred to as the "Lease") is made and entered into on this ____ day of _____, 2020, between **Beaufort County**, a political subdivision of the State of South Carolina, hereinafter referred to as "Landlord" and having a mailing address of County of Beaufort, Attention Beaufort County Staff Attorney, P.O. Drawer 1228, Beaufort, South Carolina 29901-1228, and **Edwin R. Olsen and Sue Shrank Olsen**, with a mailing address of 1 Heffalump Rd., Okatie, South Carolina 29909, hereinafter referred to as "Tenant".

Whereas Landlord leases to Tenant the following described premises:

1. DESCRIPTION OF LEASED PREMISES. All that certain, piece, parcel or tracts of land, with improvements known as the Olsen Tract, located in Okatie, County of Beaufort, State of South Carolina consisting of an approximate three (3) acre fenced field and barn adjacent to the dwelling unit and an approximate three (3) acre fenced field and barn adjacent to the Tenants private residence, which is a portion of the real property with TMS No. R600 013 000 003C 0000 and further shown in the highlighted portions of the surveys attached hereto and incorporated by reference as "Exhibit A" ("Premises").

2. TERM. The initial term of this Lease shall cover a period of twelve months (12) months, commencing on the 16th day of December, 2019, and terminating on the 16th day of December 2020, unless terminated sooner pursuant to the provisions of this Lease.

The Tenant shall have four (4) consecutive options to renew the twelve (12) month term of this Lease, with the final termination date of December 16, 2024. To exercise the option to renew, Landlord shall notify Tenant in writing no later than sixty (60) days prior to the expiration of the then current term of this Lease and request Tenant's renewal confirmation.

3. RENT. Tenant agrees to pay, without demand, to Landlord as rent for the Premises, the sum of ONE HUNDRED AND NO/100 DOLLARS (\$100.00) per month, in exchange for considerations and obligations previously negotiated between the Parties and as outlined heretofore.

4. HEAT, WATER, TELEPHONE and OTHER UTILITY CHARGES. Tenant shall be responsible for paying one hundred percent (100%) of all utility expenses associated with the Premises during the term of occupancy.

5. COMPLIANCE WITH LAWS. Tenant shall not make or permit any use of the Premises which will be unlawful, improper, or contrary to any applicable law or ordinance, including without limitation all zoning, building, or sanitary statutes, codes, rules, regulations or ordinances, or which will make voidable or increase the cost of any insurance maintained on the Premises by Landlord.

6. CONDITION OF THE LEASED PREMISES. 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 to Landlord, terminate this Lease. Tenant stipulates that they have examined the 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.

7. USE OF PREMISES. The Premises shall be used and occupied by Tenant exclusively for the housing, care and grazing of 1 horse and 2 donkeys and neither the Premises nor any part thereof shall be used at any time during the term of this Lease by Tenant for the purpose of carrying on any business, profession, or trade of any kind, or for any purpose other than the housing, care and grazing of 1 horse and 2 donkeys. Tenant shall comply with all the sanitary laws, ordinances, rules, and orders of appropriate governmental authorities affecting the cleanliness, occupancy, and preservation of the Premises, during the term of this Lease.

a. **Storage.** The Tenant shall not store any personal items or equipment on Landlord's property, unless it is directly needed for the care of the allowable livestock, which will then be appropriately stored and secured within the leased barn structure(s). The Tenant shall not be permitted to store any hazardous or dangerous materials on the leased premises, without prior written consent by the Landlord

8. HOURS OF OPERATION. Tenant shall be allowed the use of the Premises 24-hours a day, Monday through Sunday for the term of this Lease. The general public, through the Beaufort County Passive Parks Program, shall not be restricted from entering the surrounding property owned by Landlord but will be restricted from accessing the Premises and appropriate signage will be installed by the Landlord prior to the property being accessible to the public.

9. TENANTS OBLIGATIONS. Tenant agrees and shall maintain the Premises as follows: (1) comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety; (2) keep the premises reasonably safe and clean; (3) dispose from the premises all ashes, garbage, rubbish, and other waste in a reasonably clean and safe manner; (4) keep all plumbing fixtures in the facility or used by the Tenant reasonably clean and in working order; (5) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating air-conditioning, and other facilities and appliances in the premises and to keep said systems in good working order; (6) not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or knowingly permit any person to do so who is on the premises with the tenant's permission or who is allowed access to the premises by the Tenant; (7) conduct themselves and require other persons on the premises with the Tenant's permission or who are allowed access to the premises by the Tenant to conduct themselves in a manner that will not disturb other tenant's or neighboring property owner's peaceful enjoyment of their premises; (8) dispel or cause to have dispelled from the property any individual(s) that do not have the express authorization or permission to occupy said premises either from the Tenant or the Landlord; and (9) comply with the Agreement and rules and regulations which are enforceable pursuant to S.C. Code of Laws Section 27-35-75.

In addition to the obligations stated above, Tenant shall also be responsible for: (1) one hundred percent (100%) maintenance of Heffalump Road as Tenants ingress/egress for vehicular and pedestrian traffic; (2) one hundred percent (100%) maintenance of the two (2) barns associated with the Premises; and (3) fifty percent (50%) maintenance of the Heffalump Road bridge accessing the property.

Tenant shall provide a manure management plan to the Landlord's Passive Parks Manager within sixty (60) days of the Term start date of this Lease.

10. QUIET ENJOYMENT / PERMITTED OCCUPANTS. Landlord covenants that upon Tenant's performance of the covenants and obligations herein contained, Tenant shall peacefully and quietly have, hold, and enjoy the Premises for the agreed term. Tenant shall not allow or permit the Premises to be occupied for purposes that may injure the reputation, safety, or welfare of the property. Landlord shall have the right to terminate this agreement should Tenant fail to comply with the terms of this provision after written notice of breach specifying the Tenant breach and a failure of Tenant to cure the breach within a thirty (30) day period.

11. MAINTENANCE AND REPAIRS. Tenant will, at their sole expense, keep and maintain the Premises and appurtenances in good and sanitary condition during the term of this Lease and any renewal thereof subject to applicable law, the Tenant shall keep and maintain the Premises and all equipment and fixtures thereon or used therewith, whole and of the same kind, quality and description and in such good repair, order and condition as the same are at the beginning of the Term of this Lease or may be put in thereafter, reasonable and ordinary wear and tear and damage by fire and other unavoidable casualty (not due to Tenant's negligence) only excepted. If Tenant fails within a reasonable time to make such repairs, or makes them improperly, then and in any such events, Landlord may (but not shall be obligated to) make such repairs and Tenant shall reimburse Landlord for the reasonable costs of such repairs in full, and upon demand. It shall be the responsibility of the Landlord to conduct major repairs and/or replacements of the appliances and structural components of the barn, major repairs/replacements being any repairs/replacements costing in excess of \$2,500.00 each, and being not specifically identified as being the responsibility of the Tenant. Landlord shall have the sole authority on any decision to repair or replace such items. If, in the opinion of the Landlord, such repair or replacement is due to the negligence of the Tenant, or if damage falls outside the scope of the normal wear and tear exception identified in paragraph 11, Tenant shall be responsible for the costs of such repairs and/or replacements.

In addition to the obligations stated above, the Tenant is responsible for (1) mowing the edge of their private fence line (24 inch maximum width on Landlord's property); (2) mowing the roadside edge of Heffalump Road (24 inch maximum width through Landlords' property); (3) mowing or grazing the two (2) leased fields; and (4) mowing no more than one (1) acre surrounding the pond on Landlords' property, which is located adjacent to the Tenants private property. Any changes, improvements, renovations or property management to the Premises, including the fields, barns or Landlord's property, must be submitted in writing by the Tenant to the Landlord for approval prior to the commencement of the requested action.

12. ALTERATIONS AND IMPROVEMENTS. Tenant shall have the option and the right, at its expense, to improve the décor and appearance of the interior of the two (2) barns on the Premises, but shall not construct any other structures on the Premises. Any work done by the Tenant shall be done in accordance with all applicable laws and regulations, with a proper permit, using first class materials and in a workmanlike manner. Any and all improvements must be approved by the Landlord prior to the commencement of said alteration or improvement.

The improvements and or fixtures caused to be located or affixed to the real estate shall become the property of the Landlord at the end of the Term of this Lease unless Tenant has sought the prior consent of the Landlord to remove such items. In the event that Tenant is granted permission to remove any fixtures or improvements, said removal costs shall be the sole responsibility of Tenant. Should any damage or defacement be caused to occur as a result of the removal of any fixture, Tenant agrees to repair any damage to the satisfaction of the Landlord.

a. ***Obstruction to Landlord's Property.*** The Tenant shall not construct any gate or obstruction on the portion of Heffalump Road that traverses Landlord's property.

12. LOCKS. Tenant agrees not to change any locks on any door, mailbox gate, or otherwise without first obtaining the Landlord's written consent. Having obtained written consent, Tenant agrees to pay for changing the locks and to provide Landlord with one duplicate per lock within 24 hours of same. Should it become necessary, from time to time, for the Landlord to change out any locks on the premises, Landlord will likewise provide notice to Tenant and ensure that Tenant continues to have uninterrupted access for the remainder of the Term of this Lease. The Tenant shall provide the Landlord's Passive Parks Manager with a code or key to each locked gate or door on the leased premises for use in emergency situations.

13. LOCKOUT. If Tenant becomes locked out of the premises, Tenant shall be solely responsible to secure a private locksmith to regain entry at Tenant's sole expense.

14. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this Lease, or sublet or grant any concession of license to use the property, Premises or any part thereof. An assignment, subletting, concession, or license without the prior written consent of Landlord or an assignment or subletting by operation of law, shall be void and shall at Landlord's option, terminate this Lease.

15. RIGHT OF INSPECTION. Landlord and its agents shall have the unfettered right at all reasonable times during the term of this Lease and any renewal thereof to enter the surrounding property for any reason whatsoever. Landlord and its agents shall have the right from dawn to dusk during the term of this Lease and any renewal thereof to enter the leased Premises for any reason whatsoever. Landlord agrees, when able, to provide Tenant with reasonable notice of said entry upon the leased Premises. No notice will be required for access or entry upon the Landlord's surrounding property or in emergency situations.

16. INSURANCE. Landlord has obtained insurance to cover fire damage to the two (2) barn buildings themselves and liability insurance which does not cover Tenant's livestock, possessions or Tenant's negligence. Tenant must obtain a renter's insurance policy, in an amount of no less

than \$1,000,000 in general tort liability, or other appropriate policy to cover damage or loss resulting from Lessee's negligence.

17. INDEMNIFICATION. Tenant hereby agrees to indemnify and hold harmless Landlord against and from any and all claims or property damage, or personal injury, arising out of or with respect to Tenant's use of the Premises or from any activity, work, or thing done, permitted or suffered by Lessee in or about the Premises.

18. HOLDOVER BY TENANT. Should Tenant remain in possession of the Premises with the consent of Landlord after the natural expiration of this lease, a new month-to-month tenancy shall be created between Landlord and Tenant, which shall be subject to all the terms and conditions hereof but shall be terminated on thirty (30) days' written notice served by either Landlord or Tenant on the other party.

19. NOTICE OF INTENT TO VACATE. *[This paragraph applies only when this Lease is or has become a month-to-month Lease.]* Landlord shall advise Tenant of any changes in terms of tenancy with advance notice of at least thirty (30) days. Changes may include notices of termination, rent adjustments or other reasonable changes in the terms of this Lease.

20. SURRENDER OF PREMISES. At the expiration of the Lease Term, Tenant shall quit and surrender the premises hereby demised in as good state and condition as they were at the commencement of this Lease, reasonable use and wear thereof excepted.

21. DEFAULT. In the event that Tenant shall default in the observance or performance of any other of Tenant's covenants, agreements or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof, Landlord may elect to enter upon said Premises and to take possession thereupon, whereupon this Lease shall absolutely terminate and it shall be no defense to Tenant that previous violations of any covenants have been waived by Landlord either expressly or impliedly. Any such election by Landlord shall not discharge Tenant's obligations under this Lease and Tenant shall indemnify Landlord against all loss or damages suffered by reason of such termination.

22. ABANDONMENT. If Landlord's right of entry is exercised following abandonment of the premises by Tenant, then Landlord may consider any personal property belonging to Tenant and left on the premises to also have been abandoned, in which case Landlord may dispose of all such personal property in any manner Landlord shall deem proper and is hereby relieved of all liability for doing so.

23. TERMINATION. Tenant agrees to quit and deliver up the Premises peaceably and quietly to Landlord, or its attorney, or other duly authorized agent, at the expiration or other termination of this Lease. This Lease may be terminated prior to the date identified in Section 2 above upon the occurrence of any default event as set forth in Paragraph 21.

24. BINDING EFFECT. This Lease is to be construed as a South Carolina lease; is to take effect as a sealed instrument; sets forth the entire agreement between the Parties; is binding upon

and inured to the benefit of the Parties hereto and may be cancelled, modified, or amended only by written instrument signed by both Landlord and Tenant.

25. SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

26. NOTICES. All notices hereunder by Landlord to Tenant shall be given in hand, express mail, or in writing through certified mail addressed to Tenant at the leased premises, or to such other address as Tenant may from time to time give to Landlord for this purposes, and all notices by Tenant to Landlord shall be given in hand or by registered or certified mail addressed to Landlord's address shown in the initial paragraph of this Lease, or to such other address as Landlord may from time to time give in writing to Tenant for this purpose. Such notice shall be deemed delivered, if by hand when hand delivered or if by mail when deposited with the U.S. Postal Service.

27. OTHER PROVISIONS.

a. ***Disputes.*** All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including but not limited to breach thereof, shall be first submitted to an agreed upon mediator. The Parties shall be equally responsible for the cost of mediation.

b. ***Entire Agreement.*** This Agreement contains the entire agreement between the Parties pertaining to the subject matter contained herein. All prior agreements by or between the Parties shall be deemed to have merged into this Agreement.

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d. ***Binding Nature and Assignment.*** This Agreement shall bind the Parties and their respective successors in interest as may be permitted by law. Neither party to this Agreement may assign their rights or obligations arising under this Agreement without the prior written consent of the other party.

e. ***No Third Party Beneficiaries.*** This Agreement is intended solely for the benefit of the Parties and not for the benefit of any other person or entity.

f. ***Counterparts.*** This Agreement may be executed in multiple counterparts, and all such executed counterparts shall constitute the same agreement. The Parties agree that this Agreement may be communicated by use of a fax or other electronic means, such as electronic mail and the internet, and that the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed valid and binding upon the Parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents.

g. ***Captions.*** The section headings appearing in this Agreement are for convenience of

reference only and are not intended to any extent for the purpose, to limit or define the test of any section or any subsection hereof.

h. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

i. **Waiver.** No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving its rights. No delay or omission by either party to exercise any right or remedy it has under this Agreement shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any covenant or breach of this Agreement shall not constitute or operate as a waiver of any succeeding breach of the covenant or of any other covenant.

j. **Applicable Law.** This Agreement is enforceable in the State of South Carolina and shall in all respects be governed by, and constructed in accordance with, the substantive Federal laws of the United States and the laws of the State of South Carolina. Any claims for default, non-performance or other breach shall be filed in Beaufort County, South Carolina.

Signature Page to Follow

IN WITNESS THEREOF, the Parties hereto have executed this Lease Agreement the day and year first above written.

LANDLORD:
Beaufort County

Witness

By: _____
Ashley M. Jacobs, County Administrator

Witness

TENANTS:

Witness

Edwin R. Olsen

Witness

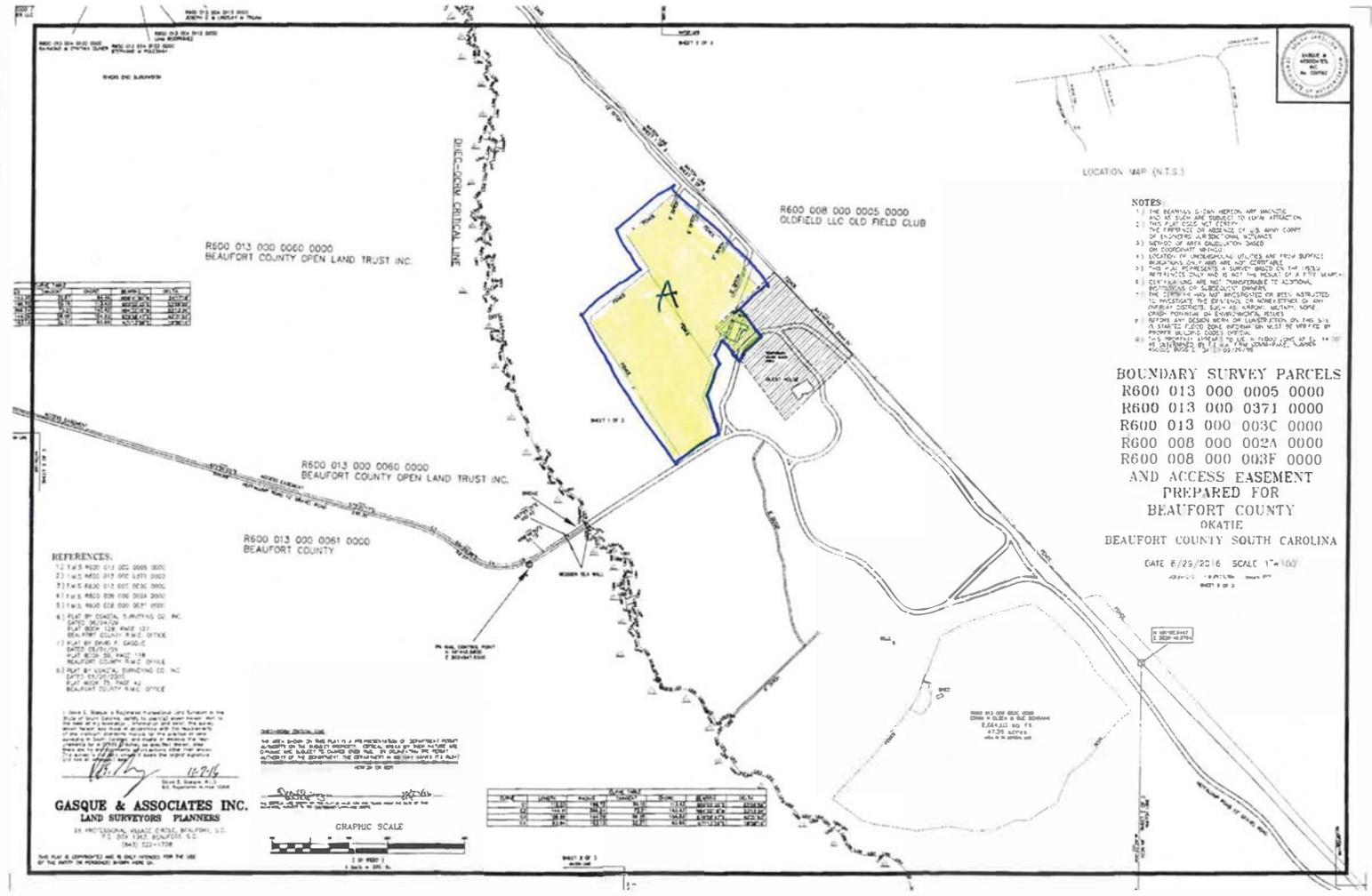
Witness

Sue Schrank Olsen

Witness

NOTICE: State law establishes rights and obligations for parties to rental agreements. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person.

Exhibit A





FOOT	INCHES	FEET	POUNDS	TONS	MINUTES	SECONDS
1	12	1	16	2000	60	60
1	30	2.5	4000	5000	15	15

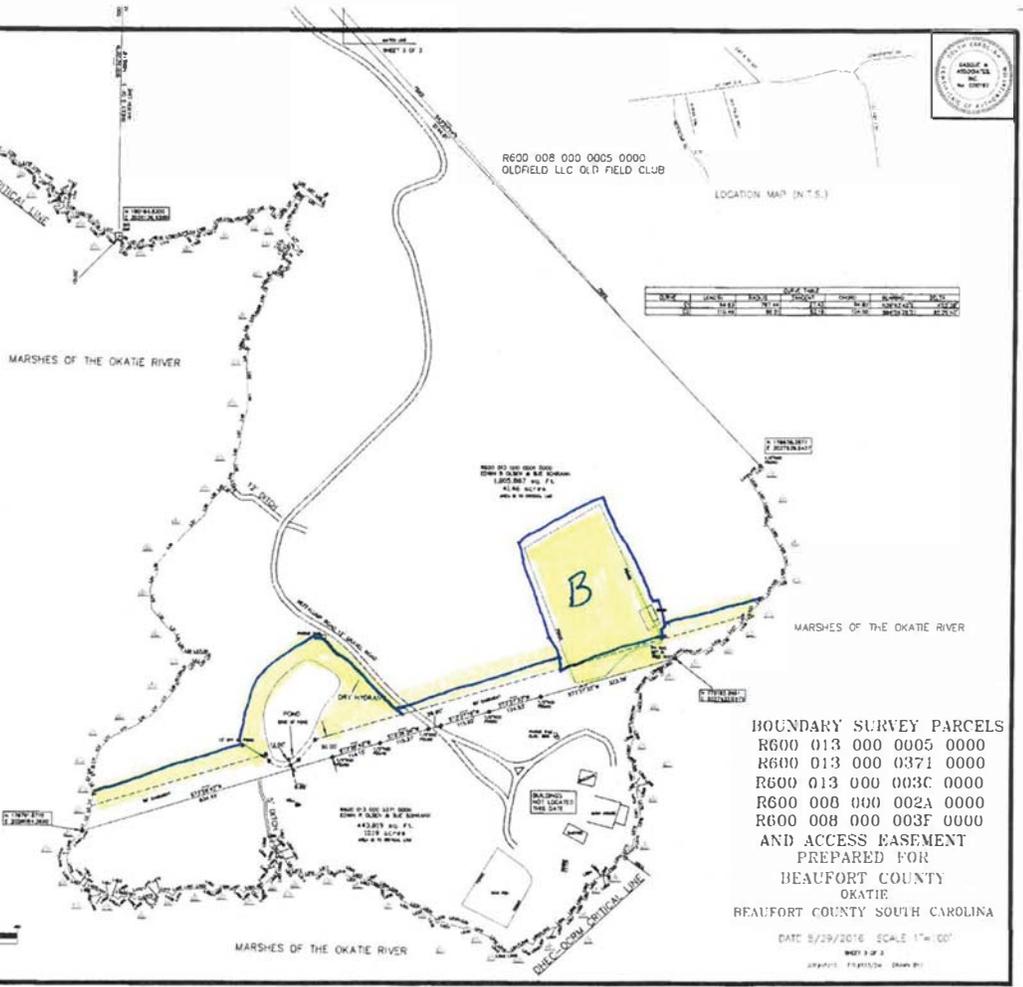
- NOTES:**
- 1) THE BEARINGS SHOWN HEREIN ARE MAGNETIC AND AS SUCH ARE SUBJECT TO LOCAL ATTRACTION.
 - 2) THIS SURVEY DOES NOT DEPICT OR INDICATE THE EXISTENCE OF ANY RIGHTS OR INTERESTS IN ANY UNDERGROUND UTILITIES OR STRUCTURES.
 - 3) THE METHOD OF AREA CALCULATION BASED ON COORDINATE GEOMETRY.
 - 4) LOCATIONS OF UNDERGROUND UTILITIES AND FRESH SURFACE WATERS ARE NOT SHOWN ON THIS SURVEY.
 - 5) THIS SURVEY IS BASED ON A SURVEY BASED ON THE LATEST REFERENCED POINT AND IS NOT THE RESULT OF A FIELD SEARCH.
 - 6) DISTANCES ARE NOT TRANSMITTED TO ANY OTHER PARTY UNLESS SPECIFICALLY STATED.
 - 7) THE SURVEYOR HAS NOT INSPECTED OR BEEN INSTRUCTED TO INSPECT THE EXISTENCE OR NON-EXISTENCE OF ANY UNDERGROUND UTILITIES OR STRUCTURES.
 - 8) BEFORE ANY WORK IS DONE ON THIS SITE BY THE CONTRACTOR, THE CONTRACTOR MUST BE ADVISED BY THE SURVEYOR OF ANY UTILITIES OR STRUCTURES.
 - 9) THIS SURVEY IS BASED ON THE LATEST REFERENCED POINT AND IS NOT THE RESULT OF A FIELD SEARCH.

- 1) W 1/4 R600 013 000 0005 0000
 - 2) W 1/4 R600 013 000 0371 0000
 - 3) W 1/4 R600 013 000 003C 0000
 - 4) W 1/4 R600 008 000 002A 0000
 - 5) W 1/4 R600 008 000 003F 0000
- PLAT BY: GASQUE & ASSOCIATES INC.
 BEAUFORT COUNTY S.C.
 DATE: 02/19/2016
 SURVEYOR: JAMES L. GASQUE
 LICENSE NO. 11524

BEFORE ME: I, _____, County Clerk of Beaufort County, South Carolina, do hereby certify that the foregoing is a true and correct copy of the original plat as filed in my office on this _____ day of _____, 2016.

James L. Gasque
 11-2-16

GASQUE & ASSOCIATES INC.
 LAND SURVEYORS PLANNERS
 28 PROFESSIONAL VILLAGE DR. BEAUFORT, S.C.
 P.O. BOX 1000 BEAUFORT, S.C.
 29502-3327-1705
 (843) 332-1705



BOUNDARY SURVEY PARCELS
 R600 013 000 0005 0000
 R600 013 000 0371 0000
 R600 013 000 003C 0000
 R600 008 000 002A 0000
 R600 008 000 003F 0000
AND ACCESS EASEMENT
PREPARED FOR
BEAUFORT COUNTY
OKATIE
BEAUFORT COUNTY SOUTH CAROLINA

DATE 2/19/2016 SCALE 1"=100'
 SHEET 2 OF 2
 2/19/2016 11:00:00 AM (Sheet 2)

COUNTY OF BEAUFORT)
)
STATE OF SOUTH CAROLINA)

LEASE AGREEMENT

IN CONSIDERATION of the mutual promises, obligations and agreements herein set forth, this Lease Agreement (referred to as the "Lease") is made and entered into on this ____ day of _____, 2020, between **Beaufort County**, a political subdivision of the State of South Carolina, hereinafter referred to as "Landlord" and having a mailing address of County of Beaufort, Attention Beaufort County Staff Attorney, P.O. Drawer 1228, Beaufort, South Carolina 29901-1228, **Edwin R. Olsen, Sue Schrank Olsen, Leanna McMillan, and Chris Newton**, with a mailing address of 1 Heffalump Road, Okatie, South Carolina 29909, hereinafter collectively referred to as "Tenant".

Whereas Landlord leases to Tenant the following described Premises:

1. DESCRIPTION OF LEASED PREMISES. All that certain, piece, parcel or tracts of land, with improvements known as the Olsen Tract, located in Okatie, County of Beaufort, State of South Carolina consisting of an approximate one (1) acre area consisting of a single family residential dwelling unit, associated yard and adjacent barn, which is a portion of the real property with TMS No. R600 013 000 003C 0000 and further shown in the highlighted portion on that survey attached hereto and incorporated by reference as "Exhibit A" ("Premises").

2. TERM. The initial term of this Lease shall cover a period of twelve months (12) months, commencing on the 16th day of December, 2019, and terminating on the 16th day of December, 2020, unless terminated sooner pursuant to the provisions of this Lease.

a. Renewal. The Tenant shall have four (4) consecutive options to renew the twelve (12) month term of this Lease, with the final termination date of December 16, 2024. To exercise the option to renew, Landlord shall notify Tenant in writing no later than sixty (60) days prior to the expiration of the then current term of this Lease and request Tenant's renewal confirmation.

3. RENT. Tenant agrees to pay, without demand, to Landlord as rent for the Premises, the sum of FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) per month, in exchange for considerations and obligations as outlined heretofore.

4. HEAT, WATER, TELEPHONE and OTHER UTILITY CHARGES. Tenant shall be responsible for paying one hundred percent (100%) of all utility expenses associated with the Premises during the term of this Lease.

5. COMPLIANCE WITH LAWS. Tenant shall not make or permit any use of the Premises which will be unlawful, improper, or contrary to any applicable law or ordinance, including without limitation all zoning, building, or sanitary statutes, codes, rules, regulations or ordinances, or which will make voidable or increase the cost of any insurance maintained on the Premises by Landlord.

6. CONDITION OF THE LEASED PREMISES. 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 to Landlord, terminate this Lease.

Tenant stipulates that they have examined the 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.

7. USE OF PREMISES. The Premises shall be used and occupied by Tenant exclusively as a single family residential dwelling unit and neither the Premises nor any part thereof shall be used at any time during the term of this Lease by Tenant for the purpose of carrying on any business, profession, or trade of any kind, or for any purpose other than as a single family residential dwelling unit. Tenant shall comply with all the sanitary laws, ordinances, rules, and orders of appropriate governmental authorities affecting the cleanliness, occupancy, and preservation of the Premises, during the term of this Lease.

a. Pets/Animals. Tenant is permitted two (2) dogs on the Premises, which must be secured at all times within the dwelling unit, the dwelling unit fenced yard, or the associated fenced barn field. Tenant's dogs must be leashed and under control at all times when unconfined from the dwelling unit or barn yards. At no time are dogs allowed to roam freely on the Landlord's property.

b. Storage. Tenant shall store and secure any and all personal property within the confines of the dwelling unit and/or its associated barn. Tenant's personal property is not permitted to be stored outside on the Landlord's property. Tenant shall not be permitted to store any hazardous or dangerous materials on the Premises without prior written consent by the Landlord.

8. HOURS OF OPERATION. Tenant shall be allowed the use of the Premises 24-hours a day, Monday through Sunday for the term of this Lease. The general public, through the Beaufort County Passive Parks Program, shall not be restricted from entering the property surrounding the Premises generally known as the Olsen Tract, but will be restricted from accessing the Premises and appropriate signage will be installed by the Landlord prior to the property being accessible to the public.

9. TENANTS OBLIGATIONS. Tenant agrees and shall maintain the Premises as follows: (1) comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety; (2) keep the premises reasonably safe and clean; (3) dispose from the premises all ashes, garbage, rubbish, and other waste in a reasonably clean and safe manner; (4) keep all plumbing fixtures in the facility or used by the Tenant reasonably clean and in working order; (5) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating air-conditioning, and other facilities and appliances in the premises and to keep said systems in good working order; (6) not deliberately or negligently destroy, deface, damage, impair, or remove any part of the premises or knowingly permit any person to do so who is on the premises with the Tenant's permission or who is allowed access to

the premises by the Tenant; (7) conduct himself and require other persons on the premises with the Tenant's permission or who are allowed access to the premises by the Tenant to conduct themselves in a manner that will not disturb other tenant's, neighboring property owner's, or Landlord's peaceful enjoyment of the surrounding passive park property; (8) dispel or cause to have dispelled from the Premises any individual(s) that do not have the express authorization or permission to occupy said Premises either from the Tenant or the Landlord; and (9) comply with the Agreement and rules and regulations which are enforceable pursuant to S.C. Code of Laws Section 27-35-75.

In addition to the obligations stated above, Tenant shall also be responsible for any and all (1) interior maintenance of the dwelling unit and associated barn; (2) maintenance of the exterior fencing of the dwelling unit yard, barn and associated livestock field; and (3) mowing and landscape maintenance of the dwelling unit yard.

10. QUIET ENJOYMENT / PERMITTED OCCUPANTS. Landlord covenants that upon Tenant's performance of the covenants and obligations herein contained, Tenant shall peacefully and quietly have, hold, and enjoy the Premises for the agreed term. Tenant shall not allow or permit the premises to be occupied for purposes that may injure the reputation, safety, or welfare of the premises or the surrounding property owned by Landlord. Landlord shall have the right to terminate this agreement should Tenant fail to comply with the terms of this provision after written notice of breach specifying the Tenant breach and a failure of Tenant to cure the breach within a thirty (30) day period.

11. MAINTENANCE AND REPAIRS. Tenant will, at his sole expense, keep and maintain the Premises and appurtenances in good and sanitary condition during the term of this Lease and any renewal thereof. Subject to applicable law, the Tenant shall keep and maintain the Premises and all equipment and fixtures thereon or used therewith, whole and of the same kind, quality and description and in such good repair, order and condition as the same are at the beginning of the Term of this Lease or may be put in thereafter, reasonable and ordinary wear and tear and damage by fire and other unavoidable casualty (not due to Tenant's negligence) only excepted. If Tenant fails within a reasonable time to make such repairs, or makes them improperly, then and in any such events, Landlord may (but not shall be obligated to) make such repairs and Tenant shall reimburse Landlord for the reasonable costs of such repairs in full, and upon demand. Landlord shall be responsible for all exterior maintenance of the dwelling unit and associated barn, including the roofs. It shall be the responsibility of the Landlord to conduct major repairs and/or replacements of the appliances and the structural components of the dwelling unit and associated barn, major repairs/replacements being any repairs/replacements costing in excess of \$2,500.00 each, and being not specifically identified as being the responsibility of the Tenant. Landlord shall have the sole authority on any decision to repair or replace such major items unless the Premises are rendered uninhabitable through no fault of the Tenant, in which case the repairs or replacements must be completed by Landlord. If, in the opinion of the Landlord, such repair or replacement or inhabitation is due to the negligence of the Tenant, or if damage falls outside the scope of the normal wear and tear exception identified in paragraph 11, Tenant shall be responsible for the costs of such repairs and/or replacements.

12. ALTERATIONS AND IMPROVEMENTS. Tenant shall have the option and the right, at their expense, to improve the décor and appearance of the interior of the dwelling unit and associated barn on the Premises, but shall not construct any other structures on the Premises. Any work done by the Tenant shall be done in accordance with all applicable laws and regulations, with a proper permit, using first class materials and in a workmanlike manner. Any and all improvements must be approved by the Landlord prior to the commencement of said alteration or improvement.

The improvements and or fixtures caused to be located or affixed to the real estate shall become the property of the Landlord at the end of the Term of this Lease unless Tenant has sought the prior consent of the Landlord to remove such items. In the event that Tenant is granted permission to remove any fixtures or improvements, said removal costs shall be the sole responsibility of Tenant. Should any damage or defacement be caused to occur as a result of the removal of any fixture, Tenant agrees to repair any damage to the satisfaction of the Landlord.

12. LOCKS and KEYS. Tenant agrees not to change any locks on any door, mailbox, gate, or otherwise without first obtaining the Landlord's written consent. Having obtained written consent, Tenant agrees to pay for changing the locks and to provide Landlord with one duplicate per lock within 24 hours of same. Should it become necessary, from time to time, for the Landlord to change out any locks on the premises, Landlord will likewise provide notice to Tenant and ensure that Tenant continues to have uninterrupted access for the remainder of the Term of this Lease. Tenant shall provide the Beaufort County Passive Parks Manager with a key to each locked gate or door on the Premises for use in emergency situations.

13. LOCKOUT. If Tenant becomes locked out of the Premises, Tenant shall be solely responsible to secure a private locksmith to regain entry at Tenant's sole expense.

14. ASSIGNMENT AND SUBLETTING. Tenant shall not assign this Lease, or sublet or grant any concession of license to use the Premises or any part thereof. An assignment, subletting, concession, or license without the prior written consent of Landlord or an assignment or subletting by operation of law, shall be void and shall at Landlord's option, terminate this Lease.

15. RIGHT OF INSPECTION. Landlord and its agents shall have the unfettered right at all reasonable times during the term of this Lease and any renewal thereof to enter the surrounding property for any reason whatsoever. Landlord and its agents shall have the right from Monday to Sunday between 8:00am and 5:00pm during the term of this Lease and any renewal thereof to enter the Premises for any reason whatsoever; however, Landlord shall not enter the single-family residence on the Premises without giving Tenant 48 hours' prior notice. No notice will be required for access or entry upon the Landlord's surrounding property or in emergency situations.

16. INSURANCE. Landlord has obtained insurance to cover fire damage to the dwelling unit and barn and liability insurance which does not cover Tenant's possessions or Tenant's negligence. Tenant must obtain a renter's insurance policy, in an amount of no less than \$100,000 in general tort liability, or other appropriate policy to cover damage or loss resulting from Lessee's negligence.

17. INDEMNIFICATION. Tenant hereby agrees to indemnify and hold harmless Landlord against and from any and all claims or property damage, or personal injury, arising out of or with respect to Tenant's use of the Premises or from any activity, work, or thing done, permitted or suffered by Lessee in or about the Premises.

18. HOLDOVER BY TENANT. Should Tenant remain in possession of the Premises with the consent of Landlord after the natural expiration of this lease, a new month-to-month tenancy shall be created between Landlord and Tenant, which shall be subject to all the terms and conditions hereof but shall be terminated on thirty (30) days' written notice served by either Landlord or Tenant on the other party.

19. NOTICE OF INTENT TO VACATE. *[This paragraph applies only when this Lease is or has become a month-to-month Lease.]* Landlord shall advise Tenant of any changes in terms of tenancy with advance notice of at least thirty (30) days. Changes may include notices of termination, rent adjustments or other reasonable changes in the terms of this Lease.

20. SURRENDER OF PREMISES. At the expiration of the Lease Term, Tenant shall quit and surrender the premises hereby demised in as good state and condition as they were at the commencement of this lease, reasonable use and wear thereof excepted.

21. DEFAULT. In the event that Tenant shall default in the observance or performance of any other of Tenant's covenants, agreements or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof, Landlord may elect to enter upon said Premises and to take possession thereupon, whereupon this Lease shall absolutely terminate and it shall be no defense to Tenant that previous violations of any covenants have been waived by Landlord either expressly or impliedly. Any such election by Landlord shall not discharge Tenant's obligations under this Lease and Tenant shall indemnify Landlord against all loss or damages suffered by reason of such termination.

22. ABANDONMENT. If Landlord's right of entry is exercised following abandonment of the premises by Tenant, then Landlord may consider any personal property belonging to Tenant and left on the premises to also have been abandoned, in which case Landlord may dispose of all such personal property in any manner Landlord shall deem proper and is hereby relieved of all liability for doing so.

23. TERMINATION. Tenant agrees to quit and deliver up the Premises peaceably and quietly to Landlord, or its attorney, or other duly authorized agent, at the expiration or other termination of this Lease. This Lease may be terminated prior to the date identified in section 2 above upon the occurrence of any default event as set forth in Paragraph 21.

24. BINDING EFFECT. This Lease is to be construed as a South Carolina lease; is to take effect as a sealed instrument; sets forth the entire agreement between the Parties; is binding upon and inured to the benefit of the Parties hereto and may be cancelled, modified, or amended only by written instrument signed by both Landlord and Tenant.

25. SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, then such provision shall be deemed to be written, construed and enforced as so limited.

26. NOTICES. All notices hereunder by Landlord to Tenant shall be given in hand or in writing through hand delivery, express mail, or certified mail addressed to Tenant at the Premises, or to such other address as Tenant may from time to time give to Landlord for this purposes, and all notices by Tenant to Landlord shall be given in hand, express mail, or by registered or certified mail addressed to Landlord's address shown in the initial paragraph of this Lease, or to such other address as Landlord may from time to time give in writing to Tenant for this purpose. Such notice shall be deemed delivered, if by hand when hand delivered or if by mail when deposited with the U.S. Postal Service.

27. OTHER PROVISIONS.

a. **Disputes.** All claims, disputes, and controversies arising out of or in relation to the performance, interpretation, application, or enforcement of this Agreement, including but not limited to breach thereof, shall be first submitted to an agreed upon mediator. The Parties shall be equally responsible for the cost of mediation.

b. **Entire Agreement.** This Agreement contains the entire agreement between the Parties pertaining to the subject matter contained herein. All prior agreements by or between the Parties shall be deemed to have merged into this Agreement.

c. **Amendment or Modification.** This Agreement cannot be amended or modified orally or by a single party. No amendment or modification to this Agreement shall be valid unless in writing and signed by both Parties to this Agreement.

d. **Binding Nature and Assignment.** This Agreement shall bind the Parties and their respective successors in interest as may be permitted by law. Neither party to this Agreement may assign their rights or obligations arising under this Agreement without the prior written consent of the other party.

e. **No Third Party Beneficiaries.** This Agreement is intended solely for the benefit of the Parties and not for the benefit of any other person or entity.

f. **Counterparts.** This Agreement may be executed in multiple counterparts, and all such executed counterparts shall constitute the same agreement. The Parties agree that this Agreement may be communicated by use of a fax or other electronic means, such as electronic mail and the internet, and that the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed valid and binding upon the Parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents.

g. **Captions.** The section headings appearing in this Agreement are for convenience of reference only and are not intended to any extent for the purpose, to limit or define the test of any section or any subsection hereof.

h. **Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

i. **Waiver.** No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving its rights. No delay or omission by either party to exercise any right or remedy it has under this Agreement shall impair or be construed as a waiver of such right or remedy. A waiver by either party of any covenant or breach of this Agreement shall not constitute or operate as a waiver of any succeeding breach of the covenant or of any other covenant.

j. **Applicable Law.** This Agreement is enforceable in the State of South Carolina and shall in all respects be governed by, and constructed in accordance with, the substantive Federal laws of the United States and the laws of the State of South Carolina. Any claims for default, non-performance or other breach shall be filed in Beaufort County, South Carolina.

Signature Page to Follow

IN WITNESS THEREOF, the Parties hereto have executed this Lease Agreement the day and year first above written.

LANDLORD:
Beaufort County

Witness

By: _____
Ashley M. Jacobs, County Administrator

Witness

TENANTS:

Witness

Edwin R. Olsen

Witness

Witness

Sue Schrank Olsen

Witness

Witness

Chris Newton

Witness

Witness

Leanna McMillan

Witness

NOTICE: State law establishes rights and obligations for parties to rental agreements. If you have a question about the interpretation or legality of a provision of this agreement, you may want to seek assistance from a lawyer or other qualified person.



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Local ATAX and HTAX Grant Awards

Council Committee:

County Council

Meeting Date:

March 23, 2020

Committee Presenter (Name and Title):

Hayes Williams, Finance Director

Issues for Consideration:

Each year, Beaufort County awards grant funds from available Accommodations Tax and Hospitality Tax collections. For the 2019-2020 award cycle, the County instituted an online application process; from October 1 through December 31, 2019, applications were accepted from local entities. During that timeframe, twenty (20) applications were received, including three (3) from Beaufort County Departments. The total award requests totaled \$2,850,883.00.

Points to Consider:

County staff reviewed and scored the applications; the results are included on the attached spreadsheet along with award recommendations.

Funding & Liability Factors:

Available funds as of June 30, 2019 for making awards are as follows:
20010011 - Local Accommodations Tax: \$1,800,000
20020011 - Local Hospitality Tax: \$2,200,000
Total Funds: \$4,000,000

Council Options:

Approve staff recommendations as provided
Suggest edits to award amounts

Recommendation:

Approve the award of local accommodations tax and local hospitality tax as proposed.

ORDINANCE NO. 2020/ ____

AN ORDINANCE TO APPROPRIATE GRANT AWARDS TO LOCAL ENTITIES FROM THE COUNTY'S LOCAL (3%) ACCOMMODATIONS TAX AND LOCAL HOSPITALITY TAX COLLECTIONS FOR THE YEAR ENDING JUNE 30, 2019.

WHEREAS, Beaufort County Council ("County Council") is authorized to utilize Local Accommodations Tax ("Local A-Tax") and Local Hospitality Tax Funds ("Local H-Tax") for limited tourism-based purposes described in Beaufort County Code Ordinance Sec. 66-44 and Sec. 66-534; and

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

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

WHEREAS, Beaufort County ("County") initiated a formal grant application process, and accepted applications from local entities from October 1, 2019 through December 31, 2019 to receive grant funds from those locally collected Local A-Tax and Local H-Tax; and

WHEREAS, County staff received twenty (20) applications and has reviewed and scored each application for the purpose of making award recommendations to County Council for approval and appropriation of funds; and

WHEREAS, County Council finds that it is in the best interest of its citizens, residents, visitors and tourists to provide the recommended funds to local entities and projects as set forth in the attached "Exhibit A" which is incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL, that appropriations shall be made in the form of grant awards to local entities from Beaufort County's Local (3%) Accommodations Tax and Local Hospitality Tax Funds as set forth in the attached Exhibit A.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah Brock, Clerk to Council

Chronology:

Third and Final Reading

Public Hearing

Second Reading

First Reading

County Council of Beaufort
Local Atax Htax Awards
2019-2020

Revised 02/25/2020

Applying Organization	Amount Requested	Htax or Atax	If Atax Proper Category	Project Description	Was Application Complete?	Score	Project Awarded?	Award Amount	Staff Recommendation
Beaufort Area Hospitality Association	\$ 10,000	Atax	Reserve	Print advertising across SC, GA and NC as well as social media marketing	Yes	85	Yes	\$ 10,000	Award full amount
Beaufort Area Hospitality Association	\$ 10,000	Atax	Reserve	Advertising and promotion - Radio and TV Marketing of event	Yes	85	Yes	\$ 10,000	Award full amount
Beaufort County Black Chamber of Commerce	\$ 55,000	Atax	Reserve	African Fashion Week 2020	Yes	50	Partial	\$ 13,500	Advertising in budget was only item to fit criteria
Beaufort County Black Chamber of Commerce	\$ 65,000	Atax	Reserve	Gullah Christmas 2020	Yes	50	Partial	\$ 11,700	Advertising in budget was only item to fit criteria
Beaufort County Black Chamber of Commerce	\$ 55,000	Atax	Reserve	Kentucky Derby 2020	Yes	50	Partial	\$ 11,700	Advertising in budget was only item to fit criteria
Beaufort County Black Chamber of Commerce	\$ 35,000	Atax	Reserve	Southeast Regional Business Summit	Yes	50	Partial	\$ 11,700	Advertising in budget was only item to fit criteria
Beaufort County Heritage Tourism Corporation	\$ 270,000	Htax	N/A	Operations costs to get organization up and running	No	0	No	\$ -	Project does not meet criteria of atax or htax expenditures; Marketing Plan not included; Tourism Impact vague. They requested \$90,000 per year for three years.
Beaufort County Open Land Trust	\$ 25,000	Htax	N/A	Capers Creek Access Purchase for Reconstruction Era National Park	Yes	85	Yes	\$ 25,000	Award full amount
Beaufort County Open Land Trust	\$ 272,268	Htax	N/A	Port Royal Island Battlefield Property Purchase	Yes	0	No	\$ -	It appears that the Battlefield will become Beaufort County property. There is a building located on the property that would require maintenance or demolition as well as the general maintenance of the 12.16 acres.
Beaufort County - Engineering Department	\$ 43,785	Htax	N/A	Demolition of existing structures at County-owned Camp St. Mary's	No	0	No	\$ -	Demolition does not fit the criteria of atax or htax expenditures. Engineering needs to come back with a planned passive park that can be used by local residents and tourists.
Beaufort County - Public Works	\$ 196,000	Htax	N/A	CC Haigh Landing Improvements	Yes	100	Yes	\$ 196,000	Award full amount
Beaufort County - Engineering Department	\$ 160,000	Htax	N/A	Spanish Moss Trail Planning	Yes	100	Yes	\$ 160,000	Award full amount
Bluffton Historical Preservation Society	\$ 10,000	Htax	N/A	Heyward House Museum and Welcome Center Improvements	Yes	95	Yes	\$ 10,000	Award full amount
Campbell Chapel Community Development	\$ 165,000	Htax	N/A	Planning for restoration of Campbell's Historic Chapel	Yes	85	Yes	\$ 140,000	Award partial amount; reduction due to cost of a professional fundraiser, which does not fit atax or htax criteria
Coastal Discovery Museum	\$ 792,880	Htax	N/A	Planning and Design of New Museum	Yes	85	No	\$ -	Finance Committee voted not to fund at this time due to timing considerations.
Daufuskie Marsh Tacky Society	\$ 65,000	Htax	N/A	Construction of Facilities for Marsh Tacky Society	Yes	40	No	\$ -	The property in question is owned by Beaufort County. We need clarification for what can be placed on the property. We were unclear of the tourism draw to stables. Voted by finance committee to change Maybe to No.
Friends of Hunting Island	\$ 65,000	Htax	N/A	Virtual Lighthouse in Museum	Yes	100	Yes	\$ 65,000	Award full amount
Greater Beaufort - Port Royal CVB	\$ 51,950	Htax	N/A	Feasibility Study	No	0	No	\$ -	This project does not fit within the criteria of items to be awarded by atax or htax revenues.
Historic Port Royal Foundation & Museum	\$ 4,000	Atax	Reserve	Partial salary for marketing duties and purchase of promotional materials	Yes	80	Partial	\$ 1,000	This amount represents the marketing related materials; the cost of a marketing director does not fit with atax or htax criteria.
Port Royal Sound Foundation	\$ 500,000	Htax	N/A	Construction of a multi-purpose pavilion next to the Maritime Center in Okatie	Yes	80	Yes	\$ 500,000	Award full amount
Total Requested	\$ 2,850,883			Total Awarded				\$ 1,165,600	



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

ORDINANCE conveying real property (right of way) from Beaufort County to SCDOT - For the Boundary Street Renovation Project

Council Committee:

County Council March 9, 2020

Meeting Date:

Approved by PFC on February 18, 2020

Committee Presenter (Name and Title):

Patty Wilson, Beaufort County Right of Way Manager

Issues for Consideration:

Beaufort County acquired certain Rights-of-Way in connection with the Boundary Street Renovation Project along US 21 between S-234 (Neil Road) including the intersection of SC Highway 170 and US 21 (Business) and continuing on US 21 (Business) until SC 281N (Ribaut Road).

Points to Consider:

The Boundary Street Renovation project began in December of 2015 and the Ribbon Cutting for the final project was observed in June of 2018. Rights of Way acquired for the project need to be transferred and included with SCDOT Rights of Way of US Route 21 and SC Route 170.

Funding & Liability Factors:

2006 approved Transportation Sales and Use tax referendum and Federal Highway Administration. Need to convey to SCDOT to reduce liability to County.

Council Options:

Convey the land or not to convey the land

Recommendation:

Convey the land to SCDOT

ORDINANCE NO. 2020/ _____

AN ORDINANCE AUTHORIZING THE CONVEYANCE OF MULTIPLE PARCELS OF REAL PROPERTY FROM BEAUFORT COUNTY TO SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION IN CONNECTION WITH THE BOUNDARY STREET RENOVATION PROJECT

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

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

WHEREAS, Beaufort County now owns certain real properties along US 21 between S-234 (Neil Road) including the intersection of SC Highway170 and US 21 (Business) and continuing on US 21 (Business) until SC 281N (Ribaut Road) that were obtained with funds from the 2006 Transportation Sales and Use Tax and Federal Highway Administration; and

WHEREAS, the area the County now wishes to convey to South Carolina Department of Transportation (SCDOT) is generally demonstrated on the attached **Exhibit A** and more particularly described in the Limited Warranty Deed Title to Real Estate formally granting the real properties to the SCDOT; and

WHEREAS, Beaufort County believes that it is in the best interests of its citizens to forever relinquish any claim of right it may have over the properties along US 21 between S-234 (Neil Road) including the intersection of SC Highway170 and US 21 (Business) and continuing on US 21 (Business) until SC 281N (Ribaut Road) and convey these lands to the SCDOT.

NOW, THEREFORE, BE IT ORDAINED that Beaufort County Council does hereby authorize the County Administrator to execute the necessary documents to convey to the South Carolina Department of Transportation the properties along US 21 between S-234 (Neil Road) including the intersection of SC Highway170 and US 21 (Business) and continuing on US 21 (Business) until SC 281N (Ribaut Road) as shown on the attached **Exhibit A** and more particularly described in the attached Limited Warranty Deed Title to Real Estate.

DONE this ____ day of _____ 20____.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

Third and Final Reading
Public Hearing
Second Reading
First Reading

Exhibit A

Highway 21 Boundary Street Renovation Project Transfer Deed to SCDOT

EXHIBIT A

Prepared without the benefit of title exam by:
The Law office of Resnick & Louis
PC 146 Fairchild Street, Suite 130
Charleston, South Carolina, 29492

THE STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

LIMITED WARRANTY DEED
TITLE TO REAL ESTATE
Approximate Survey Station

Road/Route.....US 21/SC170
File.....07.036939A
Item.....
Project.....
PIN.....

301+25.42 to 372+00.00 Left & Right
US Route 21 (Boundary Street)

99+59.26 to 109+01.26 Left & Right
SC Route 170 (Robert Smalls Parkway)

WHEREAS, the Beaufort County acquired certain rights-of-way in connection with the Boundary Street Renovation Project along US 21 between S-234 (Neil Road) including the intersection of SC Highway170 and US 21 (Business) and continuing on US 21 (Business) until SC 281N (Ribaut Road).

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

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS that **Beaufort County**, a political subdivision of the State of South Carolina, P.O. Drawer 1228, Beaufort, SC 29901-1228 (“Grantor”), in consideration of the sum of **Ten and No/100 (\$10.00) Dollars** to it in hand paid and before the sealing of these presents by the **South Carolina Department of Transportation, Columbia, South Carolina (“Grantee”)**, receipt of which is hereby acknowledged, does hereby grant, bargain, sell and release, unto the said South Carolina Department of Transportation, its successors and assigns, all those certain real properties of the Grantor in fee simple along **US 21 between S-234 (Neil Road) including the intersection of SC Highway170 and US 21 (Business) and continuing on US 21 (Business) until SC 281N (Ribaut Road).**, State and County aforesaid, and identified in plans prepared by Thomas and Hutton, 50 Park of Commerce Way, P.O. Box 2727, Savannah, GA 31402-2727 entitled “Proposed Plans for Beaufort County US 21 Business (Boundary Street) improvements,” and dated January 23,2013.

SPECIAL PROVISIONS: The above consideration is for all that certain parcel of land containing 2.973 acres, more or less, and all improvements thereon, if any, owned by the County of Beaufort, shown as “Area[s] of Acquisition” on Exhibits A-G, attached hereto and made part hereof. This being the entire property acquired from Fred E. Bazemore, Jr. and Linda S. Bazemore, 24 SF, by deed dated May 28,2013 and recorded April 28, 2014 in Deed Book 3317, Page 2027 in the records of the ROD Office for Beaufort County, designated as **Tract 1**, and being a portion, now or formerly, of Tax Map No. R122 026 000 126C 0000; and

From Sevequity, a South Carolina Partnership, 436 SF, by deed dated June 20, 2013 and recorded April 28, 2014 in Deed Book 3317, Page 2030 in the records of the ROD Office for Beaufort

County, designated as **Tract 2**, and being a portion, now or formerly, of Tax Map No. R122 026 000 126D 0000; and

From The City of Beaufort, 1654 SF, by deed dated June 22, 2018 and recorded June 22, 2018 in Deed Book 3678, Page 1253 in the records of the ROD Office for Beaufort County, designated as **Tract 3**, and being a portion, now or formerly, of Tax Map No. R122 029 000 004C 0000; and

From The City of Beaufort, 715 SF, by deed dated June 22, 2018 and recorded June 22, 2018 in Deed Book 3678, Page 1253 in the records of the ROD Office for Beaufort County, designated as **Tract 4**, and being a portion, now or formerly, of Tax Map No. R122 026 000 126F 0000; and

From Joel E. Morris, 186 SF, by deed dated April 29, 2013 and recorded April 28, 2014 in Deed Book 3317, Page 2039 in the records of the ROD Office for Beaufort County, designated as **Tract 6**, and being a portion, now or formerly, of Tax Map No. R122 026 000 126E 0000; and

From James A. Smith, 754 SF, by deed dated May 8, 2015 and recorded September 28, 2015 in Deed Book 3432, Page 91 in the records of the ROD Office for Beaufort County, designated as **Tract 7**, and being a portion, now or formerly, of Tax Map No. R122 026 000 0126 0000; and

From Beaufort Plaza, Inc., 1347 SF described as 4-A, by deed dated March 7, 2019 and recorded March 19, 2019 in Deed Book 3745, Pages 416-419 in the records of the ROD Office for Beaufort County, designated as **Tract 8**, and being a portion, now or formerly, of Tax Map No. R122 029 000 004D 0000; and

From Jerri Ann Roseneau, County Clerk of Court for County of Beaufort for Pebble Hill Associates, Partnership, a New York Partnership., 315 SF, by Annotated Condemnation Notice & Tender of Payment dated November 1, 2015 and recorded in Deed Book 3655, Page 2623 in the records of the ROD Office for Beaufort County, designated as **Tract 9**, and being a portion, now or formerly, of Tax Map No. R122 026 000 126A 0000; and

From Darryl W. Gardner, 813 SF, by deed dated June 10, 2013 and recorded April 28, 2014 in Deed Book 3317, Page 2042 in the records of the ROD Office for Beaufort County, designated as **Tract 10**, and being a portion, now or formerly, of Tax Map No. R122 026 000 0171 0000; and

From Jerri Ann Roseneau, County Clerk of Court for County of Beaufort for McDonald's Corporation, a Delaware Corporation, 5,978 SF, by Annotated Condemnation Notice & Tender of Payment dated August 20, 2014 and recorded in Deed Book 3529, Page 2516 in the records of the ROD Office for Beaufort County, designated as **Tract 12**, and being a portion, now or formerly, of Tax Map No. R122 029 000 0146 0000; and

From Warehouse Home Furnishings Distributors, INC, A Georgia Corporation, 1,588 SF, by deed dated January 10, 2014 and recorded September 22, 2014 in Deed Book 3348, Page 837 in the records of the ROD Office for Beaufort County, designated as **Tract 13**, and being a portion, now or formerly, of Tax Map No. R122 026 000 0170 0000; and

From The City of Beaufort, 24,341 SF, by deed dated May 23, 2019 and recorded May 30, 2019 in Deed Book 3736, Page 2245 in the records of the ROD Office for Beaufort County, designated as **Tract 14**, and being a portion, now or formerly, of Tax Map No. R122 029 000 0138 0000; and

From The City of Beaufort, 5,863 SF, by deed dated June 7, 2018 and recorded June 14, 2018 in Deed Book 3676, Page 568 in the records of the ROD Office for Beaufort County, designated as **Tract 15**, and being a portion, now or formerly, of Tax Map No. R122 026 000 125A 0000; and

From The City of Beaufort, 220 SF, by deed dated June 7, 2018 and recorded June 14, 2018 in Deed Book 3676, Page 568 in the records of the ROD Office for Beaufort County, designated as **Tract 16**, and being a portion, now or formerly, of Tax Map No. R100 026 000 125B 0000; and

From Amelia Yancey Bond, Trustee of the Amelia Yancey Bond Revocable Trust dated April 28, 2010, 3,101 SF, by deed dated December 3, 2013 and recorded July 7, 2014 in Deed Book 3332, Page 923 in the records of the ROD Office for Beaufort County, designated as **Tract 17**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0200 0000; and

From Columbia Land Group, LLC, 4,965 SF, by deed dated June 26, 2015 and recorded October 22, 2015 in Deed Book 3437, Page 3364 in the records of the ROD Office for Beaufort County, designated as **Tract 18**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0196 0000; and

From Beaufort Plaza, Inc., 5655 SF described as A-2 (5090 SF) and A-1 (565 SF), by deed dated March 7, 2019 and recorded March 19, 2019 in Deed Book 3745, Pages 416-419 in the records of the ROD Office for Beaufort County, designated as **Tract 20** and being a portion, now or formerly, of Tax Map No. R122 029 000 0128 0000; and

From Bank of America, N.A. f/k/a Nations Bank of South Carolina f/k/a Bankers Trust of South Carolina, as Trustees of the Trust Granted by the Will of Homer W. Goyings and Jessie A. Goyings, 2,186 SF, by deed dated April 9, 2014 and recorded September 22, 2014 in Deed Book 3348, Page 841 in the records of the ROD Office for Beaufort County, designated as **Tract 21**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0083 0000; and

From Ameris Bank ,N.A. as Successor in Interest to Islands Community Bank, N.A., 549 SF, by deed dated August 6, 2013 and recorded September 22, 2014 in Deed Book 3348, Page 845 in the records of the ROD Office for Beaufort County, designated as **Tract 22**, and being a portion, now or formerly, of Tax Map No. R122 029 000 0131 0000; and

From Waffle House, Inc., 752 SF, by deed dated July 30, 2013 and recorded April 28, 2014 in Deed Book 3317, Page 2045 in the records of the ROD Office for Beaufort County, designated as **Tract 23**, and being a portion, now or formerly, of Tax Map No. R122 029 000 0207 0000; and

From Jerri Ann Roseneau, County Clerk of Court for County of Beaufort for Pickpocket Plantation Owners Association, Inc., 549 SF, by Annotated Condemnation Notice & Tender of Payment dated April 4, 2018 and recorded in Deed Book 3658, Page 1552 in the records of the ROD Office for Beaufort County, designated as **Tract 24**, and being a portion, now or formerly, of Tax Map No. R122 029 000 0210 0000; and

From Burrirain, LLC, 1,802 SF, by deed dated November 18, 2014 and recorded April 17, 2015 in Deed Book 3392, Page 3303 in the records of the ROD Office for Beaufort County, designated as **Tract 25**, and being a portion, now or formerly, of Tax Map No. R122 029 000 0204 0000; and

From Pranav B. Patel, 1,513 SF, by deed dated December 18, 2013 and recorded April 28, 2014 in Deed Book 3317, Page 2049 in the records of the ROD Office for Beaufort County, designated as **Tract 26**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 085A 0000; and

From Pranav B. Patel, 1,747 SF, by deed dated December 18, 2013 and recorded April 28, 2014 in Deed Book 3317, Page 2049 in the records of the ROD Office for Beaufort County, designated as **Tract 27**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0085 0000; and

From The City of Beaufort, 701 SF, by deed dated June 7, 2018 and recorded June 14, 2018 in Deed Book 3676, Page 568 in the records of the ROD Office for Beaufort County, designated as **Tract 28**, and being a portion, now or formerly, of Tax Map No. R120 026 000 0175 0000; and

From Jerri Ann Roseneau, County Clerk of Court for County of Beaufort for Collins Management, LLC, #7 and Summit National Bank, Mortgage, 1,556 SF, by Annotated Condemnation Notice & Tender of Payment dated January 8, 2015 and recorded in Deed Book 3643, Page 1507 in the records of the ROD Office for Beaufort County, designated as **Tract 29**, and being a portion, now or formerly, of Tax Map No. R122 026 000 089A 0000; and

From The City of Beaufort, 1,975 SF, by deed dated June 7, 2018 and recorded June 14, 2018 in Deed Book 3676, Page 568 in the records of the ROD Office for Beaufort County, designated as **Tract 30**, and being a portion, now or formerly, of Tax Map No. R120 026 000 0175 0000; and

From Darryl Gardner, 1,062 SF, by deed dated July 5, 2013 and recorded April 28, 2014 in Deed Book 3317, Page 2057 in the records of the ROD Office for Beaufort County, designated as **Tract 31**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 094A 0000; and

From Sea Square, LLC, 1,677 SF, by deed dated August 29, 2013 and recorded April 28, 2014 in Deed Book 3317, Page 2060 in the records of the ROD Office for Beaufort County, designated as **Tracts 32 and 34**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0091 0000; and

From Beaufort County Open Land Trust, 2,837 SF, by deed dated March 12, 2014 and recorded July 7, 2014 in Deed Book 3332, Page 927 in the records of the ROD Office for Beaufort County,

designated as **Tract 33**, and being a portion, now or formerly, of Tax Map No. R122 026 000 0095 0000; and

From Jerri Ann Roseneau, County Clerk of Court for County of Beaufort for Tiger Express Beaufort, LLC, 4,920 SF, by Annotated Condemnation Notice & Tender of Payment dated January 8, 2015 and recorded in Deed Book 3529, Page 2510 in the records of the ROD Office for Beaufort County, designated as **Tract 35**, and being a portion, now or formerly, of Tax Map No. R122 026 000 0123 0000; and

From United Way of Beaufort County INC, 2,632 SF, by deed dated December 14, 2015 and recorded January 25, 2016 in Deed Book 3457, Page 2895 in the records of the ROD Office for Beaufort County, designated as **Tract 36**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0096 0000; and

From Jerri Ann Roseneau, County Clerk of Court for County of Beaufort for Beaufort Gas Boundary Street, LLC and Palmetto State Bank, Mortgagee, 2,443 SF, by Annotated Condemnation Notice & Tender of Payment dated January 8, 2015 and recorded in Deed Book 3529, Page 2510 in the records of the ROD Office for Beaufort County, designated as **Tracts 37 and 38**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0097 0000 and R122 026 00A 098A 0000; and

From Sheetal, LLC of Beaufort, 2,783 SF, by deed dated October 6, 2014 and recorded March 17, 2015 in Deed Book 3385, Page 2987 in the records of the ROD Office for Beaufort County, designated as **Tract 39**, and being a portion, now or formerly, of Tax Map No. R122 026 000 123A 0000; and

From Mikell B. Barker, 1,205 SF, by deed dated August 4, 2014 and recorded April 17, 2015 in Deed Book 3392, Page 3307 in the records of the ROD Office for Beaufort County, designated as **Tract 40**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0098 0000; and

From Sheetal, LLC of Beaufort, 1,493 SF, by deed dated October 6, 2014 and recorded March 17, 2015 in Deed Book 3385, Page 2991 in the records of the ROD Office for Beaufort County, designated as **Tract 41**, and being a portion, now or formerly, of Tax Map No. R122 026 000 125D 0000; and

From Elinor Cohen, 1,199 SF, by deed dated February 27, 2014 and recorded July 7, 2014 in Deed Book 3332, Page 930 in the records of the ROD Office for Beaufort County, designated as **Tract 42**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0099 0000; and

From Marvelena Colty a/k/a Marva L. Colty, 1,951 SF, by deed dated July 25, 2014 and recorded March 17, 2015 in Deed Book 3385, Page 2995 in the records of the ROD Office for Beaufort County, designated as **Tract 43**, and being a portion, now or formerly, of Tax Map No. R122 026 000 125F 0000; and

From River Pickers, LLC a South Carolina Limited Liability Company, 1,194 SF, by deed dated March 18, 2014 and recorded July 7, 2014 in Deed Book 3332, Page 933 in the records of the ROD Office for Beaufort County, designated as **Tract 44**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0100 0000; and

From Donna P. Sturkie, 876 SF, by deed dated February 19, 2014 and recorded July 7, 2014 in Deed Book 3332, Page 936 in the records of the ROD Office for Beaufort County, designated as **Tract 45**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0101 0000; and

From Gladys B. Taylor, 1,393 SF, by deed dated June 11, 2014 and recorded May 21, 2015 in Deed Book 3401, Page 489 in the records of the ROD Office for Beaufort County, designated as **Tract 46**, and being a portion, now or formerly, of Tax Map No. R122 026 000 0122 0000; and

From Jerri Ann Roseneau, County Clerk of Court for County of Beaufort for Mitul Enterprises, LP, a Georgia Limited Partnership and Branch Banking and Trust Company of South Carolina, Mortgagee and Regions Bank, Mortgagee, 2,205 SF, by Annotated Condemnation Notice & Tender of Payment dated July 11, 2014 and recorded in Deed Book 3655, Page 2618 in the records of the ROD Office for Beaufort County, designated as **Tract 47**, and being a portion, now or formerly, of Tax Map No. R122 001 000 001A 0000 and

From The City of Beaufort, 2,203 SF, by deed dated June 7, 2018 and recorded June 14, 2018 in Deed Book 3676, Page 568 in the records of the ROD Office for Beaufort County, designated as **Tract 48**, and being a portion, now or formerly, of Tax Map No. R122 026 00A 0102 0000; and

From Jerri Ann Roseneau, County Clerk of Court for County of Beaufort for Mitul Enterprises, LP, a Georgia Limited Partnership and Branch Banking and Trust Company of South Carolina, Mortgagee and Regions Bank, Mortgagee, 3,682 SF, by Annotated Condemnation Notice & Tender of Payment dated July 11, 2014 and recorded in Deed Book 3651, Page 3082 in the records of the ROD Office for Beaufort County, designated as **Tract 49**, and being a portion, now or formerly, of Tax Map No. R122 001 000 0001 0000 and

From Deacons of Riverview Baptist Church, 1,115 SF, by deed dated December 16, 2013 and recorded July 7, 2014 in Deed Book 3332, Page 939 in the records of the ROD Office for Beaufort County, designated as **Tract 50**, and being a portion, now or formerly, of Tax Map No. R122 001 000 0002 0000; and

From Enmark Stations Inc, 2,094 SF, by deed dated April 8, 2015 and recorded June 11, 2015 in Deed Book 3406, Page 886 in the records of the ROD Office for Beaufort County, designated as **Tract 51**, and being a portion, now or formerly, of Tax Map No. R122 001 000 014A 0000; and

From River and Creek Land Company, LLC, 1,688 SF, by deed dated March 4, 2015 and recorded June 11, 2015 in Deed Book 3406, Page 890 in the records of the ROD Office for Beaufort County, designated as **Tract 55**, and being a portion, now or formerly, of Tax Map No. R122 001 000 0270 0000; and

From Ribaut Holdings, LLC, a South Carolina Limited Liability Company, 8,380 SF, by deed dated August 11, 2014 and recorded March 17, 2015 in Deed Book 3385, Page 2998 in the records of the ROD Office for Beaufort County, designated as **Tract 56**, and being a portion, now or formerly, of Tax Map No. R122 001 000 0284 0000; and

From Ribaut Holdings, LLC, a South Carolina Limited Liability Company, 1,969 SF, by deed dated August 11, 2014 and recorded March 17, 2015 in Deed Book 3385, Page 3001 in the records of the ROD Office for Beaufort County, designated as **Tract 57**, and being a portion, now or formerly, of Tax Map No. R122 001 000 264A 0000; and

From Ribaut Holdings, LLC, a South Carolina Limited Liability Company, 1,510 SF, by deed dated August 11, 2014 and recorded March 17, 2015 in Deed Book 3385, Page 3004 in the records of the ROD Office for Beaufort County, designated as **Tract 58**, and being a portion, now or formerly, of Tax Map No. R122 001 000 0272 0000; and

From Jerri Ann Roseneau, County Clerk of Court for County of Beaufort for Jean G. Bond, Individually and as Trustee of the Bond, Jr. Living Trust dated May 27, 2010, 1,611 SF, by Annotated Condemnation Notice & Tender of Payment dated May 20, 2014 and recorded in Deed Book 3655, Page 2634 in the records of the ROD Office for Beaufort County, designated as **Tract 59**, and being a portion, now or formerly, of Tax Map No. R122 001 000 0007 0000 and

From GMRI, Inc., a Florida Corporation, 2,049 SF, by deed dated June 19, 2014 and recorded March 17, 2015 in Deed Book 3385, Page 3007 in the records of the ROD Office for Beaufort County, designated as **Tract 61**, and being a portion, now or formerly, of Tax Map No. R122 001 000 0285 0000; and

From Beaufort Plaza, Inc., 30 SF described as E-1, by deed dated March 7, 2019 and recorded March 19, 2019 in Deed Book 3745, Pages 416-419 in the records of the ROD Office for Beaufort County, designated as **Tract 83**, and being a portion, now or formerly, of Tax Map No. R122 029 000 128A 0000; and

From Beaufort Plaza, Inc., 591 SF described as D-1, by deed dated March 7, 2019 and recorded March 19, 2019 in Deed Book 3745, Pages 416-419 in the records of the ROD Office for Beaufort County, designated as **Tract 85**, and being a portion, now or formerly, of Tax Map No. R122 029 000 177A 0000; and

From Beaufort Plaza, Inc., 1,455 SF described as B-1, by deed dated March 7, 2019 and recorded March 19, 2019 in Deed Book 3745, Pages 416-419 in the records of the ROD Office for Beaufort County, designated as **Tract 86**, and being a portion, now or formerly, of Tax Map No. R122 029 000 0177 0000.

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

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

AND, the said **Beaufort County**, a political subdivision of South Carolina does hereby bind itself and its successors and assigns to warrant and forever defend, all and singular, the said premises unto the said **South Carolina Department of Transportation**, its successors and assigns, against Beaufort County and its successors and assigns..

WITNESS ITS HAND(S) AND SEAL(S) this _____ day of _____, 2020

Signed, sealed and delivered in the presence of:

COUNTY OF BEAUFORT

By: _____

1st Witness

Ashley M. Jacobs

Its: County Administrator

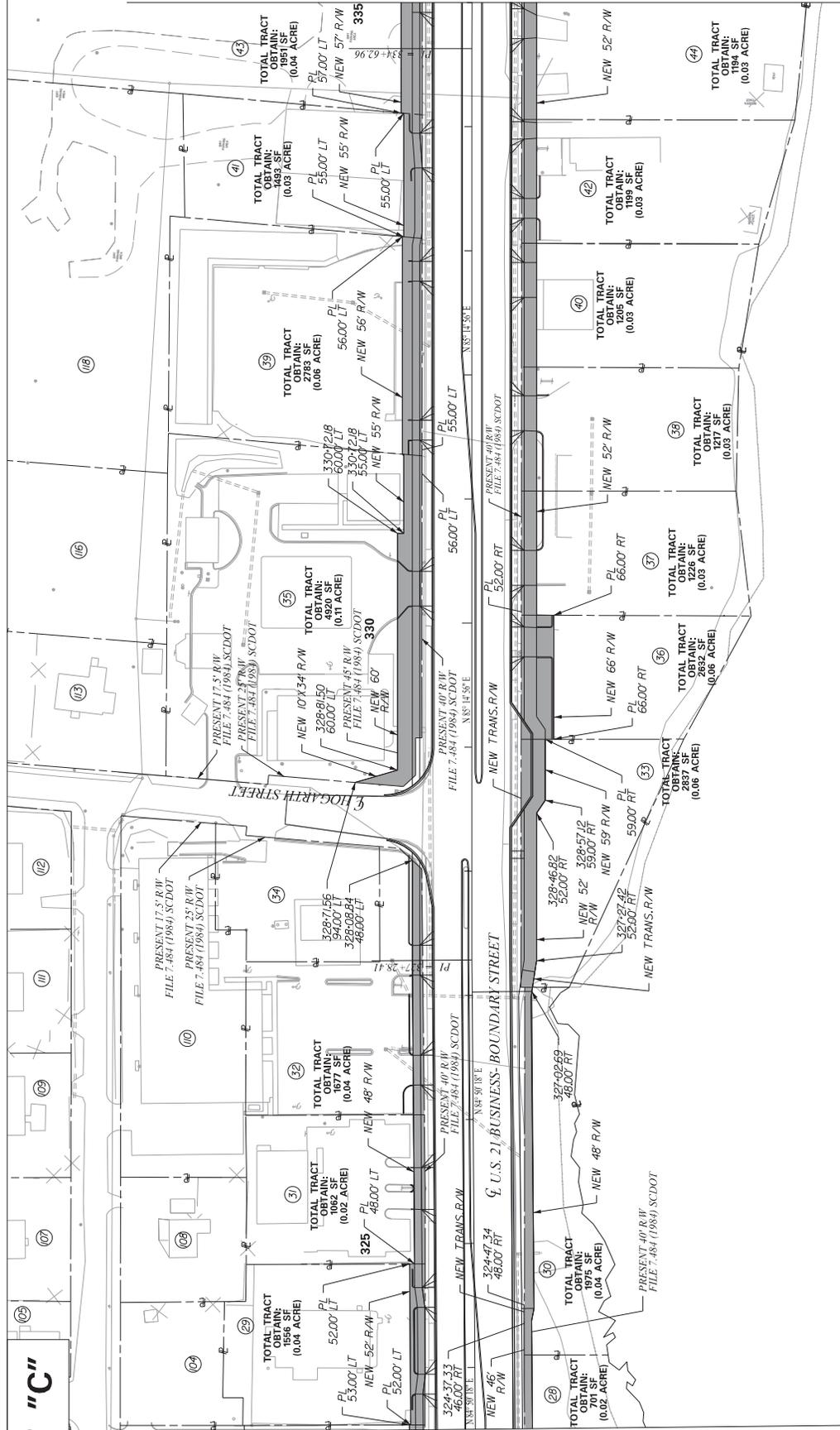
2nd Witness

EXHIBIT "C"



MATCH LINE 323+50 - SEE EXHIBIT B

MATCH LINE 335+00 - SEE EXHIBIT D



TOTAL OBTAIN FOR TRACTS SHOWN = 0.6802 AC
 TOTAL OBTAIN THIS PROJECT = 2.9736 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
 AREA OF ACQUISITION FROM TRACT 27,29,29.30,31,32,33,35,36,37,38,39,40,41,42,43,44
 SCALE 1"=100' ORIGINAL PREPARED 04/17/2018

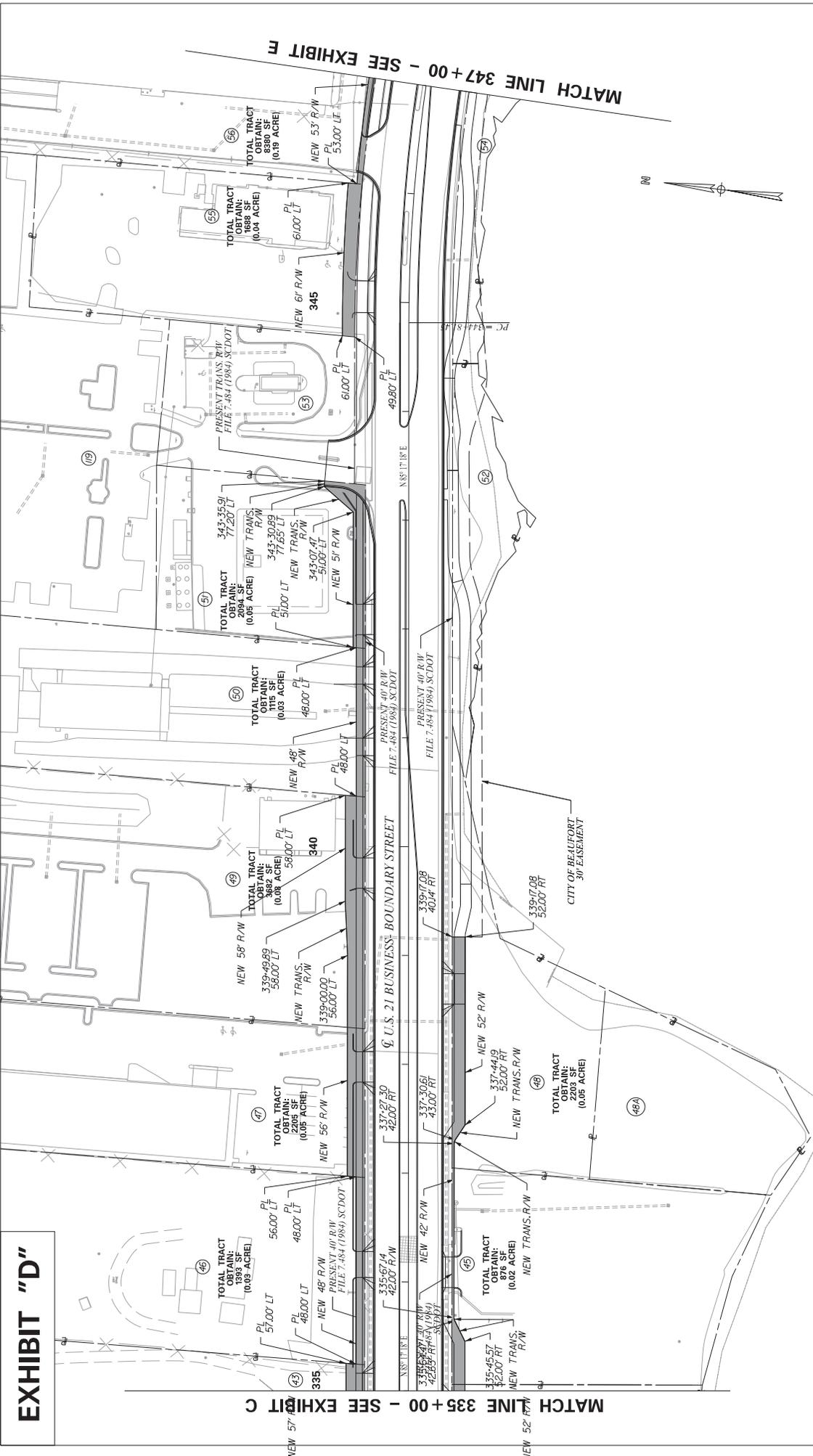
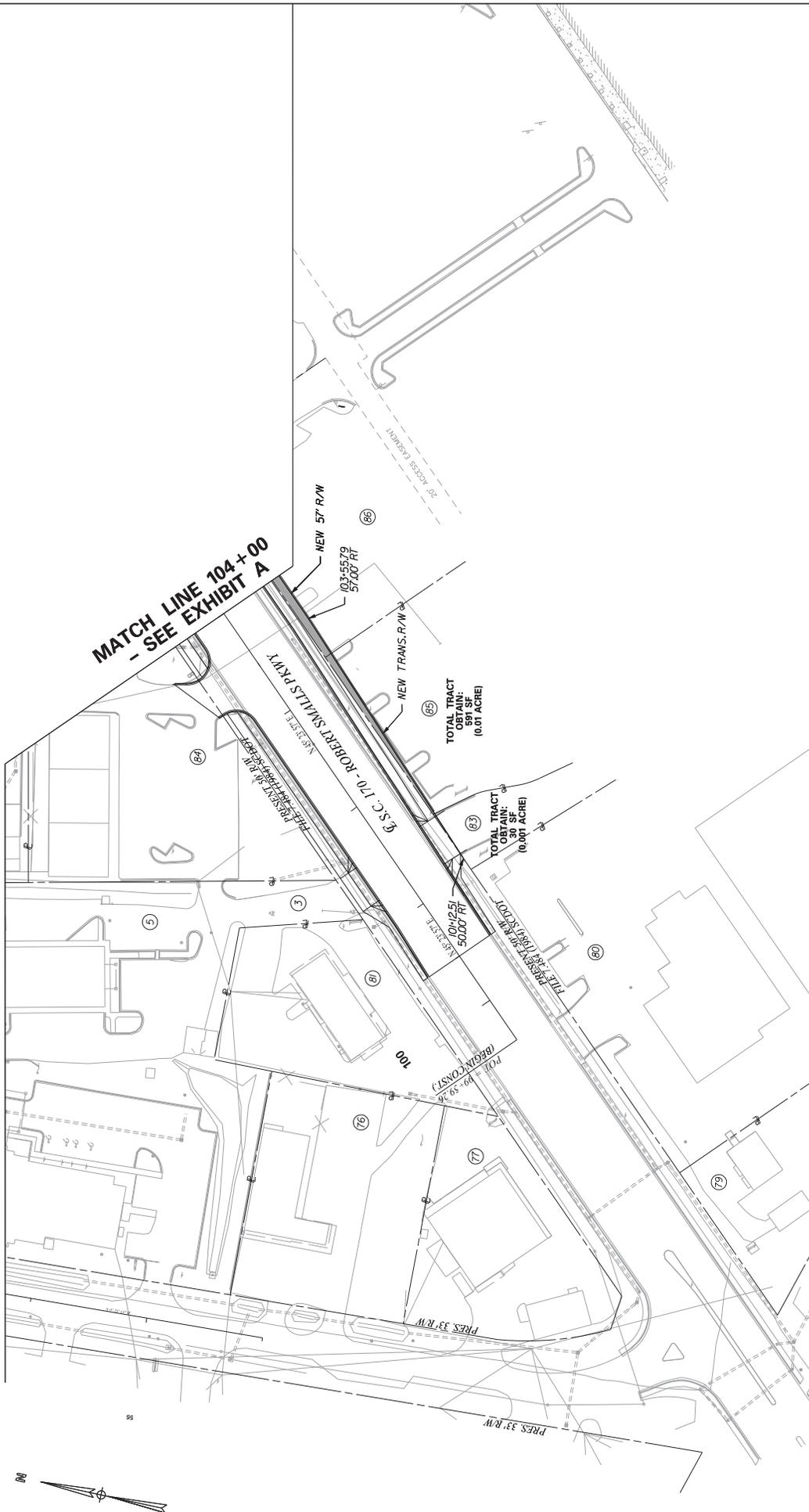


EXHIBIT "D"

TOTAL OBTAIN FOR TRACTS SHOWN = 0.5426 AC
TOTAL OBTAIN THIS PROJECT = 2.9736 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
 AREA OF ACQUISITION FROM TRACT 43,44,45,46,47,48,49,50,51,55,56
 SCALE 1"=100' ORIGINAL PREPARED 04/17/2018

EXHIBIT "G"



TOTAL OBTAIN FOR TRACTS SHOWN = 0.0143 AC
TOTAL OBTAIN THIS PROJECT = 2.9736 AC

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
AREA OF ACQUISITION FROM TRACT 8385.86
SCALE 1"=100' ORIGINAL PREPARED 04/17/2018



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Local Option Sale Tax Referendum Ordinance

Council Committee:

Meeting Date:

April 13, 2020

Committee Presenter (Name and Title):

Kurt Taylor/Chris Inglese

Issues for Consideration:

This ordinance would call for a referendum to be held this November 3, 2020. The question asks whether the voters approve a one percent sales and use tax to be imposed on all appropriate sales in Beaufort County and its municipalities. The collection of the tax would begin May 2020. The proceeds of the tax would be distributed seventy-one percent to the Property Tax Credit Fund and twenty-nine percent to the County/Municipal Revenue Fund. The State Treasurer shall distribute the revenues monthly.

Points to Consider:

Tax relief and county/municipal revenue support are the hallmarks of this tax.

Funding & Liability Factors:

This is a revenue-generating measure.

Council Options:

Approve, modify, or reject

Recommendation:

Staff recommends Council approve the request.

ORDINANCE 2020/_____

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 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 3, 2020:

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 3, 2020 (the “Referendum”). The State election laws shall apply to the Referendum 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 and conducted Referendum held on November 3, 2020.
- 1.3.** The Tax, if approved, shall be imposed beginning on May 1, 2021, provided that the County notifies the South Carolina Department of Revenue and the South Carolina Treasurer of the results of the Referendum no later than December 31, 2020, by delivering a certified copy of a resolution adopted by the Council as required by Section 2.6 hereof.

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. After receipt of a copy of this Ordinance, the Beaufort County Board of Voter Registration and Elections (the "Elections Board") shall conduct a Referendum on the question of imposing the Tax in the County. A Referendum for this purpose must be held at the time of the general election conducted on November 3, 2020.
- 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 of the Code, as amended, not less than sixty (60) days prior to the Referendum and again not later than two (2) weeks after such first notice is published.
- 2.3. An additional notice, substantially similar in form to **Appendix C** attached hereto must be published in a newspaper of general circulation in the County two (2) weeks before the date fixed for the Referendum.
- 2.4. Pursuant to Section 7-13-355 of the Code, the Referendum question shall be submitted to the Elections Board to be placed on the ballot no later than 12:00 noon on August 15, 2020 or, if such date 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 shall vote "yes" and all qualified electors opposed to levying the Tax 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 Elections Board shall conduct the Referendum, publish the results of the Referendum, and provide the results to the Council pursuant to South Carolina election laws.
- 2.6. Upon receipt of the results of the Referendum, Council shall, by resolution, declare the results thereof and provide a copy of the resolution to the South Carolina Department of Revenue and the South Carolina Treasurer in accordance with Section 1.3 hereof.

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 3, 2020. 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 attached hereto as **Appendix A**;
 - b. To prepare the ballots to be used in the Referendum, including instructions to the voter, in substantially the form attached hereto as **Appendix B**;
 - c. To arrange for polling places for each precinct;

- 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 Council; and
- g. To take all 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 "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 in all of Beaufort County. 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 current and valid form of identification as required by South Carolina law in effect at the date of the Referendum. 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 Council 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 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.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah Brock, Clerk to Council

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

APPENDIX A

NOTICE OF REFERENDUM
FOR THE IMPOSITION OF A LOCAL OPTION SALES AND USE TAX
IN BEAUFORT COUNTY, SOUTH CAROLINA
November 3, 2020

NOTICE IS HEREBY GIVEN that pursuant to Ordinance No. 2020/_____, enacted by Beaufort County Council on _____, 2020, 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 Tuesday, November 3, 2020 (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 you are in favor of the question, select "Yes, in favor of the question"; if you are opposed to the question, select "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 the 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 listed below and shall be open during these hours without intermission or adjournment. Appropriate voting machines will be provided at the polling places for the casting of ballots on the aforesaid question.

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 4, 2020, 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-person in order to be eligible to vote in the Referendum will be 5:00 p.m. October 2, 2020. Persons may register to vote in the Referendum online, by fax, or email by 11:59 p.m. October 4, 2020. Applications for registration to vote sent by mail must be mailed postmarked no later than October 5, 2020, to the Board of Voter Registration and Elections of Beaufort County, 15 John Galt Road, Beaufort, South Carolina 29906.. The process of examining the return-

addressed envelopes containing absentee ballots will begin 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 6, 2020, 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.

The following precincts and polling places will be open from 7:00 a.m. until 7:00 p.m.:

[List Precincts, Polling Places, and Street Address of Polling Places here]

Beaufort County Council, South Carolina
Board of Voter Registration and Elections of Beaufort County, South Carolina

APPENDIX B

FORM OF BALLOT OFFICIAL BALLOT – REFERENDUM

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

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 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 you are in favor of the question, select "Yes, in favor of the question"; if you are opposed to the question, select "No, opposed to the question."

Yes, in favor of the question []

No, opposed to the question []



Council

Joe DeVito
Mayor

Jerry Ashmore
Mayor Pro Tempore

Mary Beth Heyward
Darryl Owens
Kevin Phillips

Van Willis
Town Manager

T. Alan Beach
Chief of Police

Jeffrey S. Coppinger
Operations

Linda Bridges
Planning

RESOLUTION NO. 3-2020

A RESOLUTION IN SUPPORT OF A LOCAL OPTION SALES AND USE TAX REFERENDUM

WHEREAS, the local option sales and use tax levied pursuant to S.C. Code Sections 4-10-10 et seq. has proven to be an effective measure to control and lower the property tax burden on the citizens of those counties which have previously approved such measures; and

WHEREAS, balanced revenues from varied sources strengthen a local government’s fiscal structure, and;

WHEREAS, collecting a sales and use tax will provide funds from persons who generate needs for local government services but who do not contribute significant revenues;

WHEREAS, County Council intends to use the revenue from the local option sales and use tax for the purpose of allowing a credit against a taxpayer’s county ad valorem tax liability and for the purpose of funding county and municipal operations in Beaufort County; and

WHEREAS, the last referendum on the question of adopting the local option sales and use tax was held more than twelve (12) months ago.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of Port Royal, duly assembled, supports the referendum pursuant to Section 4-10-30 of the Code of Laws of South Carolina, (1976), as amended, to be held November 3, 2020, and urges all Town registered voters to vote in favor of the referendum.

Adopted this 1 day of April, 2020.

TOWN COUNCIL OF PORT ROYAL

By: _____

Mayor

ATTEST:

Brooke R. Lyuda
Clerk to Council

RESOLUTION

TO SUPPORT LOCAL OPTION SALES TAX

WHEREAS, South Carolina Act 391 of 1990 established the Local Option Sales Tax as a permissible source of revenue for counties and municipalities throughout the state; and

WHEREAS, the additional revenue generated from the implementation of a Local Option Sales Tax would benefit property owners in the Town of Bluffton and would also provide additional revenue to the Town of Bluffton General Fund; and

WHEREAS, in order to implement a Local Option Sales Tax, it must first be approved by the electorate through a countywide referendum in a General Election; and

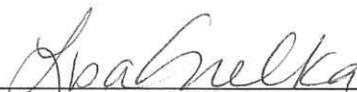
WHEREAS, the authority to place such a referendum on a General Election ballot is vested with the County Council of Beaufort County; and

WHEREAS, the next opportunity for placement of a Local Option Sales Tax Referendum on a General Election ballot is in conjunction with the November 3, 2020 General Election.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Bluffton, South Carolina formally requests of the County Council of Beaufort County, South Carolina that a Local Option Sales Tax Referendum be placed on the ballot for voters' consideration in the November 3, 2020 General Election

THIS RESOLUTION SHALL BE EFFECTIVE IMMEDIATELY UPON ADOPTION.

SIGNED, SEALED AND DELIVERED AS OF THIS 12th DAY OF November, 2019.



Lisa Sulka, Mayor
Town of Bluffton, South Carolina

ATTEST:



Kimberly Chapman, Town Clerk
Town of Bluffton, South Carolina

RESOLUTION NO. 2020-4-2B

A RESOLUTION OF THE CITY OF HARDEEVILLE, SOUTH CAROLINA, CITY COUNCIL IN SUPPORT OF A LOCAL OPTION SALES AND USE TAX REFERENDUM IN BEAUFORT COUNTY

WHEREAS, the local option sales and use tax levied pursuant to S.C. Code Sections 4-10-10 et seq. has proven to be an effective measure to control and lower the property tax burden on the citizens of those counties which have previously approved such measures; and

WHEREAS, balanced revenues from varied sources strengthen a local government's fiscal structure, and;

WHEREAS, collecting a sales and use tax will provide funds from persons who generate needs for local government services but who do not contribute significant revenues;

WHEREAS, Beaufort County Council intends to use the revenue from the local option sales and use tax for the purpose of allowing a credit against a taxpayer's county ad valorem tax liability and for the purpose of funding county and municipal operations in Beaufort County; and

WHEREAS, the last referendum on the question of adopting the local option sales and use tax was held more than twelve (12) months ago.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Hardeeville, duly assembled, supports the referendum pursuant to Section 4-10-30 of the Code of Laws of South Carolina, (1976), as amended, to be held November 3, 2020, and urges all eligible registered voters in the Beaufort County portion of the City of Hardeeville to vote in favor of the referendum.

Adopted this 2nd day of April, 2020.

HARDEEVILLE CITY COUNCIL

By: *Harry Williams*

Mayor

ATTEST:

Lou Pomanis

Clerk to Council

A RESOLUTION PROVIDING THAT, IF THE LOCAL OPTION SALES TAX IS APPROVED IN BEAUFORT COUNTY AND THE CITY OF BEAUFORT IN 2013, FROM THE DAY FORWARD, THE REVENUE GENERATED UNDER THE PROPERTY TAX CREDIT FUND SHALL BE USED AS CREDITS AGAINST PROPERTY TAX IN ACCORDANCE WITH STATE LAW, SECTION 4-10-40 AND REVENUE GENERATED UNDER THE COUNTY/MUNICIPAL REVENUE FUND WILL BE USED IN ACCORDANCE WITH STATE LAW, SECTION 4-10-50 AS APPROVED BY THE CITY COUNCIL DURING THE REGULAR ANNUAL BUDGET ADOPTION PROCESS.

WHEREAS, the Beaufort City Council is elected by the people to provide those services which are necessary and required to provide for the for the general well-being of its citizens and must provide for revenues necessary to fund the services; and

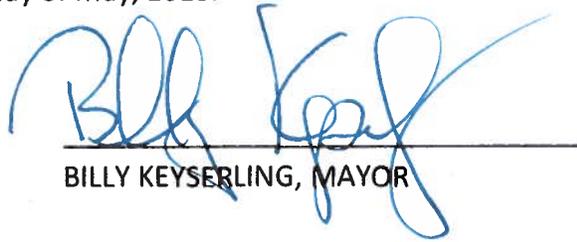
WHEREAS, the Beaufort City Council agrees that a disproportionate share of the local revenues what are used to pay for the costs of government services are derived from property taxes, creating an inequitable tax burden on the property owners; and

WHEREAS, many of the recipients of the services are not property owners and do not share in the local tax burden and, in addition, no contribution to the cost of funding local services is now made by visitors who utilize the services, and

WHEREAS, the City of Beaufort is committed not only to minimizing the cost of public services, but also to seeking alternative revenue sources which can be used to replace property taxes and Council is of the opinion and belief that all city property owners and homeowners in particular, can benefit from the implementation of a local option sales tax,

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of the City of Beaufort, South Carolina that if the local option sales tax is approved by the voters of Beaufort County and the City of Beaufort in the November, 2013 referendum on this questions, the revenues generated to the city under the Property Tax Credit fund (up to 71% of the Local Option Sales Tax proceeds) will be used to replace and reduce the property tax revenues by application of a property tax credit against city property taxes so that they are reduced by the greatest amount possible. In addition, revenues generated to the city under the County/Municipal Revenue Fund (up to 29% of the Local Option Sales Tax proceeds) will be used in accordance with State Law Section 4-10-50 as determined by City Council through the annual budget process.

IN WITNESS THEREOF, I hereunto set my hand and caused the Seal of the City of Beaufort to be affixed this 14th day of May, 2013.



BILLY KEYSERLING, MAYOR

ATTEST:



IVETTE BURGESS, CITY CLERK



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Request for an enterprise software conversion from an on-premise to Software as a Service (SaaS)

Council Committee:

Council Regular

Meeting Date:

April 13, 2020

Committee Presenter (Name and Title):

Dave Thomas, Purchasing Director and Daniel Morgan, Mapping and Applications Director

Issues for Consideration:

The Purchasing Department received a request from the Mapping and Applications Department to upgrade the Tyler Technologies Munis software from an on-premise-hosted solution to a cloud-hosted solution by Tyler Technologies. This project supports the County's Disaster Recovery plan and will benefit Beaufort County through reduced costs and staff efforts, leveraging the latest technologies, heightened security, and robust backup. This project includes the removal of several on-premise-hosted servers providing a maintenance and equipment cost savings and a reallocation of services.

Points to Consider:

- The total one-time cost is \$529,238 (2.5 years) with a recurring cost of \$210,095 annually.
- Cost savings resulting from conversion would include on-premise server removal and reallocation at approximately \$26,000.
- Unanimously approved by the Executive Committee on March 9, 2020

Funding & Liability Factors:

Account 10001111-51110

Council Options:

Approve or disapprove the purchase.

Recommendation:

Approve the purchase.



Quoted By: Sandy Gallagher
 Date: 11/8/2019
 Quote Expiration: 12/30/2019
 Quote Name: Beaufort County-ERP-SaaS Flip
 Quote Number: 2018-56658-2
 Quote Description: SaaS Flip - 1/1/2020

Sales Quotation For

Beaufort County
 PO Box 1228
 Beaufort, SC 29901-1228
 Phone +1 (843) 255-1000

SaaS

Description	Annual Fee Net	# Years	Total SaaS Fee	Impl. Hours
Additional:				
Concurrent Users (50)	\$50,000.00	2.5	\$125,000.00	0
Accounting/GL	\$25,724.00	2.5	\$64,310.00	0
Capitol Assets	\$5,908.00	2.5	\$14,770.00	0
Purchase Orders	\$5,908.00	2.5	\$14,770.00	0
Requisitions	\$4,924.00	2.5	\$12,310.00	0
Human Resources	\$9,901.00	2.5	\$24,753.00	0
Payroll	\$22,395.00	2.5	\$55,988.00	0
Recruiting	\$3,669.00	2.5	\$9,173.00	0
Accounts Receivable	\$5,366.00	2.5	\$13,415.00	0
Business License	\$4,880.00	2.5	\$12,200.00	0
General Billing	\$2,440.00	2.5	\$6,100.00	0
Tyler GIS	\$3,483.00	2.5	\$8,708.00	0
Permits & Code	\$9,576.00	2.5	\$23,940.00	0
Tyler Cashiering	\$8,375.00	2.5	\$20,938.00	0
Citizen Self Service	\$3,496.00	2.5	\$8,740.00	0
Employee Self Service	\$2,954.00	2.5	\$7,385.00	0

Crystal Reports	\$6,159.00	2.5	\$15,398.00	0
Munis Office	\$4,147.00	2.5	\$10,368.00	0
Role Tailored Dashboard	\$3,483.00	2.5	\$8,708.00	0
Tyler Content Manager SE	\$8,810.00	2.5	\$22,025.00	0
Tyler Forms Processing	\$5,130.00	2.5	\$12,825.00	0
Socrata Open Finance	\$13,367.00	2.5	\$33,418.00	0
TOTAL:	\$210,095.00		\$525,238.00	0

Other Services

Description	Quantity	Unit Price	Unit Discount	Extended Price
Install Fee - Socrata Open Finance	1	\$5,600.00	\$5,600.00	\$0.00
Project Planning Services	1	\$6,000.00	\$6,000.00	\$0.00
VPN Device	1	\$4,000.00	\$0.00	\$4,000.00
Sub-Total:				\$15,600.00
<i>Less Discount:</i>				<i>\$11,600.00</i>
TOTAL:				\$4,000.00

Summary

	One Time Fees	Recurring Fees
Total SaaS	\$0.00	\$210,095.00
Total Tyler Software	\$0.00	\$0.00
Total Tyler Services	\$4,000.00	\$0.00
Total 3rd Party Hardware, Software and Services	\$0.00	\$0.00
Summary Total	\$4,000.00	\$210,095.00
Contract Total	\$529,238.00	

Unless otherwise indicated in the contract or amendment thereto, pricing for optional items will be held for six (6) months from the Quote date or the Effective Date of the contract, whichever is later.

Customer Approval: _____ Date: _____

Print Name: _____ P.O. #: _____

All primary values quoted in US Dollars

Comments

Tyler's quote contains estimates of the amount of services needed, based on our preliminary understanding of the size and scope of your project. The actual amount of services depends on such factors as your level of involvement in the project and the speed of knowledge transfer.

Unless otherwise noted, prices submitted in the quote do not include travel expenses incurred in accordance with Tyler's then-current Business Travel Policy.

Tyler's prices do not include applicable local, city or federal sales, use excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting. Installations are completed remotely, but can be done onsite upon request at an additional cost.

In the event Client cancels services less than two (2) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses incurred by Tyler on Client's behalf; and (ii) daily fees associated with the cancelled services if Tyler is unable to re-assign its personnel.

Implementation hours are scheduled and delivered in four (4) or eight (8) hour increments.

Tyler provides onsite training for a maximum of 12 people per class. In the event that more than 12 users wish to participate in a training class or more than one occurrence of a class is needed, Tyler will either provide additional days at then-current rates for training or Tyler will utilize a Train-the-Trainer approach whereby the client designated attendees of the initial training can thereafter train the remaining users.

Project Management includes project planning, kickoff meeting, status calls, task monitoring, verification and transition to support.

Tyler's cost is based on all of the proposed products and services being obtained from Tyler. Should significant portions of the products or services be deleted, Tyler reserves the right to adjust prices accordingly.

The Munis SaaS fees are based on 50 concurrent users. Should the number of concurrent users be exceeded, Tyler reserves the right to re-negotiate the SaaS fees based upon any resulting changes in the pricing categories.

Development modifications, interfaces and services, where applicable, shall be invoiced to the client in the following manner: 50% of total upon authorized signature to proceed on program specifications and the remaining 50% of total upon delivery of modifications, interface and services.

If selected SaaS term will run 1/1/2020 through 06/30/2022 to sync with Fiscal Year.

Transparency Upgrade, Socrata will replace Transparency annual fee on execution of SaaS Contract.



SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to provide certain products and services set forth in the Investment Summary, including providing Client with access to Tyler's proprietary software products, and Tyler desires to provide such products and services under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- **“Agreement”** means this Software as a Services Agreement.
- **“Business Travel Policy”** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **“Client”** means Beaufort County.
- **“Data”** means your data necessary to utilize the Tyler Software.
- **“Data Storage Capacity”** means the contracted amount of storage capacity for your Data identified in the Investment Summary.
- **“Defect”** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **“Defined Users”** means the number of users that are authorized to use the SaaS Services. The Defined Users for the Agreement are as identified in the Investment Summary.
- **“Developer”** means a third party who owns the intellectual property rights to Third Party Software.
- **“Documentation”** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- **“Effective Date”** means the date by which both your and our authorized representatives have signed the Agreement.
- **“Force Majeure”** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- **“Investment Summary”** means the agreed upon cost proposal for the products and services attached as Exhibit A.
- **“Invoicing and Payment Policy”** means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- **“SaaS Fees”** means the fees for the SaaS Services identified in the Investment Summary.
- **“SaaS Services”** means software as a service consisting of system administration, system

management, and system monitoring activities that Tyler performs for the Tyler Software, and includes the right to access and use the Tyler Software, receive maintenance and support on the Tyler Software, including Downtime resolution under the terms of the SLA, and Data storage and archiving. SaaS Services do not include support of an operating system or hardware, support outside of our normal business hours, or training, consulting or other professional services.

- **“SLA”** means the service level agreement. A copy of our current SLA is attached hereto as Exhibit C.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.
- **“Third Party Terms”** means, if any, the end user license agreement(s) or similar terms for the Third Party Software, as applicable and attached as Exhibit D.
- **“Third Party Hardware”** means the third party hardware, if any, identified in the Investment Summary.
- **“Third Party Products”** means the Third Party Software and Third Party Hardware.
- **“Third Party Software”** means the third party software, if any, identified in the Investment Summary.
- **“Third Party Services”** means the third party services, if any, identified in the Investment Summary.
- **“Tyler”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- **“we”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

SECTION B – SAAS SERVICES

1. Rights Granted. We grant to you the non-exclusive, non-assignable limited right to use the SaaS Services solely for your internal business purposes for the number of Defined Users only. The Tyler Software will be made available to you according to the terms of the SLA. You acknowledge that we have no delivery obligations and we will not ship copies of the Tyler Software as part of the SaaS Services. You may use the SaaS Services to access updates and enhancements to the Tyler Software, as further described in Section C(8).
2. SaaS Fees. You agree to pay us the SaaS Fees. Those amounts are payable in accordance with our Invoicing and Payment Policy. The SaaS Fees are based on the number of Defined Users and amount of Data Storage Capacity. You may add additional users or additional data storage capacity on the terms set forth in Section H(1). In the event you regularly and/or meaningfully exceed the Defined Users or Data Storage Capacity, we reserve the right to charge you additional fees commensurate with the overage(s).
3. Ownership.
 - 3.1 We retain all ownership and intellectual property rights to the SaaS Services, the Tyler Software, and anything developed by us under this Agreement. You do not acquire under this Agreement any license to use the Tyler Software in excess of the scope and/or duration of the SaaS Services.

- 3.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
- 3.3 You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.
4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.
5. Software Warranty. We warrant that the Tyler Software will perform without Defects during the term of this Agreement. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the maintenance and support process set forth in Section C(8), below, the SLA and our then current Support Call Process.
6. SaaS Services.
- 6.1 Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on Standards for Attestation Engagements ("SSAE") No. 18. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. Upon execution of a mutually agreeable Non-Disclosure Agreement ("NDA"), we will provide you with a summary of our compliance report(s) or its equivalent. Every year thereafter, for so long as the NDA is in effect and in which you make a written request, we will provide that same information.
- 6.2 You will be hosted on shared hardware in a Tyler data center, but in a database dedicated to you, which is inaccessible to our other customers.
- 6.3 We have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or component failure. In the event any of your Data has been lost or damaged due to an act or omission of Tyler or its subcontractors or due to a defect in Tyler's software, we will use best commercial efforts to restore all the Data on servers in accordance with the architectural design's capabilities and with the goal of minimizing any Data loss as greatly as possible. In no case shall the recovery point objective ("RPO") exceed a maximum of twenty-four (24) hours from declaration of disaster. For purposes of this subsection, RPO represents the maximum tolerable period during which your Data may be lost, measured in relation to a disaster we declare, said declaration will not be unreasonably withheld.
- 6.4 In the event we declare a disaster, our Recovery Time Objective ("RTO") is twenty-four (24) hours. For purposes of this subsection, RTO represents the amount of time, after we declare a disaster, within which your access to the Tyler Software must be restored.

- 6.5 We conduct annual penetration testing of either the production network and/or web application to be performed. We will maintain industry standard intrusion detection and prevention systems to monitor malicious activity in the network and to log and block any such activity. We will provide you with a written or electronic record of the actions taken by us in the event that any unauthorized access to your database(s) is detected as a result of our security protocols. We will undertake an additional security audit, on terms and timing to be mutually agreed to by the parties, at your written request. You may not attempt to bypass or subvert security restrictions in the SaaS Services or environments related to the Tyler Software. Unauthorized attempts to access files, passwords or other confidential information, and unauthorized vulnerability and penetration test scanning of our network and systems (hosted or otherwise) is prohibited without the prior written approval of our IT Security Officer.
- 6.6 We test our disaster recovery plan on an annual basis. Our standard test is not client-specific. Should you request a client-specific disaster recovery test, we will work with you to schedule and execute such a test on a mutually agreeable schedule. At your written request, we will provide test results to you within a commercially reasonable timeframe after receipt of the request.
- 6.7 We will be responsible for importing back-up and verifying that you can log-in. You will be responsible for running reports and testing critical processes to verify the returned Data.
- 6.8 We provide secure Data transmission paths between each of your workstations and our servers.
- 6.9 For at least the past twelve (12) years, all of our employees have undergone criminal background checks prior to hire. All employees sign our confidentiality agreement and security policies. Our data centers are accessible only by authorized personnel with a unique key entry. All other visitors must be signed in and accompanied by authorized personnel. Entry attempts to the data center are regularly audited by internal staff and external auditors to ensure no unauthorized access.
- 6.10 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official Attestation of Compliance, which can be found at <https://www.tylertech.com/about-us/compliance>, and in the event of any change in our status, will comply with applicable notice requirements.

SECTION C – OTHER PROFESSIONAL SERVICES

1. Other Professional Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in our industry standard implementation plan. We will finalize that documentation with you upon execution of this Agreement.
2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and

Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.

3. Additional Services. The Investment Summary contains the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. Cancellation. If travel is required, we will make all reasonable efforts to schedule travel for our personnel, including arranging travel reservations, at least two (2) weeks in advance of commitments. Therefore, if you cancel services less than two (2) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within two (2) weeks of scheduled commitments.
5. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.
6. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us.
7. Client Assistance. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).
8. Maintenance and Support. For so long as you timely pay your SaaS Fees according to the Invoicing and Payment Policy, then in addition to the terms set forth in the SLA and the Support Call Process, we will:
 - 8.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (limited to the then-current version and the immediately prior version);
 - 8.2 provide telephone support during our established support hours;
 - 8.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third

Party Software, if any, in order to provide maintenance and support services;

8.4 make available to you all major and minor releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and

8.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with our then-current release life cycle policy.

We will use all reasonable efforts to perform support services remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain your VPN for backup connectivity purposes.

For the avoidance of doubt, SaaS Fees do not include the following services: (a) onsite support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (b) application design; (c) other consulting services; or (d) support outside our normal business hours as listed in our then-current Support Call Process. Requested services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.

SECTION D – THIRD PARTY PRODUCTS

1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.

2. Third Party Software. As part of the SaaS Services, you will receive access to the Third Party Software and related documentation for internal business purposes only. Your rights to the Third Party Software will be governed by the Third Party Terms.

3. Third Party Products Warranties.

3.1 We are authorized by each Developer to grant access to the Third Party Software.

3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.

3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.

4. Third Party Services. If you have purchased Third Party Services, those services will be provided independent of Tyler by such third-party at the rates set forth in the Investment Summary and in accordance with our Invoicing and Payment Policy.

SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES

1. Invoicing and Payment. We will invoice you the SaaS Fees and fees for other professional services in the Investment Summary per our Invoicing and Payment Policy, subject to Section E(2).
2. Invoice Disputes. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all SaaS Services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

SECTION F – TERM AND TERMINATION

1. Term. The initial term of this Agreement is two and one-half (2.5) years from the first day of January, 2020 (1/1/20), unless earlier terminated as set forth below. Upon expiration of the initial term, this Agreement will renew automatically for additional one (1) year renewal terms at our then-current SaaS Fees unless terminated in writing by either party at least sixty (60) days prior to the end of the then-current renewal term. Your right to access or use the Tyler Software and the SaaS Services will terminate at the end of this Agreement.
2. Termination. This Agreement may be terminated as set forth below. In the event of termination, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than your termination for cause must have been submitted as invoice disputes in accordance with Section E(2).
 - 2.1 Failure to Pay SaaS Fees. You acknowledge that continued access to the SaaS Services is contingent upon your timely payment of SaaS Fees. If you fail to timely pay the SaaS Fees, we may discontinue the SaaS Services and deny your access to the Tyler Software. We may also terminate this Agreement if you don't cure such failure to pay within forty-five (45) days of receiving written notice of our intent to terminate.
 - 2.2 For Cause. If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section H(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section H(3).

- 2.3 Force Majeure. Either party has the right to terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or more.
- 2.4 Lack of Appropriations. If you should not appropriate or otherwise make available funds sufficient to utilize the SaaS Services, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will not be entitled to a refund or offset of previously paid, but unused SaaS Fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.
- 2.5 Fees for Termination without Cause during Initial Term. If you terminate this Agreement during the initial term for any reason other than cause, Force Majeure, or lack of appropriations, or if we terminate this Agreement during the initial term for your failure to pay SaaS Fees, you shall pay us the following early termination fees:
- a. if you terminate during the first year of the initial term, 100% of the SaaS Fees through the date of termination plus 75% of the SaaS Fees then due for the remainder of the initial term;
 - b. if you terminate during the second year of the initial term, 100% of the SaaS Fees through the date of termination plus 50% of the SaaS Fees then due for the remainder of the initial term; and
 - c. if you terminate after the second year of the initial term, 100% of the SaaS Fees through the date of termination plus 25% of the SaaS Fees then due for the remainder of the initial term.

SECTION G – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. Intellectual Property Infringement Indemnification.

- 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 1.2 Our obligations under this Section G(1) will not apply to the extent the claim or adverse final judgment is based on your use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties, or your willful infringement.
- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software

is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

2. General Indemnification.

2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of PCI-DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.

2.2 To the extent permitted by applicable law, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.

3. **DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
4. **LIMITATION OF LIABILITY. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) DURING THE INITIAL TERM, AS SET FORTH IN SECTION F(2), TOTAL FEES PAID AS OF THE TIME OF THE CLAIM; OR (B) DURING ANY RENEWAL TERM, THE THEN-CURRENT ANNUAL SAAS FEES PAYABLE IN THAT RENEWAL TERM. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS G(1) AND G(2).**
5. **EXCLUSION OF CERTAIN DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**
6. Insurance. During the course of performing services under this Agreement, we agree to maintain

the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000; (b) Automobile Liability of at least \$1,000,000; (c) Professional Liability of at least \$1,000,000; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$5,000,000. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. We will provide you with copies of certificates of insurance upon your written request.

SECTION H – GENERAL TERMS AND CONDITIONS

1. Additional Products and Services. You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
2. Optional Items. Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.
3. Dispute Resolution. You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either of us may assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.
4. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
5. Nondiscrimination. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.

6. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
7. Subcontractors. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
8. Binding Effect; No Assignment. This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.
9. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
10. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.
11. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.
12. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
13. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.
14. Independent Contractor. We are an independent contractor for all purposes under this Agreement.
15. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page

hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.

16. Client Lists. You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
17. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (*e.g.*, social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:
 - (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
 - (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
 - (c) a party receives from a third party who has a right to disclose it to the receiving party; or
 - (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.
18. Business License. In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.
19. Governing Law. This Agreement will be governed by and construed in accordance with the laws of your state of domicile, without regard to its rules on conflicts of law.
20. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.
21. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.
22. Contract Documents. This Agreement includes the following exhibits:

Exhibit A Investment Summary

- Exhibit B Invoicing and Payment Policy
 Schedule 1: Business Travel Policy
- Exhibit C Service Level Agreement
 Schedule 1: Support Call Process
- Exhibit D DocOrigins EULA

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

Beaufort County

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attention: Chief Legal Officer

Address for Notices:

Beaufort County
PO Box 1228
Beaufort, SC 29901-1228
Attn: _____



Exhibit A
Investment Summary

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

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Quoted By: Sandy Gallagher
 Date: 11/8/2019
 Quote Expiration: 12/30/2019
 Quote Name: Beaufort County-ERP-SaaS Flip
 Quote Number: 2018-56658-2
 Quote Description: SaaS Flip - 1/1/2020

Sales Quotation For

Beaufort County
 PO Box 1228
 Beaufort, SC 29901-1228
 Phone +1 (843) 255-1000

SaaS

Description	Annual Fee Net	# Years	Total SaaS Fee	Impl. Hours
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Additional:

Concurrent Users (50)	\$50,000.00	2.5	\$125,000.00	0
Accounting/GL	\$25,724.00	2.5	\$64,310.00	0
Capitol Assets	\$5,908.00	2.5	\$14,770.00	0
Purchase Orders	\$5,908.00	2.5	\$14,770.00	0
Requisitions	\$4,924.00	2.5	\$12,310.00	0
Human Resources	\$9,901.00	2.5	\$24,753.00	0
Payroll	\$22,395.00	2.5	\$55,988.00	0
Recruiting	\$3,669.00	2.5	\$9,173.00	0
Accounts Receivable	\$5,366.00	2.5	\$13,415.00	0
Business License	\$4,880.00	2.5	\$12,200.00	0
General Billing	\$2,440.00	2.5	\$6,100.00	0
Tyler GIS	\$3,483.00	2.5	\$8,708.00	0
Permits & Code	\$9,576.00	2.5	\$23,940.00	0
Tyler Cashiering	\$8,375.00	2.5	\$20,938.00	0
Citizen Self Service	\$3,496.00	2.5	\$8,740.00	0
Employee Self Service	\$2,954.00	2.5	\$7,385.00	0

Crystal Reports	\$6,159.00	2.5	\$15,398.00	0
Munis Office	\$4,147.00	2.5	\$10,368.00	0
Role Tailored Dashboard	\$3,483.00	2.5	\$8,708.00	0
Tyler Content Manager SE	\$8,810.00	2.5	\$22,025.00	0
Tyler Forms Processing	\$5,130.00	2.5	\$12,825.00	0
Socrata Open Finance	\$13,367.00	2.5	\$33,418.00	0
TOTAL:				

Other Services

Description	Quantity	Unit Price	Unit Discount	Extended Price
Install Fee - Socrata Open Finance	1	\$5,600.00	\$5,600.00	\$0.00
Project Planning Services	1	\$6,000.00	\$6,000.00	\$0.00
VPN Device	1	\$4,000.00	\$0.00	\$4,000.00
Sub-Total:				\$15,600.00
<u>Less Discount:</u>				<u>\$11,600.00</u>
TOTAL:				

SaaS	On Time Fees	Hardware Fees
Total SaaS	\$0.00	\$210,095.00
Total Tyler Software	\$0.00	\$0.00
Total Tyler Services	\$4,000.00	\$0.00
Total 3rd Party Hardware, Software and Services	\$0.00	\$0.00
SaaS Total		
Contract Total		

Unless otherwise indicated in the contract or amendment thereto, pricing for optional items will be held for six (6) months from the Quote date or the Effective Date of the contract, whichever is later.

Customer Approval: _____ Date: _____

Print Name:

P.O. #:

All primary values quoted in US Dollars

Comments

Tyler's quote contains estimates of the amount of services needed, based on our preliminary understanding of the size and scope of your project. The actual amount of services depends on such factors as your level of involvement in the project and the speed of knowledge transfer.

Unless otherwise noted, prices submitted in the quote do not include travel expenses incurred in accordance with Tyler's then-current Business Travel Policy.

Tyler's prices do not include applicable local, city or federal sales, use excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting. Installations are completed remotely, but can be done onsite upon request at an additional cost.

In the event Client cancels services less than two (2) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses incurred by Tyler on Client's behalf; and (ii) daily fees associated with the cancelled services if Tyler is unable to re-assign its personnel.

Implementation hours are scheduled and delivered in four (4) or eight (8) hour increments.

Tyler provides onsite training for a maximum of 12 people per class. In the event that more than 12 users wish to participate in a training class or more than one occurrence of a class is needed, Tyler will either provide additional days at then-current rates for training or Tyler will utilize a Train-the-Trainer approach whereby the client designated attendees of the initial training can thereafter train the remaining users.

Project Management includes project planning, kickoff meeting, status calls, task monitoring, verification and transition to support.

Tyler's cost is based on all of the proposed products and services being obtained from Tyler. Should significant portions of the products or services be deleted, Tyler reserves the right to adjust prices accordingly.

The Munis SaaS fees are based on 50 concurrent users. Should the number of concurrent users be exceeded, Tyler reserves the right to re-negotiate the SaaS fees based upon any resulting changes in the pricing categories.

Development modifications, interfaces and services, where applicable, shall be invoiced to the client in the following manner: 50% of total upon authorized signature to proceed on program specifications and the remaining 50% of total upon delivery of modifications, interface and services.

If selected SaaS term will run 1/1/2020 through 06/30/2022 to sync with Fiscal Year.

Transparency Upgrade, Socrata will replace Transparency annual fee on execution of SaaS Contract.



Exhibit B Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary of the Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

Invoicing: We will invoice you for the applicable software and services in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. **SaaS Fees.** SaaS Fees are invoiced on an annual basis, beginning on the commencement of the initial term as set forth in Section F (1) of this Agreement. Your annual SaaS fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual SaaS fees will be at our then-current rates.
2. **Other Tyler Software and Services.**
 - 2.1 ***VPN Device:*** The fee for the VPN device will be invoiced upon installation of the VPN.
 - 2.2 ***Consulting Services:*** If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the Best Practice Recommendations, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
 - 2.3 ***Requested Modifications to the Tyler Software:*** Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in this Agreement.
 - 2.4 ***Other Fixed Price Services:*** Other fixed price services are invoiced upon complete delivery of the service. For the avoidance of doubt, where "Project Planning Services" are provided, payment will be due upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be billed monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.
 - 2.5 ***Change Management Services:*** If you have purchased any change management services, those services will be invoiced in the following amounts and upon the following milestones:

Acceptance of Change Management Discovery Analysis	15%
Delivery of Change Management Plan and Strategy Presentation	10%

Acceptance of Executive Playbook	15%
Acceptance of Resistance Management Plan	15%
Acceptance of Procedural Change Communications Plan	10%
Change Management Coach Training	20%
Change Management After-Action Review	15%

3. Third Party Products.

3.1 *Third Party Software License Fees:* License fees for Third Party Software, if any, are invoiced when we make it available to you for downloading.

3.2 *Third Party Software Maintenance:* The first year maintenance for the Third Party Software is invoiced when we make it available to you for downloading.

3.3 *Third Party Hardware:* Third Party Hardware costs, if any, are invoiced upon delivery.

3.4 *Third Party Services:* Fees for Third Party Services, if any, are invoiced as delivered, along with applicable expenses, at the rates set forth in the Investment Summary.

4. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses for Tyler delivered services will be billed as incurred and only in accordance with our then-current Business Travel Policy, plus a 10% travel agency processing fee. Our current Business Travel Policy is attached to this Exhibit B at Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available.

5. Credit for Prepaid Maintenance and Support Fees for Tyler Software. If SaaS term begins before the end of the annual maintenance term of Client’s on-premise agreement, Client will receive a credit for the maintenance and support fees prepaid for the Tyler Software for the time period commencing on the first day of the SaaS Term.

Payment. Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is:

Bank: Wells Fargo Bank, N.A.
420 Montgomery
San Francisco, CA 94104
ABA: 121000248
Account: 4124302472
Beneficiary: Tyler Technologies, Inc. – Operating



Exhibit B
Schedule 1
Business Travel Policy

1. Air Travel

A. Reservations & Tickets

The Travel Management Company (TMC) used by Tyler will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven (7) day advance booking requirement is mandatory. When booking less than seven (7) days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is six (6) or more consecutive hours in length, only economy or coach class seating is reimbursable. Employees shall not be reimbursed for "Basic Economy Fares" because these fares are non-refundable and have many restrictions that outweigh the cost-savings.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five (5) days = one (1) checked bag
- Six (6) or more days = two (2) checked bags

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee’s private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a “mid-size” or “intermediate” car. “Full” size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; except for employees traveling to Alaska and internationally (excluding Canada), additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler’s TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

“No shows” or cancellation fees are not reimbursable if the employee does not comply with the hotel’s cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

Employees are not authorized to reserve non-traditional short-term lodging, such as Airbnb, VRBO, and HomeAway. Employees who elect to make such reservations shall not be reimbursed.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status within the continental U.S. are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at www.gsa.gov/perdiem.

Per diem for Alaska, Hawaii, U.S. protectorates and international destinations are provided separately by the Department of Defense and will be determined as required.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch and dinner

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

Breakfast	15%
Lunch	25%
Dinner	60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.*

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

6. International Travel

All international flights with the exception of flights between the U.S. and Canada should be reserved through TMC using the "lowest practical coach fare" with the exception of flights that are six (6) or more consecutive hours in length. In such event, the next available seating class above coach shall be reimbursed.

When required to travel internationally for business, employees shall be reimbursed for photo fees, application fees, and execution fees when obtaining a new passport book, but fees related to passport renewals are not reimbursable. Visa application and legal fees, entry taxes and departure taxes are reimbursable.

The cost of vaccinations that are either required for travel to specific countries or suggested by the U.S. Department of Health & Human Services for travel to specific countries, is reimbursable.

Section 4, Meals & Incidental Expenses, and Section 2.b., Rental Car, shall apply to this section.



Exhibit C

SERVICE LEVEL AGREEMENT

I. Agreement Overview

This SLA operates in conjunction with, and does not supersede or replace any part of, the Agreement. It outlines the information technology service levels that we will provide to you to ensure the availability of the application services that you have requested us to provide. All other support services are documented in the Support Call Process.

II. Definitions. Except as defined below, all defined terms have the meaning set forth in the Agreement.

Attainment: The percentage of time the Tyler Software is available during a calendar quarter, with percentages rounded to the nearest whole number.

Client Error Incident: Any service unavailability resulting from your applications, content or equipment, or the acts or omissions of any of your service users or third-party providers over whom we exercise no control.

Downtime: Those minutes during which the Tyler Software is not available for your use. Downtime does not include those instances in which only a Defect is present.

Service Availability: The total number of minutes in a calendar quarter that the Tyler Software is capable of receiving, processing, and responding to requests, excluding maintenance windows, Client Error Incidents and Force Majeure.

III. Service Availability

The Service Availability of the Tyler Software is intended to be 24/7/365. We set Service Availability goals and measures whether we have met those goals by tracking Attainment.

a. Your Responsibilities

Whenever you experience Downtime, you must make a support call according to the procedures outlined in the Support Call Process. You will receive a support incident number.

You must document, in writing, all Downtime that you have experienced during a calendar quarter. You must deliver such documentation to us within 30 days of a quarter's end.

The documentation you provide must evidence the Downtime clearly and convincingly. It must include, for example, the support incident number(s) and the date, time and duration of the Downtime(s).

b. Our Responsibilities

When our support team receives a call from you that Downtime has occurred or is occurring, we will work with you to identify the cause of the Downtime (including whether it may be the result of a Client Error Incident or Force Majeure). We will also work with you to resume normal operations.

Upon timely receipt of your Downtime report, we will compare that report to our own outage logs and support tickets to confirm that Downtime for which we were responsible indeed occurred.

We will respond to your Downtime report within 30 day(s) of receipt. To the extent we have confirmed Downtime for which we are responsible, we will provide you with the relief set forth below.

c. Client Relief

When a Service Availability goal is not met due to confirmed Downtime, we will provide you with relief that corresponds to the percentage amount by which that goal was not achieved, as set forth in the Client Relief Schedule below.

Notwithstanding the above, the total amount of all relief that would be due under this SLA per quarter will not exceed 5% of one quarter of the then-current SaaS Fee. The total credits confirmed by us in one or more quarters of a billing cycle will be applied to the SaaS Fee for the next billing cycle. Issuing of such credit does not relieve us of our obligations under the Agreement to correct the problem which created the service interruption.

Every quarter, we will compare confirmed Downtime to Service Availability. In the event actual Attainment does not meet the targeted Attainment, the following Client relief will apply, on a quarterly basis:

Targeted Attainment	Actual Attainment	Client Relief
100%	98-99%	Remedial action will be taken.
100%	95-97%	4% credit of fee for affected calendar quarter will be posted to next billing cycle
100%	<95%	5% credit of fee for affected calendar quarter will be posted to next billing cycle

You may request a report from us that documents the preceding quarter’s Service Availability, Downtime, any remedial actions that have been/will be taken, and any credits that may be issued.

IV. Applicability

The commitments set forth in this SLA do not apply during maintenance windows, Client Error Incidents, and Force Majeure.

We perform maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, we will provide advance notice of those windows and will coordinate to the greatest extent possible with you.

V. Force Majeure

You will not hold us responsible for not meeting service levels outlined in this SLA to the extent any failure to do so is caused by Force Majeure. In the event of Force Majeure, we will file with you a signed request that said failure be excused. That writing will at least include the essential details and circumstances supporting our request for relief pursuant to this Section. You will not unreasonably withhold its acceptance of such a request.



Exhibit C Schedule 1 Support Call Process

Support Channels

Tyler Technologies, Inc. provides the following channels of software support:

- (1) Tyler Community – an on-line resource, Tyler Community provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (2) On-line submission (portal) – for less urgent and functionality-based questions, users may create unlimited support incidents through the customer relationship management portal available at the Tyler Technologies website.
- (3) Email – for less urgent situations, users may submit unlimited emails directly to the software support group.
- (4) Telephone – for urgent or complex questions, users receive toll-free, unlimited telephone software support.

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – www.tylertech.com – for accessing client tools and other information including support contact information.
- (2) Tyler Community – available through login, Tyler Community provides a venue for clients to support one another and share best practices and resources.
- (3) Knowledgebase – A fully searchable depository of thousands of documents related to procedures, best practices, release information, and job aides.
- (4) Program Updates – where development activity is made available for client consumption

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Clients may receive coverage across these time zones. Tyler’s holiday schedule is outlined below. There will be no support coverage on these days.

New Year’s Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day
Labor Day	

Issue Handling

Incident Tracking

Every support incident is logged into Tyler’s Customer Relationship Management System and given a unique incident number. This system tracks the history of each incident. The incident tracking number is used to track and reference open issues when clients contact support. Clients may track incidents, using the incident number, through the portal at Tyler’s website or by calling software support directly.

Incident Priority

Each incident is assigned a priority number, which corresponds to the client’s needs and deadlines. The client

is responsible for reasonably setting the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain “characteristics” may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the client towards clearly understanding and communicating the importance of the issue and to describe generally expected responses and resolutions.

Priority Level	Characteristics of Support Incident	Resolution Targets
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client’s remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler’s responsibility for lost or corrupted Data is limited to assisting the client in restoring its last available database.
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of Data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler’s responsibility for loss or corrupted Data is limited to assisting the client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the support incident. Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack. For non-hosted customers, Tyler’s responsibility for lost or corrupted Data is limited to assisting the client in restoring its last available database.
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days. Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

Incident Escalation

Tyler Technology’s software support consists of four levels of personnel:

- (1) Level 1: front-line representatives
- (2) Level 2: more senior in their support role, they assist front-line representatives and take on escalated issues
- (3) Level 3: assist in incident escalations and specialized client issues
- (4) Level 4: responsible for the management of support teams for either a single product or a product

group

If a client feels they are not receiving the service needed, they may contact the appropriate Software Support Manager. After receiving the incident tracking number, the manager will follow up on the open issue and determine the necessary action to meet the client's needs.

On occasion, the priority or immediacy of a software support incident may change after initiation. Tyler encourages clients to communicate the level of urgency or priority of software support issues so that we can respond appropriately. A software support incident can be escalated by any of the following methods:

- (1) Telephone – for immediate response, call toll-free to either escalate an incident's priority or to escalate an issue through management channels as described above.
- (2) Email – clients can send an email to software support in order to escalate the priority of an issue
- (3) On-line Support Incident Portal – clients can also escalate the priority of an issue by logging into the client incident portal and referencing the appropriate incident tracking number.

Remote Support Tool

Some support calls require further analysis of the client's database, process or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Support is able to quickly connect to the client's desktop and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.



Exhibit D
End User License Agreement

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ATTENTION: THE SOFTWARE PROVIDED UNDER THIS AGREEMENT IS BEING LICENSED TO YOU BY **OF SOFTWARE LTD.** AND IS NOT BEING SOLD. THIS SOFTWARE IS PROVIDED UNDER THE FOLLOWING AGREEMENT THAT SPECIFIES WHAT YOU MAY DO WITH THE SOFTWARE AND CONTAINS IMPORTANT LIMITATIONS ON REPRESENTATIONS, WARRANTIES, CONDITIONS, REMEDIES, AND LIABILITIES.

DocOrigin

SOFTWARE LICENSE

IMPORTANT-READ CAREFULLY: This End-User License Agreement ("**Agreement**" or "**EULA**") is a legal agreement between you (either an individual person or a single legal entity, who will be referred to in this EULA as "**You**") and OF Software Ltd. for the DocOrigin software product that accompanies this EULA, including any associated media, printed materials and electronic documentation (the "**Software**"). The Software also encompasses any software updates, add-on components, web services and/or supplements that may be provided to you or made available to you after the date you obtain the initial copy of the Software to the extent that such items are not accompanied by a separate license agreement or terms of use. If you receive the Software under separate terms from your distributor, those terms will take precedence over any conflicting terms of this EULA.

By installing, copying, downloading, accessing or otherwise using the Software, you agree to be bound by the terms of this EULA. If you do not agree to the terms of this EULA, do not install, access or use the Software; instead, you should remove the Software from all systems and receive a full refund.

IF YOU ARE AN AGENT OR EMPLOYEE OF ANOTHER ENTITY YOU REPRESENT AND WARRANT THAT (I) THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS DULY AUTHORIZED TO ACCEPT THIS AGREEMENT ON SUCH ENTITY'S BEHALF AND TO BIND SUCH ENTITY, AND (II) SUCH ENTITY HAS FULL POWER, CORPORATE OR OTHERWISE, TO ENTER INTO THIS AGREEMENT AND PERFORM ITS OBLIGATIONS HEREUNDER.

1. LICENSE TERMS

- 1.1** In this Agreement a "**License Key**" means any license key, activation code, or similar installation, access or usage control codes, including serial numbers digitally created and or provided by OF Software Ltd., designed to provide unlocked access to the Software and its functionality.
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Last Updated: [July 18 2013]



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Land Acquisition Proposal through Rural and Critical Land Program - Project 2020A

Council Committee:

County Council - Executive Session

Meeting Date:

March 23, 2020

Committee Presenter (Name and Title):

Barbara G. Holmes, Beaufort County Contractor; Eric Greenway, CDD Director

Issues for Consideration:

The fee simple acquisition of +/- 12 acres on US Highway 21 (3020, 3026, and 3030 Trask Parkway) for \$544,537 in Rural and Critical Program land acquisition funds, acceptance of 1.7 acres of donated property, sale of restrictive easement and grant of conservation easement of purchased and donated property. Project summary sheet, Restrictive Easement, conservation easement and purchase contracts are attached. Rural and Critical Land Preservation Board unanimously recommended approval on January 9, 2020. Natural Resources Committee recommended approval 5 to 1 on March 2, 2020 with some discussion, that was not part of the motion, regarding potentially using H-Tax funding towards some of the expense for the purchase.

The properties are currently under contract for purchase by the Battleground Preservation Trust, which will be assigned to the County if purchase is approved.

Points to Consider:

Property being purchased below fair market value. The three parcels under consideration comprise a significant portion of the battlefield of the 1779 Revolutionary War Battle of Port Royal Island. One tract includes an existing 22,000 s.f. commercial building. SC Conservation Bank, and DoD/Marine Corps Air Station Beaufort are cost-share partners. Marine Corps Air Station Beaufort purchasing a Restrictive Easement on the property with limitations on public access and use of the commercial building. The SC Battleground Preservation Trust will hold a conservation easement to protect historic resources. County would be sole owner of purchased and donated property. Property could be established as a site on the South Carolina Liberty Trail.

Funding & Liability Factors:

Land acquisition cost from Rural & Critical Program funds = \$544,537. Other cost-share funds are MCAS Beaufort \$897,500, and SC Conservation Bank \$352,963. County has expended \$18,235 in identifiable due diligence expenses, further costs expected for closing including survey of donated parcel and closing costs. Post-closing costs for County listed in Project Summary Sheet. The existing building is a liability consideration.

Council Options:

Approve the proposal and recommend purchase to Council, modify proposal, or reject proposal

Recommendation:

Staff recommends the Committee approve the request.

ORDINANCE 2020/ _____

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS FOR THE PURCHASE OF APPROXIMATELY 12 ACRES OF REAL PROPERTY KNOWN AS TAX MAP SERIAL NUMBERS R100 020 000 0165 0000, R100 020 000 047C 0000, AND R100 020 000 0047 0000 AND ALSO KNOWN AS THE PORT ROYAL ISLAND BATTLEFIELD; TO SELL A RESTRICTIVE EASEMENT TO THE UNITED STATES OF AMERICA ON TAX MAP SERIAL NUMBERS R100 020 000 0165 0000, R100 020 000 047C 0000, AND R100 020 000 0047 0000; TO ACCEPT THE DONATION OF A PORTION OF R100 020 000 0244 0000; AND TO GRANT A CONSERVATION EASEMENT TO THE SOUTH CAROLINA BATTLEGROUND PRESERVATION TRUST ON TAX MAP SERIAL NUMBERS R100 020 000 0165 0000, R100 020 000 047C 0000, AND R100 020 000 0047 0000 AND A PORTION OF R100 020 000 0244 0000.

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

WHEREAS, in 2016, experts conclusively determined the specific location in northern Beaufort County of the Revolutionary War’s 1779 Battle of Port Royal Island and a National Historic Marker has been placed near the battlefield; and

WHEREAS, sellers wishes to sell and buyer wishes to buy the real property identified as **R100 020 000 0165 0000, R100 020 000 047C 0000 and R100 020 000 0047 0000** also known as the Port Royal Island Battlefield, approximately 12 acres located in northern Beaufort County, on U.S. Highway 21 (“Property”); and

WHEREAS, the purchase of the Port Royal Island Battlefield has been demonstrated to meet the Critical Lands Criteria of the Rural and Critical Lands program; and

WHEREAS, the Port Royal Island Battlefield abuts Marine Corps Air Station Beaufort, property owned by the United States of America; and

WHEREAS, Buyer and the United States of America have entered into an agreement pursuant to 10 U.S.C. Section 2684a to acquire property interests that would be otherwise incompatible with the mission of Marine Corps Air Station Beaufort and otherwise meets the mutual objectives of the buyer and the United States of America; and

WHEREAS, the United States of America desires to purchase a Restrictive Easement on the portion of the Port Royal Island Battlefield to be owned by the Buyer; and

WHEREAS, the South Carolina Battleground Preservation Trust (“Preservation Trust”) is a §501(c)(3) organization corporation established in 1991 dedicated to the preservation of South Carolina’s historic battlegrounds and military sites and desires to protect the historic integrity of the Port Royal Island Battlefield as the holder of a conservation easement; and

WHEREAS, the Preservation Trust desires to purchase, through funds provided by a South Carolina Conservation Bank grant, a Conservation Easement on the portion of the Port Royal Island Battlefield to be owned by the Buyer; and

WHEREAS, the proposal to purchase the Port Royal Island Battlefield is for a fee simple purchase of \$1,820,000.00 plus reasonable closing costs; and

WHEREAS, funding for the purchase of Property comprised of \$544,537.00 from the Rural and Critical Land Preservation Program, \$352,963.00 from a South Carolina Conservation Bank grant and \$922,500.00 from the sale of a Restrictive Easement to the United States of America; and

WHEREAS, the seller of **R100 020 000 0165 0000** and **R100 020 000 047C 0000** has offered to donate to the buyer approximately 1.7 acres of land of **R100 020 000 0244 0000** that also includes a portion of the battlefield; and

WHEREAS, the American Battlefield Trust, the National Park Service, the South Carolina Battleground Preservation Trust and the South Carolina American Revolution Sestercentennial Commission are collaborating to commemorate South Carolina's involvement in the Revolutionary War with the establishment of the *Liberty Trail*, a heritage tourism and preservation initiative and the Port Royal Island Battlefield can be a part of the *Liberty Trail*; and

WHEREAS, the proposed purchase of the Port Royal Island Battlefield was presented to the Rural and Critical Land Preservation Board (RCLPB) at its January 9, 2020 meeting and the RCLPB unanimously recommended approval of the purchase; and

WHEREAS, the proposed purchase of the Property was presented to the Natural Resources Committee on March 2, 2020 and the Committee voted by a vote of 5-1 to recommend approval to Beaufort County Council of the purchase of the Port Royal Island Battlefield using Rural and Critical Lands program funds; and

WHEREAS, the project proposal and essential terms for the purchase and perpetual protection of the Port Royal Island Battlefield are included in the attached Project Summary Sheet (Exhibit "A") describing the fee simple purchase of approximately 12 acres of real property at a price less than the appraised value, the acceptance of a donation of approximately 1.7 acres of real property, the sale of a Restrictive Easement to the United States of America and the grant of Conservation Easement to the South Carolina Battleground Preservation Trust; and

WHEREAS, Beaufort County Council has determined that it is in the best interest of its citizens and residents of Beaufort County to authorize the execution and delivery of the Assignment of Real Estate Purchase and Sale Agreement for TMS# **R100 020 000 0165 0000** (Exhibit "B"), the Assignment of Real Estate Purchase and Sale Agreement for TMS# **R100 020 000 047C 0000** (Exhibit "C"), the Assignment of Real Estate Purchase and Sale Agreement for TMS# **R100 020 000 0047 0000** (Exhibit "D"), the Restrictive Easement (Exhibit "E"), and the Conservation Easement (Exhibit "F") which are attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that the County Administrator is hereby authorized to:

1. execute the Assignment of Real Estate Purchase and Sale Agreements as shown in Exhibit B, Exhibit C, and Exhibit D attached hereto; and
2. execute the necessary documents for the purchase of approximately 12 acres of real property known as tax map serial numbers R100 020 000 0165 0000, R100 020 000 047C 0000 and R100 020 000 0047 0000 and also known as the Port Royal Island Battlefield; and
3. sell a Restrictive Easement to United States of America and execute the Restrictive Easement as shown in Exhibit E attached hereto; and
4. sell a Conservation Easement to South Carolina Battleground Preservation Trust and execute the Conservation Easement as shown in Exhibit F attached hereto F; and
5. accept the donation of a portion of real property known as R100 020 000 0244 0000.

Adopted this ____ day of _____, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

Chronology

- Natural Resources Committee discussion and recommendation occurred on March 2, 2020 / Vote 5:1



COUNTY COUNCIL OF BEAUFORT COUNTY
PURCHASING DEPARTMENT

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

TO: Council Chairman Joseph Passiment, County Council

FROM: Dave Thomas, CPPPO, Purchasing Director

SUBJ: Recommendation of Purchase of Fee Simple Interest of Project 2020A Port Royal Island Battlefield through the Beaufort County Rural and Critical Land Preservation Program

DATE: March 23, 2020

BACKGROUND: On January 9, 2020, the Beaufort County Rural and Critical Land Preservation Board unanimously voted in Executive Session to approve the fee simple acquisition purchase of Project 2020A Port Royal Island Battlefield and send it to the Natural Resources Committee meeting on March 3, 2020 for approval. The property is 13.86 acres located at 3020, 3026, and 3030 Trask Parkway in Beaufort and is owned by Smooth Seas, LLC (Harris Pillow) and Michael Kling. This property is the specific location of the Revolutionary's War's 1779 Battle of Port Royal Island. The three parcels under consideration comprise a significant area of the battlefield and one parcel includes a 22,000 square foot building. This project has been presented several times to the Beaufort County Rural and Critical Land Preservation Board, however, was not approved under previous proposals. The current proposal has MCAS Beaufort (Department of Defense) funding 50% of the project, South Carolina Conservation Bank funding 20% of the project, and the Beaufort County Rural and Critical Land Preservation Program funding 30% of the project. One of the owners, Smooth Seas, LLC, will donate 1.7 acres of contiguous property for inclusion in the project. MCAS Beaufort will hold a restrictive easement on the property that will allow up to 20 visitors a day for historic, educational, and interpretive activities and may be a part of the Liberty Trail. The South Carolina Battleground Preservation Trust will put a conservation easement on the property to protect its historic resource. Beaufort County will be the sole owner of the purchased and donated property.

FUNDING: Funding for the project will be \$544,537 from the Beaufort County Rural and Critical Land Preservation Program (Account #4500-0011), \$922,500 from MCAS Beaufort (Department of Defense), and \$352,963 from the South Carolina Conservation Bank.

FOR ACTION: Natural Resources Committee meeting (Executive Session) on Monday, March 2, 2020 at 3:30 p.m. for recommendation to County Council on Monday, March 23, 2020 at 6:00 p.m.

RECOMMENDATION: The Community Development Department recommends that the Natural Resources Committee recommend to County Council approval of the purchase of fee simple interest of Project 2020A Port Royal Island Battlefield in the amount of \$544,537 from the Beaufort County Rural and Critical Land Preservation Program (Account #4500-0011). The total cost of the project with partners will be \$1,820,000.

CC: Ashley Jacobs, County Administrator
Alicia Holland, Asst. Co. Administrator, Finance
Phil Foot, Asst. Co. Administrator, Public Safety
Eric Greenway, Community Development Department Director
Amanda Flake, CDD Natural Resources Planner

Exhibit A



**2020A Port Royal Island Battlefield (3
tracts) Beaufort County, SC
Proposal: Fee Acquisition**

THREE PROPERTIES:

Seller	DMP#	Acres
Smooth Seas, LLC (Harris Pillow)	R100 020 000 0165 0000	2.36
Smooth Seas, LLC (Harris Pillow)	R100 020 000 047C 0000	6.07
Michael Kling	R100 020 000 0047 0000	<u>3.73</u>

Acreage to be Purchased:	12.16
Acreage to be Donated (estimated):	<u>1.70</u>
Total Acreage to be Owned by County	13.86

TOTAL PRICE:	\$1,820,000
RCLPP FUNDS:	\$ 544,537 (30% of purchase cost)
PARTNER FUNDS:	\$1,275,463 See Purchase and Cost Structure
SELLER CONTRIBUTIONS:	See Purchase and Cost Structure
ZONING:	S1 Light Industrial MCAS AICUZ Noise Zones 80-85db and 75-80db
COUNCIL DISTRICT:	1 (Councilman Gerald Dawson)

LOCATION: 3020, 3026 and 3030 Trask Parkway, Beaufort, SC
North of the City of Beaufort, west and adjacent to U.S. Highway 21, south of Parker Drive, directly across U.S. Highway 21 from Marine Corps Air Station Beaufort (MCAS Beaufort)

Project Background:

- The specific location of the Revolutionary War's 1779 Battle of Port Royal Island was conclusively determined in the spring 2016. The three parcels under consideration comprise a significant area of the battlefield. A National Historic Marker is located near the property just off U.S. Highway 21 north of the subject tracts.

A Narrative of the Battle of Port Royal Island can be found after the Project Analysis.

- This project has been presented several times through the Rural and Critical Program, however, was not approved under previous proposals.

Property Characteristics:

- The 2.36-acre Smooth Seas tract includes a 22,000 s.f. industrial building ca. 1973 with a paved parking lot in the front of the building and an unpaved driveway extending from the parking lot to the back of the building.
- The 6.07-acre Smooth Seas tract is an unimproved vacant parcel of mixed forest and wetlands. A portion of the paved parking extends onto this tract. One billboard with a permanent easement is located at the southeast corner of the tract facing southbound U.S. Highway 21 traffic.
- The Kling tract is an unimproved vacant parcel with mixed upland forest and wetlands. One billboard is sited on this parcel facing southbound U.S. Highway 21 traffic.
- The properties have 1,680 feet of road frontage on U.S. Highway 21 with over 20,000 cars passing daily





Purchase and Cost Structure:

Appraised Values and Negotiated Price					
<u>DMP#</u>	<u>Acres</u>	<u>Owner</u>	<u>Appraised Values</u>	<u>Appraisal Totals</u>	<u>Negotiated Price</u>
R100 020 000 0165 0000 Land	2.36	Smooth Seas	\$220,000		
R100 020 000 0165 0000 Bldg		Smooth Seas	\$930,000		
R100 020 000 047C 0000	6.07	Smooth Seas	\$460,000		
				\$1,610,000	\$1,575,000
R100 020 000 0047 0000	3.73	Kling		\$280,000	\$245,000
				\$1,890,000	\$1,820,000

Port Royal Island Battlefield Purchase Budget			
Costs:			
Purchase of Smooth Seas Tracts (negotiated)		\$ 1,575,000	
Purchase of Kling Tract (negotiated)		\$ 245,000	
Total Purchase Funds Needed:			\$ 1,820,000
Funding Sources/Partners:			
Department of Defense	\$ 922,500		51%
South Carolina Conservation Bank (previously awarded)	\$ 352,963		19%
Beaufort County Rural & Critical Land Program	\$ 544,537		30%
Total Funds Requested:			\$ 1,820,000

Cost-Share Partner Contributions:

1. Department of Defense MCAS Beaufort Restrictive Easement

Restrictive Easement allows for up to 20 visitors/day for historic, educational and interpretive activities with no notice to MCAS. The site could be included on the Liberty Trail. Approval required for events that include more than 20 people/day.

2. South Carolina Conservation Bank

In 2017 the South Carolina Battleground Preservation Trust (SCBPT) was awarded a \$352,963 grant from the SCCB. The proposed project went inactive and those funds were ultimately released to other projects. The SCBPT is re-applying for funds in January 2020. Grant awards are expected to be finalized by the Board by the end of February 2020. Approved funds must be expended by June 30, 2020.

3. South Carolina Battleground Preservation Trust

The SCBPT is applying for the SCCB funds on behalf of the project and will be a continued partner with Beaufort County on the Liberty Trail project. The SCBPT will hold a conservation easement on the property with the purpose of protecting its historic and cultural resources.

4. Seller Contributions

The seller of the Smooth Seas properties has offered to convey approximately 1.7 acres of contiguous property to County for inclusion into project, bringing the total battlefield acreage to almost 14 acres. The value of this donated acreage has not been appraised.



Both owners of the properties are willing to sell the property below fair market value in the interest of permanent protection of the battlefield.



Cost Considerations:

Due Diligence and Closing

Beaufort County has expended identifiable due diligence funds of \$17,485 on the Port Royal Island Battlefield project which included a new survey of the three properties, a Phase I Environmental Site Assessment, an asbestos survey, a wetlands delineation and a USPAP-standard FMV appraisal. Other costs must be expended by Beaufort County to finalize the closings, including a survey of the donated parcel and the attorney fees for title work and closing the project.

Future Cost Considerations

Economic impact of purchases on tax base of the County:

Foregone property tax revenue	\$ 25,924
Operations & Maintenance	
Annual mowing maintenance	\$ 15,000
Other items	Est. not available
If the building were to be demolished (not required by easement):	
Asbestos removal, estimated	\$ 5,015
Demolition of building, parking areas	\$100,000
Billboard removal / Re-use	Est. not available

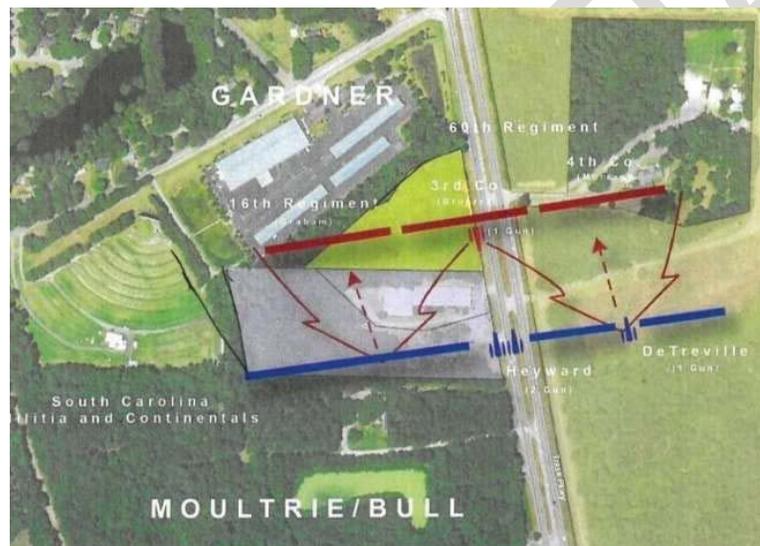
The South Carolina Battleground Preservation Trust plans to be an ongoing partner with Beaufort County in the fundraising and ongoing efforts needed to optimally protect, interpret and promote this battleground property.

Critical Lands Criteria:

- Complementary with County Comprehensive Plan recommendation 6-1 and implementation strategy to continue to pursue the acquisition of significant archeological and historical sites via the Rural & Critical Land Preservation Program
- Proximity to protected areas: Located 1,000 feet from RCLPP-purchased AMGRAY (~21 acres).
- Public access, historic and educational benefits
- Leverage of other funding – strong cost-share funding partners
- Public views of scenic forested frontage from U.S. Highway 21
- Water quality/groundwater recharge ecosystem services benefits

Project Analysis:

This project represents an opportunity for Beaufort County to purchase three properties comprising the unprotected and only publicly accessible portion of the Revolutionary War’s 1779 Battle of Port Royal Island, a land area of great historic significance for the United States. The project offers the possibility of public ownership and permanent protection and interpretation of this unique and decisive victory of the Patriots over the British Loyalists in America’s War for Independence.



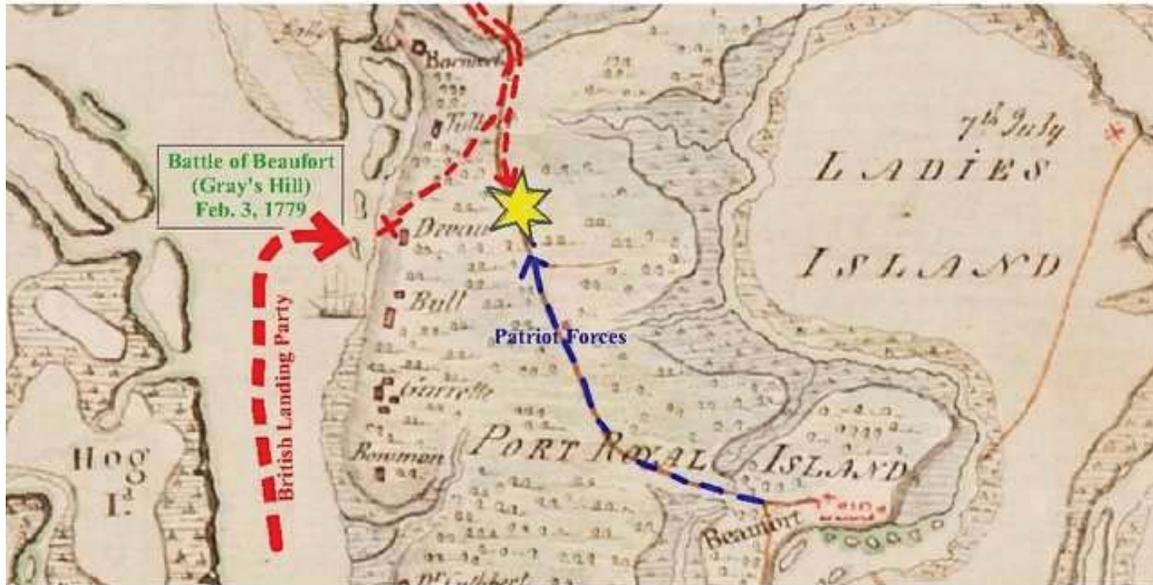
Diverse and important goals can be accomplished by this project. Beaufort County’s partners have been asked to contribute 85% of the purchase funds to protect the Port Royal Island Battlefield. Marine Corps Air Station Beaufort has the goal of protecting today’s military from incompatible future development adjacent to the installation. To those who work to protect and commemorate South Carolina’s history and heritage, this project will highlight Beaufort County’s involvement in the Revolutionary War through the **Liberty Trail**, a heritage tourism and preservation initiative to promote the Palmetto State’s leading role in the founding of the United States. The **Liberty Trail** is a collaboration of The American Battlefield Trust, the National Park Service, the SCBPT and the South Carolina American Revolution Sestercentennial Commission and is expected to be functional in late 2020. The Trail will be an interactive history



experience that will be 400 miles long and feature 70 sites, including 16 park sites and 14 roadside vehicle pulloffs.

Previous versions of this project have not been approved due to a number of reasons, including a high price per acre, limitations on public access and future expected costs. The cost per acre is high because the property is situated on the main roadway into northern Beaufort County and is zoned to allow for commercial uses. However, the property is being purchased below fair market value, and the number of cost-share partners brings the RCLP's share down to just 15%. The South Carolina Battleground Preservation Trust is willing to continue working with Beaufort County on the interpretation and education of the site, to fundraise to create an appropriate roadside battleground site and to bring additional partners to the project. The Department of Defense, the SC Battleground Preservation Trust and Beaufort County have come together and reached an agreement they will support to protect this important site.

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Narrative of the Battle of Port Royal Island

By Doug Bostick

Executive Director, South Carolina Battlefield Preservation Trust

November 2016

In January 1779, British Major William Gardner was ordered to make a naval landing and march infantry companies to occupy Port Royal Island. They landed at Hilton Head and skirmished with Patriot militia. Gardner's troops burned the plantation belonging to Captain Thomas Heyward Jr., one of South Carolina's Signers of the Declaration of Independence. They continued to burn abandoned plantations as they encountered them on their march to Port Royal Island.

Learning of the British advance, Patriot General Benjamin Lincoln dispatched Brigadier General William Moultrie to meet this British threat. Moultrie's troops included the SC 3rd Regiment (Rangers), the SC 4th Regiment of Artillery led by Captain John Francis DeTreville, the SC 5th Regiment (Riflemen), and the 1st Brigade of SC Militia led by Brigadier General Stephen Bull.

Moultrie arrived at Port Royal a day ahead of the British. The British troops deployed ashore at first light on February 3. After marching two miles, they skirmished with a small party of Patriot

militia. As they continued their advance on Port Royal, word of their location reached Moultrie.

Moultrie attempted to deploy his men in a wooded swamp near the highway, but the British beat him to that location. The Patriot troops then lined up across the road and in an open field, just two hundred yards from the British troops. Moultrie deployed two six-pound guns commanded by Thomas Heyward Jr. in the middle of the road and one 2-pound gun in the woods on the right commanded by DeTreville.

Major Gardner rode to the American lines with a handkerchief tied to his sword demanding that the Patriots surrender. Moultrie sent Captain Francis Kinlock forward to refuse, and noting that Gardner was outnumbered, that he should consider surrendering.

The British fired their howitzer on Heyward's artillery, killing a Patriot officer. Heyward returned fire and, on his second shot, disabled the Gardner's only cannon, killed two British lieutenants, and hit Gardner's horse.

After taking casualties, Moultrie ordered his men to move to the woods on either side. Both armies tried to flank each other without success. During the forty-five minute battle, a British major and two captains were wounded. As both sides were about to run out of ammunition, Moultrie and Gardner disengaged.

Moultrie sent Captain John Barnwell and his Beaufort militia to pursue the retreating British. Gardner reached the boat landing where forty Loyalist marines had set a defensive position. Forty of the British troops were either killed or wounded and another twenty-six taken prisoner. The Patriot casualties were only eight killed and twenty-two wounded. As the British retreated from the hotly contested battle, they were forced to leave their dead and wounded on the field. Local citizens removed the bodies of the two British officers killed in action and buried them at St. Helena Episcopal Church.



The battle is significant for a number of reasons:

1. If the British were successful in capturing Port Royal, they would have controlled the largest natural deep-water harbor south of New York.
2. Both Thomas Heyward Jr. and Edward Rutledge fought in the battle. It is exceedingly rare that two signers of the Declaration of Independence were involved in a battle as combatants.
3. This battle is one of the earliest documented use of black troops in the Revolutionary War. With the 4th Regiment of Artillery was Jim Capers, a South Carolina slave who became a true American hero.

Capers was born on September 23, 1742 in Christ Church Parish, South Carolina. In 1775, he was a slave at a plantation near Bull's Bay owned by Mr. Capers. On June 15 of that year, Capers enlisted as a drum major in the 4th Regiment of the South Carolina Militia, commanded by Francis Marion.

In the Revolutionary War, a regimental drummer was used, not just for music, but to transmit orders using the drum. Specific drumbeats transmitted orders and coordinated troop movements. A drummer goes into battle without a weapon and subjects himself to great peril. Jim Capers was an American hero by joining the cause of independence, even when he himself was a slave.

Capers fought in the Siege of Savannah, the Siege of Charles Town, and the battles of St. Helena, Port Royal Island, Georgetown, Camden, Biggin Church, and Eutaw Springs. It was at the Battle of Eutaw Springs that he received four wounds: two on his face and one on his head by a sword, and one in his side by a musket ball. His last battle was at Yorktown, Virginia, where he was present for the surrender of Cornwallis.

Capers was discharged on October 1, 1782, having served for seven years, five and one-half months, and he was discharged as a free man of color. After the war, Capers moved to Alabama, seeking new opportunities "in the west." He died in Pike County, Alabama on April 1, 1853, at the age of 110. On February 1, 2015, Jim Capers was recognized and honored with marker at his grave, placed by the Alabama Society of the Sons of the American Revolution.

Exhibit B

Exhibit A

AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY (the "Agreement") is made effective as of the 21 day of January, 2020 (being the last and latest date affixed hereto next to the signature lines of the Seller and Purchaser, the "Effective Date"), by and between: SMOOTH SEAS, LLC, with a mailing address of 5 Parker Drive, Beaufort, South Carolina 29906 (the "Seller"); and SOUTH CAROLINA BATTLEGROUND PRESERVATION TRUST, Inc., a South Carolina non-profit organization, with a mailing address of P.O. Box 80668, Charleston, SC 29416-0668 (the "Purchaser").

RECITALS:

A. Seller is the fee simple record title owner of a certain parcel of land located in Beaufort County, South Carolina, including a total of approximately 2.36 acres, more or less, located at or near 3026 Trask Parkway (Highway 21), Beaufort, South Carolina 29906, identified as tax parcel #R100-020-000-0165-0000 among the land records of Beaufort County, together with all the improvements and buildings constructed thereon (if any), timber, and all rights, privileges, and easements appurtenant thereto or used in connection therewith, including all of Seller's right, title, and interest in and to any streets, alleys, easements, rights-of-way, public ways, or other rights appurtenant, adjacent, or connected thereto or used in connection therewith (collectively herein referred to as the "Property").

B. Seller desires to sell and convey all of its right, title and interest in and to the Property, and Purchaser desires to buy and acquire the above-described Property AS-IS, WHERE-IS, subject only to the contingencies, terms and conditions herein contained in this Agreement, and as a consequence, Seller and Purchaser are executing and ratifying the Agreement to specify and set forth the terms and conditions under which the Seller will sell and convey, and the Purchaser will buy and acquire the aforesaid Property.

NOW THEREFORE, WITNESSETH: In consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby agrees to sell to Purchaser, and Purchaser agrees to buy from the Seller in fee simple title, the Property, under the following terms and conditions:

1. Sale of Property. Subject to the terms and conditions of this Agreement, Seller will sell and convey to Purchaser, and Purchaser will buy and acquire from Seller all of Seller's right, title and interest in and to the Property.

2. Purchase Price; Terms of Payment; Deposit. On the date of settlement and closing (the "Closing Date") of the purchase and sale of the Property (the "Closing"), Purchaser shall purchase and buy the Property from the Seller for the purchase price (the "Purchase Price") of \$1,119,075.00. At Closing, the Purchaser shall pay the Seller the Purchase Price in cash, or by cashier's or certified check, or by wire transfer of funds delivered to the settlement/closing agent for the Purchaser, and which Purchase Price (net of the Seller's costs and expenses of Closing) is to be disbursed by the settlement/closing agent of the Purchaser to Seller on the same day

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recording of the deed conveying title to the Property is accomplished, which recording is to be accomplished within three (3) business days after the Closing Date.

Within fifteen (15) business days of the mutual and full execution and delivery of this Agreement, Purchaser shall deliver in escrow to an "Escrow Agent" an earnest money deposit in the amount of TEN DOLLARS (\$10.00) (the "Deposit"), which Deposit shall be paid by Purchaser in the form of cash or cashier's or certified check, or by wire transfer of funds. The Deposit shall be deposited and held by Escrow Agent. The Deposit is refundable to Purchaser in the event of default hereunder by Seller. If this Agreement is not closed, then the Escrow Agent shall disburse the Deposit as applicable in the manner provided for elsewhere herein, and the parties agree to promptly notify the Escrow Agent in writing upon any termination of this Agreement and which party is entitled to the Deposit.

Unless prior to the Closing Date hereunder the Purchaser or Seller becomes entitled to the Deposit as provided in this Agreement, the Escrow Agent shall, concurrent with Closing, pay over and transfer the Deposit to the settlement agent (if a different party from Escrow Agent) for application and credit of Purchaser towards the payment of Purchase Price.

The Settlement Agent shall be:

Thomas A. Bendle, Jr.,
Howell, Gibson & Hughes, P.A.
Post Office Box 40, Beaufort, SC 29901
25 Rue Du Bois, Beaufort, SC 29907.

3. Contingencies.

3.1 Environmental Site Assessment. This Agreement is contingent upon the completion of a Phase I Environmental Site Assessment (the "ESA") of the Property to be paid for by Purchaser; and upon there being no items or information contained in said Phase I of the Property that the Purchaser, in its sole and absolute discretion, finds unsatisfactory.

3.2 Survey. This Agreement is contingent upon the completion of an ALTA or appropriate boundary survey depicting the Property and all easements, encumbrances and river frontage, to be paid for by Purchaser; and upon there being no items or information contained in said survey of the Property that the Purchaser, in its sole and absolute discretion, finds unsatisfactory.

4. Title. It shall be a condition precedent to Purchaser's obligation to proceed to Closing that, on the Closing Date, title to the Property shall be good of record and in fact, marketable, free of any liens and encumbrances except the Permitted Encumbrances (as defined below), and otherwise insurable at regular rates by a reputable title insurance company. Purchaser has ordered a commitment from a title company (the "Title Company") to issue an owner's policy of title insurance insuring the Property (the "Title Commitment"), and promptly upon receipt, shall provide the Seller with a true and complete copy of the Title Commitment. At that time Purchaser shall notify Seller in writing as to which (if any) of the matters disclosed in the Title Commitment are unacceptable to the Purchaser, except that the Purchaser shall not be

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obligated to notify the Seller of Purchaser's objections to any financial liens or encumbrances created by Seller that may be released upon payment of a specified or computable sum of money (the "Financial Liens") affecting the Property, as Seller is obligated to cure such Financial Liens before the Closing Date (and if not so cured, Purchaser hereby directs the Escrow Agent to cure such Financial Liens out of the proceeds to be paid to Seller at Closing, and deduct such amounts from the Purchase Price paid to Seller). Within seven (7) days after receipt of the Title Commitment and Purchaser's letter of objections, the Seller shall notify the Purchaser in writing as to which (if any) of the title matters objected to by the Purchaser the Seller is willing to correct. If Seller does not notify Purchaser as set forth above, it shall be deemed that Seller has refused to correct any such matter(s) to which Purchaser has objected. Purchaser shall then have the balance of the Feasibility Study Period to either elect to waive those title defects that the Seller has not agreed to remedy and cure, or to terminate this Agreement if Purchaser remains unsatisfied with the condition of title to the Property. In the event of termination of this Agreement by Purchaser, neither party shall have any further rights or obligations under this Agreement, except for those obligations which survive termination hereunder, and Escrow Agent shall return the Deposit to Purchaser. "Permitted Encumbrances" as used herein shall mean (i) those title matters that appear on Schedule B-2 of the Title Commitment (other than Financial Liens and the so-called "pre-printed exceptions") and to which Purchaser makes no objection and (ii) those title matters to which Purchaser makes objection, and Seller refuses to correct, and in spite of such refusal Purchaser nevertheless elects to proceed hereunder after expiration of the Feasibility Study Period.

5. Disclaimer. Except for the express representations made herein by Seller to Purchaser with regard to the Property, Purchaser acknowledges and agrees that Seller has not made, does not make, and specifically negates and disclaims any other representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future, of, as, to, concerning, or with respect to (a) the value, nature, quality, or condition of the Property, (b) the income to be derived from the Property, (c) the suitability of the Property for any and all activities and uses which Purchaser may conduct thereon, (d) the compliance of or by the Property or its operation with any laws, rules, ordinances, or regulations of any applicable governmental authority or body, (e) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property, (f) the manner, quality, state of repair, or lack of repair of the Property, or (g) any other matter with respect to the Property. Seller is not liable or bound in any manner by any verbal or written statements, representations, or information pertaining to the Property, or the operation thereof, furnished by any real estate broker, agent, servant, or other person. Purchaser further acknowledges and agrees that to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "AS IS" "WHERE IS" condition and basis with all faults. The provisions of this section/paragraph shall survive Closing.

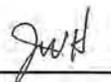
6. Representations of Seller. Seller represents the following:

6.1 Due Authorization, Ownership, and Authority. Seller is the legal owner of the Property, and does have the legal right, power and authority to enter into this Agreement and to perform its obligations hereunder, including conveying the Property. Seller has not granted any

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options or rights of first refusal or rights of first offer to other third parties to purchase or otherwise acquire an interest in the Property.

6.2 Encroachments. To the best knowledge of Seller there are no encroachments on to the Property from adjoining property, and the Property does not encroach on adjoining property, easements, or streets.

6.3 FIRPTA. Seller hereby represents and warrants to Purchaser that Seller is not a "foreign person or company" within the meaning of Section 1445 of the Internal Revenue Code of 1986, and Seller further agrees, if requested at closing, to furnish Purchaser an affidavit to this effect.

6.4 Litigation. To the best of Seller's knowledge, Seller has received no notice of liens or other special assessments being levied and made against the Property by any governmental authority; there are no actions, suits, or proceedings before any judicial or quasi-judicial body, or by or before any governmental authority, pending or threatened, against or affecting Seller or the Property; and to the best knowledge of Seller there is no basis for any such action. Seller shall comply with all notices, orders, or requirements of any governmental authority asserting jurisdiction over the Property that are noted or issued prior to the Closing Date.

6.5 Bankruptcy. Seller is not the subject of any bankruptcy, reorganization, or receivership proceedings filed or petitioned for under United States Bankruptcy laws.

6.6 Compliance with Laws. Seller has no actual knowledge or notice of and, to the best of Seller's knowledge, no fact or condition currently exists or previously existed on the Property which may give rise to any violation of state, local, or federal law and regulations (zoning, occupancy, fire, environmental) governing the Property.

6.7 Leases. The Property is not subject to any lease or other agreement granting another party possession or occupancy of the Property.

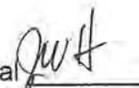
6.8 Environmental. To the Seller's best knowledge, without any independent study or assessment having been made or conducted, the Property is free of all contamination by hazardous waste and materials and toxic substances as those terms are defined under federal and state environmental regulations and laws governing the Property, except as otherwise previously disclosed to Purchaser or identified in the Phase I Environmental Site Assessment acquired by Purchaser. Seller has received no notice and has not been cited for violating such environmental regulations.

All of the above representations and warranties of the Seller set forth in this Agreement shall be true upon the execution of this Agreement and shall be deemed to be repeated by Seller on the Closing Date without the necessity of a separate certificate with respect thereto, and shall survive the delivery of the Deed and other closing instruments and documents for a period of six (6) months.

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7. Covenants and Understandings of the Parties.

7.1 Seller's Actions. From and after the Effective Date of this Agreement, Seller shall refrain from making any other change to the Property without the express written permission of Purchaser having been first obtained; refrain from committing any waste to the Property; and shall observe all laws, ordinances, regulations, and restrictions affecting the Property and the use thereof.

7.2 No Further Encumbrance. From and after the Effective Date of this Agreement, without in each instance first obtaining the prior written consent of Purchaser, the Seller shall not (i) encumber and/or pledge the Property or any portion thereof, or otherwise grant a further lease, lien or security interest to another in the Property or any portion thereof, or (ii) permit to exist any recorded mechanic's, materialmen's, laborer's, judgment or other adversarial lien upon all or any portion of the Property unless such lien is as the result of work performed by or on behalf of the Purchaser.

7.3 Payment of Charges. Seller shall, prior to the Closing Date, (i) pay as and when due and owing all real estate taxes and other public charges assessed against the Property, subject to adjustment at Closing as provided herein; (ii) pay all of its bills for labor, materials, or services for work performed on or with respect to the Property; (iii) pay and keep current without delinquency all existing loan obligations of Seller presently collaterally secured against the Property; (iv) in no way or manner adversely change the state or condition of title to the Property; and (v) not breach or violate the terms of any covenants, restrictions, easements or agreements affecting the Property.

7.4 All of the representations set forth in Section 7 herein are true and correct as if made by Seller as of the Closing Date, unless permitted to be otherwise qualified and/or waived by Purchaser in their sole discretion.

8. Closing. The purchase and sale of the Property shall be consummated as follows:

8.1 Closing Date. Closing on the purchase and sale of the Property shall occur on or before June 30, 2020.

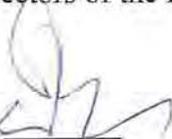
8.2 Location of Closing. The Closing shall be consummated on the Closing Date at the office of Thomas A. Bendle, Jr., 25 Rue Du Bois, Beaufort, South Carolina 29907.

8.3 Conditions to Closing. It is an express precondition to Purchaser's obligation to close hereunder that all of the following are true and correct (or waived in writing by Purchaser) on and as of the Closing Date:

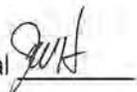
8.3(1) Title to the Property shall be in the condition required by Section 5 herein.

8.3(2) Approval of the acquisition of this Property in all respects by the Board of Directors of the Purchaser.

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8.3(3) Approval and receipt of Federal, State, and County grant funding equal to the Purchase Price.

8.3(4) Satisfactory environmental site assessment report.

In the event of a failure of a condition which the Purchaser refuses to waive, Purchaser may in its sole and absolute discretion, extend the date of Closing up to 30 days from the last date provided in Section 9.1, in order to permit time to satisfy the contingency, or, in the event said contingency(ies) cannot be satisfied in a timeframe agreeable to both parties, terminate this Agreement and receive the prompt return of the Deposit from the Seller or Escrow Agent, or waive such condition and proceed to Closing.

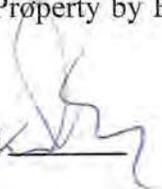
8.4 Seller's Instruments and Items. At Closing, Seller shall (i) deliver or cause to be delivered to Purchaser (a) a customary and recordable General Warranty Deed conveying to the Purchaser fee simple title to the Property (title being in the condition required in Section 5 of this Agreement), and (b) the following other documents: (1) a Non-Foreign Affidavit, and (2) an Owner's Title Affidavit, and (ii) execute such documents or instruments as shall be reasonably required by the Purchaser, and the title company and settlement agent of Purchaser, to consummate the sale of the Property and insure title to the Property in the condition required by the terms hereof.

8.5 Purchaser's Instruments. At Closing the Purchaser shall pay to the Seller the Purchase Price for the Property, and execute such documents or instruments as shall be reasonably required by the title/settlement agent of the Purchaser to consummate the sale of the Property.

8.6 Tender of Settlement. Delivery of all required items and documents by either party to the settlement agent/title company conducting settlement and closing hereunder shall constitute performance of such party's delivery obligations hereunder.

8.7 Costs and Expenses of Closing. At Closing, Purchaser shall pay the Purchaser's attorney's fees, the cost of title examination, title insurance premiums (to the extent any such insurance is purchased), all of the applicable state and county transfer and deed recordation taxes imposed on the Deed (other than the Grantor's tax), and any and all other costs and expenses customarily paid by the Purchaser at Closing. At Closing, Seller shall pay all costs pertaining to the pay-off and release of any existing financial liens or encumbrances, which are required to be released by Seller pursuant to the terms of this Agreement, the Grantor's recording tax assessed by the Clerk of the Circuit Court in recording the Deed, the cost of the preparation of the Deed and any delinquent or current owing real estate taxes that may be then due and owing against the Property and Seller's attorney's fees (if Seller retains an attorney in this matter).

8.8 Adjustments. The payment of all real estate taxes then assessed and owing against the Property by Beaufort County, South Carolina, and any public and/or private utilities

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not otherwise paid for and owing from Seller on the Property, and other revenues and/or expenses affecting the Property, shall all be adjusted and pro rated as of and on the Closing Date as between Seller and Purchaser, and the payment of the real estate taxes and other municipal charges and assessments assumed thereafter by the Purchaser.

8.9 Possession. Possession of the Property shall be delivered by Seller to Purchaser at Closing without any leases or parties in possession or occupancy.

9. Notices. All notices, demands, requests and other communications permitted or required pursuant to the provisions of the Agreement shall be in writing and shall be deemed to have been properly given or served for all purposes on that day when actually presented personally by hand delivery, or the day after deposit with a nationally recognized overnight express delivery/courier service, charges prepaid, or three (3) business days after deposit in the U.S. mail, first class, postage prepaid, properly addressed to the respective addresses as follows:

Seller:
Smooth Seas, LLC
Mr. John Harris
5 Parker Drive
Beaufort, SC 29906

Purchaser:
South Carolina Battleground Trust
P.O. Box 80668
Charleston, SC 29416-0668
Attention: Doug Bostick, Executive Director / CEO

10. Default and Remedies.

10.1 By Purchaser. If Purchaser shall fail to discharge any of its obligations hereunder and shall fail to cure same within fifteen (15) days after receiving written notice of default from Seller (except that no notice shall be required in connection with a failure to timely close the acquisition contemplated herein), then this Agreement is terminated. Thereafter neither Purchaser nor Seller shall have any liability or obligations one to the other under this Agreement.

10.2 By Seller. If Seller shall default in its obligations hereunder, or shall breach a representation made herein, or shall fail to perform any covenant provided herein, and such default, breach, or failure is not cured within fifteen (15) days after written notice of same from Purchaser (except that no such notice shall be required in connection with a failure to timely close the transaction contemplated herein) then Purchaser, upon providing written notice to Seller, shall at Purchaser's option and election be entitled to either (a) terminate this Agreement and declare it null and void; or (b) waive such default or breach and proceed to Closing, without any reduction in the Purchase Price and without any further claim against Seller therefor; or (c) exercise its right to obtain specific performance of such term, provision, covenant, or agreement, and of Seller's obligation to convey the Property pursuant to this Agreement.

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10.3 Both Parties. Anything in this Agreement to the contrary notwithstanding, at any time prior to the Closing Date the Seller (in the event of the occurrence or happening, from time to time, of any one of the following to the Purchaser), or the Purchaser (in the event of the occurrence or happening, from time to time, of any one of the following to the Seller), may, at their sole option and discretion, deem this Agreement to be in breach and elect to terminate this Agreement, and in addition thereto, should the breach be by the Seller, the Purchaser shall be entitled to receive back the Deposit, and should the breach be by the Purchaser, the Seller shall be entitled to receive the Deposit:

(i) If by the order of a court having or claiming jurisdiction, a trustee, receiver or liquidator of the Seller or Purchaser shall be appointed and such order shall not be discharged or dismissed within sixty (60) days after such appointment; or

(ii) If the Seller or Purchaser shall file a petition in bankruptcy or for an arrangement or for reorganization pursuant to the Bankruptcy Reform Act of 1978, as amended, or any similar law, federal or state, or if, by decree of a court having or claiming jurisdiction, the Seller or Purchaser shall be adjudicated a bankrupt, or be declared insolvent, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a custodian, trustee, receiver or liquidator of all or any part of its property, or shall file an answer admitting the material allegations of any petition filed against it in any bankruptcy, reorganization or insolvency proceeding; or

(iii) If any of the creditors of the Seller or of the Purchaser, or any other person shall file a petition in bankruptcy against the Seller or Purchaser pursuant to the Bankruptcy Reform Act of 1978, as amended, or any similar law, federal or state, and if such petition shall not be discharged or dismissed within sixty (60) days after the date on which such petition was filed.

10.4 Prevailing Parties. In any action to enforce the provisions of this Agreement, the prevailing party shall be entitled to the award of its reasonable attorney's fees and costs.

11. Entire Agreement. All prior negotiations between the parties hereto concerning the Property shall be considered integrated into this Agreement, and there are no agreements between the parties not specifically set forth herein. Any amendment to the terms of this Agreement must be in writing signed by the party to be charged therewith. Any letter agreements that have passed between the Seller and Purchaser prior to this Agreement are deemed superseded by this Agreement.

12. Time. Time shall be considered of the essence in the performance of the requirements of this Agreement.

13. Assignment. Purchaser shall have the right to assign this Agreement. In the event of such an assignment by Purchaser of its right hereunder, the Purchaser shall promptly deliver an executed copy of the instrument of assignment to the Seller.

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14. Applicable Law. This Agreement shall be construed in accordance with the laws of the State of South Carolina without regard to its conflicts of laws provisions.

15. No Merger. Unless specifically precluded or limited herein, the rights, obligations, covenants, and agreements of the parties created by this Agreement shall survive the Closing Date and the execution of the Deed to the Property, and shall not be merged therein.

16. Captions/Headings. The captions and headings in this Agreement are for the convenience of reference only of the parties, shall not be considered a material part hereof, and do not in any manner define, describe, or limit the scope or intent of this Agreement or any of the provisions or terms hereof.

17. Binding Effect. The covenants, conditions and agreements herein contained shall inure to the benefit of and bind the heirs, executors, legal representatives, successors and/or assigns of the parties hereto.

18. Counterparts. This Agreement may be executed by the various parties hereto in counterparts, and when all counterpart documents are executed, the counterparts shall constitute a single binding instrument.

19. Relationship of the Parties. Notwithstanding any other provision of this Agreement, or any agreements, contracts or obligations that may derive herefrom, nothing herein shall be construed to make the parties hereto partners or joint venturers, or to render either party liable for any of the debts or obligations of the other party, it being the intention of this Agreement merely to create the relationship of seller and purchaser with regard to the Property to be conveyed hereby.

20. Amendments; Waivers. No change or modification to this Agreement shall be valid unless the same is in writing and signed by Purchaser and Seller. No purported or alleged waiver of any of the provisions of this Agreement shall be binding or effective unless in writing and signed by the party against whom it is sought to be enforced.

21. Risk of Loss. All risk of loss to the Property shall remain with Seller prior to the Closing Date.

22. Expiration. This Agreement shall expire unless executed by the Seller on or before January 25, 2020.

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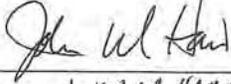


Smooth Seas, LLC Initial



IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Agreement of Purchase and Sale to be executed effective the date first above written.

SELLER:
SMOOTH SEAS, LLC



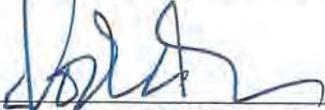
(SEAL)

Name: JOHN W. HANNIS

Title: PRESIDENT

Date: JANUARY 20, 2020

PURCHASER:
SOUTH CAROLINA BATTLEGROUND PRESERVATION TRUST



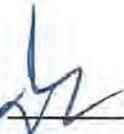
(SEAL)

Name: Douglas W. Bostick

Title: Executive Director / CEO

Date: January 20, 2020

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Smooth Seas, LLC Initial

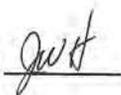


Exhibit C

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) ACKNOWLEDGMENT

I, _____ do hereby certify that _____ and
_____ personally appeared before me this day and acknowledged the due
execution of the foregoing instrument.

Witness my hand and official seal this _____ day of _____, 2020.

Notary Public of South Carolina
My Commission Expires:

Exhibit A

AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY (the "Agreement") is made effective as of the 11 day of January, 2020 (being the last and latest date affixed hereto next to the signature lines of the Seller and Purchaser, the "Effective Date"), by and between: HARRIS PILLOW SUPPLY, INC., with a mailing address of 5 Parker Drive, Beaufort, South Carolina 29906 (the "Seller"); and SOUTH CAROLINA BATTLEGROUND PRESERVATION TRUST, Inc., a South Carolina non-profit organization, with a mailing address of P.O. Box 80668, Charleston, SC 29416-0668 (the "Purchaser").

RECITALS:

A. Seller is the fee simple record title owner of a certain parcel of land located in Beaufort County, South Carolina, including a total of approximately 6.08 acres, more or less, located at or near 3030 Trask Parkway (Highway 21), Beaufort, South Carolina 29906, identified as tax parcel #R100-020-000-047C-0000 among the land records of Beaufort County, together with all the improvements and buildings constructed thereon (if any), timber, and all rights, privileges, and easements appurtenant thereto or used in connection therewith, including all of Seller's right, title, and interest in and to any streets, alleys, easements, rights-of-way, public ways, or other rights appurtenant, adjacent, or connected thereto or used in connection therewith (collectively herein referred to as the "Property").

B. Seller desires to sell and convey all of its right, title and interest in and to the Property, and Purchaser desires to buy and acquire the above-described Property AS-IS WHERE-IS, subject only to the contingencies, terms and conditions herein contained in this Agreement, and as a consequence, Seller and Purchaser are executing and ratifying the Agreement to specify and set forth the terms and conditions under which the Seller will sell and convey, and the Purchaser will buy and acquire the aforesaid Property.

NOW THEREFORE, WITNESSETH: In consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby agrees to sell to Purchaser, and Purchaser agrees to buy from the Seller in fee simple title, the Property, under the following terms and conditions:

1. Sale of Property. Subject to the terms and conditions of this Agreement, Seller will sell and convey to Purchaser, and Purchaser will buy and acquire from Seller all of Seller's right, title and interest in and to the Property.

2. Purchase Price; Terms of Payment; Deposit. On the date of settlement and closing (the "Closing Date") of the purchase and sale of the Property (the "Closing"), Purchaser shall purchase and buy the Property from the Seller for the purchase price (the "Purchase Price") of \$455,925.00. At Closing, the Purchaser shall pay the Seller the Purchase Price in cash, or by cashier's or certified check, or by wire transfer of funds delivered to the settlement/closing agent for the Purchaser, and which Purchase Price (net of the Seller's costs and expenses of Closing) is to be disbursed by the settlement/closing agent of the Purchaser to Seller on the same day

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Harris Pillow Supply Initial 

recording of the deed conveying title to the Property is accomplished, which recording is to be accomplished within three (3) business days after the Closing Date.

Within fifteen (15) business days of the mutual and full execution and delivery of this Agreement, Purchaser shall deliver in escrow to an "Escrow Agent" an earnest money deposit in the amount of TEN DOLLARS (\$10.00) (the "Deposit"), which Deposit shall be paid by Purchaser in the form of cash or cashier's or certified check, or by wire transfer of funds. The Deposit shall be deposited and held by Escrow Agent. The Deposit is refundable to Purchaser in the event of default hereunder by Seller. If this Agreement is not closed, then the Escrow Agent shall disburse the Deposit as applicable in the manner provided for elsewhere herein, and the parties agree to promptly notify the Escrow Agent in writing upon any termination of this Agreement and which party is entitled to the Deposit.

Unless prior to the Closing Date hereunder the Purchaser or Seller becomes entitled to the Deposit as provided in this Agreement, the Escrow Agent shall, concurrent with Closing, pay over and transfer the Deposit to the settlement agent (if a different party from Escrow Agent) for application and credit of Purchaser towards the payment of Purchase Price.

The Settlement Agent shall be:
Thomas A. Bendle, Jr.,
Howell, Gibson & Hughes, P.A.
Post Office Box 40, Beaufort, SC 29901
25 Rue Du Bois, Beaufort, SC 29907.

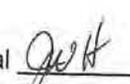
3. Contingencies.

3.1 Environmental Site Assessment. This Agreement is contingent upon the completion of a Phase I Environmental Site Assessment (the "ESA") of the Property to be paid for by Purchaser; and upon there being no items or information contained in said Phase I of the Property that the Purchaser, in its sole and absolute discretion, finds unsatisfactory.

3.2 Survey. This Agreement is contingent upon the completion of an ALTA or appropriate boundary survey depicting the Property and all easements, encumbrances and river frontage, to be paid for by Purchaser; and upon there being no items or information contained in said survey of the Property that the Purchaser, in its sole and absolute discretion, finds unsatisfactory.

4. Title. It shall be a condition precedent to Purchaser's obligation to proceed to Closing that, on the Closing Date, title to the Property shall be good of record and in fact, marketable, free of any liens and encumbrances except the Permitted Encumbrances (as defined below), and otherwise insurable at regular rates by a reputable title insurance company. Purchaser has ordered a commitment from a title company (the "Title Company") to issue an owner's policy of title insurance insuring the Property (the "Title Commitment"), and promptly upon receipt, shall provide the Seller with a true and complete copy of the Title Commitment. At that time Purchaser shall notify Seller in writing as to which (if any) of the matters disclosed in the Title Commitment are unacceptable to the Purchaser, except that the Purchaser shall not be

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obligated to notify the Seller of Purchaser's objections to any financial liens or encumbrances created by Seller that may be released upon payment of a specified or computable sum of money (the "Financial Liens") affecting the Property, as Seller is obligated to cure such Financial Liens before the Closing Date (and if not so cured, Purchaser hereby directs the Escrow Agent to cure such Financial Liens out of the proceeds to be paid to Seller at Closing, and deduct such amounts from the Purchase Price paid to Seller). Within seven (7) days after receipt of the Title Commitment and Purchaser's letter of objections, the Seller shall notify the Purchaser in writing as to which (if any) of the title matters objected to by the Purchaser the Seller is willing to correct. If Seller does not notify Purchaser as set forth above, it shall be deemed that Seller has refused to correct any such matter(s) to which Purchaser has objected. Purchaser shall then have the balance of the Feasibility Study Period to either elect to waive those title defects that the Seller has not agreed to remedy and cure, or to terminate this Agreement if Purchaser remains unsatisfied with the condition of title to the Property. In the event of termination of this Agreement by Purchaser, neither party shall have any further rights or obligations under this Agreement, except for those obligations which survive termination hereunder, and Escrow Agent shall return the Deposit to Purchaser. "Permitted Encumbrances" as used herein shall mean (i) those title matters that appear on Schedule B-2 of the Title Commitment (other than Financial Liens and the so-called "pre-printed exceptions") and to which Purchaser makes no objection and (ii) those title matters to which Purchaser makes objection, and Seller refuses to correct, and in spite of such refusal Purchaser nevertheless elects to proceed hereunder after expiration of the Feasibility Study Period.

5. Disclaimer. Except for the express representations made herein by Seller to Purchaser with regard to the Property, Purchaser acknowledges and agrees that Seller has not made, does not make, and specifically negates and disclaims any other representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future, of, as, to, concerning, or with respect to (a) the value, nature, quality, or condition of the Property, (b) the income to be derived from the Property, (c) the suitability of the Property for any and all activities and uses which Purchaser may conduct thereon, (d) the compliance of or by the Property or its operation with any laws, rules, ordinances, or regulations of any applicable governmental authority or body, (e) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property, (f) the manner, quality, state of repair, or lack of repair of the Property, or (g) any other matter with respect to the Property. Seller is not liable or bound in any manner by any verbal or written statements, representations, or information pertaining to the Property, or the operation thereof, furnished by any real estate broker, agent, servant, or other person. Purchaser further acknowledges and agrees that to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "AS IS" "WHERE IS" condition and basis with all faults. The provisions of this section/paragraph shall survive Closing.

6. Representations of Seller. Seller represents the following:

6.1 Due Authorization, Ownership, and Authority. Seller is the legal owner of the Property, and does have the legal right, power and authority to enter into this Agreement and to perform its obligations hereunder, including conveying the Property. Seller has not granted any

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options or rights of first refusal or rights of first offer to other third parties to purchase or otherwise acquire an interest in the Property.

6.2 Encroachments. To the best knowledge of Seller there are no encroachments on to the Property from adjoining property, and the Property does not encroach on adjoining property, easements, or streets.

6.3 FIRPTA. Seller hereby represents and warrants to Purchaser that Seller is not a "foreign person or company" within the meaning of Section 1445 of the Internal Revenue Code of 1986, and Seller further agrees, if requested at closing, to furnish Purchaser an affidavit to this effect.

6.4 Litigation. To the best of Seller's knowledge, Seller has received no notice of liens or other special assessments being levied and made against the Property by any governmental authority; there are no actions, suits, or proceedings before any judicial or quasi-judicial body, or by or before any governmental authority, pending or threatened, against or affecting Seller or the Property; and to the best knowledge of Seller there is no basis for any such action. Seller shall comply with all notices, orders, or requirements of any governmental authority asserting jurisdiction over the Property that are noted or issued prior to the Closing Date.

6.5 Bankruptcy. Seller is not the subject of any bankruptcy, reorganization, or receivership proceedings filed or petitioned for under United States Bankruptcy laws.

6.6 Compliance with Laws. Seller has no actual knowledge or notice of and, to the best of Seller's knowledge, no fact or condition currently exists or previously existed on the Property which may give rise to any violation of state, local, or federal law and regulations (zoning, occupancy, fire, environmental) governing the Property.

6.7 Leases. The Property is not subject to any lease or other agreement granting another party possession or occupancy of the Property.

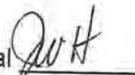
6.8 Environmental. To the Seller's best knowledge, without any independent study or assessment having been made or conducted, the Property is free of all contamination by hazardous waste and materials and toxic substances as those terms are defined under federal and state environmental regulations and laws governing the Property, except as otherwise previously disclosed to Purchaser or identified in the Phase I Environmental Site Assessment acquired by Purchaser. Seller has received no notice and has not been cited for violating such environmental regulations.

All of the above representations and warranties of the Seller set forth in this Agreement shall be true upon the execution of this Agreement and shall be deemed to be repeated by Seller on the Closing Date without the necessity of a separate certificate with respect thereto, and shall survive the delivery of the Deed and other closing instruments and documents for a period of six (6) months.

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7. Covenants and Understandings of the Parties.

7.1 Seller's Actions. From and after the Effective Date of this Agreement, Seller shall refrain from making any other change to the Property without the express written permission of Purchaser having been first obtained; refrain from committing any waste to the Property; and shall observe all laws, ordinances, regulations, and restrictions affecting the Property and the use thereof.

7.2 No Further Encumbrance. From and after the Effective Date of this Agreement, without in each instance first obtaining the prior written consent of Purchaser, the Seller shall not (i) encumber and/or pledge the Property or any portion thereof, or otherwise grant a further lease, lien or security interest to another in the Property or any portion thereof, or (ii) permit to exist any recorded mechanic's, materialmen's, laborer's, judgment or other adversarial lien upon all or any portion of the Property unless such lien is as the result of work performed by or on behalf of the Purchaser.

7.3 Payment of Charges. Seller shall, prior to the Closing Date, (i) pay as and when due and owing all real estate taxes and other public charges assessed against the Property, subject to adjustment at Closing as provided herein; (ii) pay all of its bills for labor, materials, or services for work performed on or with respect to the Property; (iii) pay and keep current without delinquency all existing loan obligations of Seller presently collaterally secured against the Property; (iv) in no way or manner adversely change the state or condition of title to the Property; and (v) not breach or violate the terms of any covenants, restrictions, easements or agreements affecting the Property.

7.4 All of the representations set forth in Section 7 herein are true and correct as if made by Seller as of the Closing Date, unless permitted to be otherwise qualified and/or waived by Purchaser in their sole discretion.

8. Closing. The purchase and sale of the Property shall be consummated as follows:

8.1 Closing Date. Closing on the purchase and sale of the Property shall occur on or before June 30, 2020.

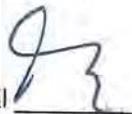
8.2 Location of Closing. The Closing shall be consummated on the Closing Date at the office of Thomas A. Bendle, Jr., 25 Rue Du Bois, Beaufort, South Carolina 29907.

8.3 Conditions to Closing. It is an express precondition to Purchaser's obligation to close hereunder that all of the following are true and correct (or waived in writing by Purchaser) on and as of the Closing Date:

8.3(1) Title to the Property shall be in the condition required by Section 5 herein.

8.3(2) Approval of the acquisition of this Property in all respects by the Board of Directors of the Purchaser.

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8.3(3) Approval and receipt of Federal, State, and County grant funding equal to the Purchase Price.

8.3(4) Satisfactory environmental site assessment report.

In the event of a failure of a condition which the Purchaser refuses to waive, Purchaser may in its sole and absolute discretion, extend the date of Closing up to 30 days from the last date provided in Section 9.1, in order to permit time to satisfy the contingency, or, in the event said contingency(ies) cannot be satisfied in a timeframe agreeable to both parties, terminate this Agreement and receive the prompt return of the Deposit from the Seller or Escrow Agent, or waive such condition and proceed to Closing.

8.4 Seller's Instruments and Items. At Closing, Seller shall (i) deliver or cause to be delivered to Purchaser (a) a customary and recordable General Warranty Deed conveying to the Purchaser fee simple title to the Property (title being in the condition required in Section 5 of this Agreement), and (b) the following other documents: (1) a Non-Foreign Affidavit, and (2) an Owner's Title Affidavit, and (ii) execute such documents or instruments as shall be reasonably required by the Purchaser, and the title company and settlement agent of Purchaser, to consummate the sale of the Property and insure title to the Property in the condition required by the terms hereof.

8.5 Purchaser's Instruments. At Closing the Purchaser shall pay to the Seller the Purchase Price for the Property, and execute such documents or instruments as shall be reasonably required by the title/settlement agent of the Purchaser to consummate the sale of the Property.

8.6 Tender of Settlement. Delivery of all required items and documents by either party to the settlement agent/title company conducting settlement and closing hereunder shall constitute performance of such party's delivery obligations hereunder.

8.7 Costs and Expenses of Closing. At Closing, Purchaser shall pay the Purchaser's attorney's fees, the cost of title examination, title insurance premiums (to the extent any such insurance is purchased), all of the applicable state and county transfer and deed recordation taxes imposed on the Deed (other than the Grantor's tax), and any and all other costs and expenses customarily paid by the Purchaser at Closing. At Closing, Seller shall pay all costs pertaining to the pay-off and release of any existing financial liens or encumbrances, which are required to be released by Seller pursuant to the terms of this Agreement, the Grantor's recording tax assessed by the Clerk of the Circuit Court in recording the Deed, the cost of the preparation of the Deed and any delinquent or current owing real estate taxes that may be then due and owing against the Property and Seller's attorney's fees (if Seller retains an attorney in this matter).

8.8 Adjustments. The payment of all real estate taxes then assessed and owing against the Property by Beaufort County, South Carolina, and any public and/or private utilities

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not otherwise paid for and owing from Seller on the Property, and other revenues and/or expenses affecting the Property, shall all be adjusted and pro rated as of and on the Closing Date as between Seller and Purchaser, and the payment of the real estate taxes and other municipal charges and assessments assumed thereafter by the Purchaser.

8.9 Possession. Possession of the Property shall be delivered by Seller to Purchaser at Closing without any leases or parties in possession or occupancy.

9. Notices. All notices, demands, requests and other communications permitted or required pursuant to the provisions of the Agreement shall be in writing and shall be deemed to have been properly given or served for all purposes on that day when actually presented personally by hand delivery, or the day after deposit with a nationally recognized overnight express delivery/courier service, charges prepaid, or three (3) business days after deposit in the U.S. mail, first class, postage prepaid, properly addressed to the respective addresses as follows:

Seller:
Harris Pillow Supply, Inc.
5 Parker Drive
Beaufort, SC 29906

Purchaser:
South Carolina Battleground Preservation Trust
P.O. Box 80668
Charleston, SC 29416-0668
Attention: Doug Bostick, Executive Director / CEO

10. Default and Remedies.

10.1 By Purchaser. If Purchaser shall fail to discharge any of its obligations hereunder and shall fail to cure same within fifteen (15) days after receiving written notice of default from Seller (except that no notice shall be required in connection with a failure to timely close the acquisition contemplated herein), then this Agreement is terminated. Thereafter neither Purchaser nor Seller shall have any liability or obligations one to the other under this Agreement.

10.2 By Seller. If Seller shall default in its obligations hereunder, or shall breach a representation made herein, or shall fail to perform any covenant provided herein, and such default, breach, or failure is not cured within fifteen (15) days after written notice of same from Purchaser (except that no such notice shall be required in connection with a failure to timely close the transaction contemplated herein) then Purchaser, upon providing written notice to Seller, shall at Purchaser's option and election be entitled to either (a) terminate this Agreement and declare it null and void; or (b) waive such default or breach and proceed to Closing, without any reduction in the Purchase Price and without any further claim against Seller therefor; or (c) exercise its right to obtain specific performance of such term, provision, covenant, or agreement, and of Seller's obligation to convey the Property pursuant to this Agreement.

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10.3 Both Parties. Anything in this Agreement to the contrary notwithstanding, at any time prior to the Closing Date the Seller (in the event of the occurrence or happening, from time to time, of any one of the following to the Purchaser), or the Purchaser (in the event of the occurrence or happening, from time to time, of any one of the following to the Seller), may, at their sole option and discretion, deem this Agreement to be in breach and elect to terminate this Agreement, and in addition thereto, should the breach be by the Seller, the Purchaser shall be entitled to receive back the Deposit, and should the breach be by the Purchaser, the Seller shall be entitled to receive the Deposit:

(i) If by the order of a court having or claiming jurisdiction, a trustee, receiver or liquidator of the Seller or Purchaser shall be appointed and such order shall not be discharged or dismissed within sixty (60) days after such appointment; or

(ii) If the Seller or Purchaser shall file a petition in bankruptcy or for an arrangement or for reorganization pursuant to the Bankruptcy Reform Act of 1978, as amended, or any similar law, federal or state, or if, by decree of a court having or claiming jurisdiction, the Seller or Purchaser shall be adjudicated a bankrupt, or be declared insolvent, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a custodian, trustee, receiver or liquidator of all or any part of its property, or shall file an answer admitting the material allegations of any petition filed against it in any bankruptcy, reorganization or insolvency proceeding; or

(iii) If any of the creditors of the Seller or of the Purchaser, or any other person shall file a petition in bankruptcy against the Seller or Purchaser pursuant to the Bankruptcy Reform Act of 1978, as amended, or any similar law, federal or state, and if such petition shall not be discharged or dismissed within sixty (60) days after the date on which such petition was filed.

10.4 Prevailing Parties. In any action to enforce the provisions of this Agreement, the prevailing party shall be entitled to the award of its reasonable attorney's fees and costs.

11. Entire Agreement. All prior negotiations between the parties hereto concerning the Property shall be considered integrated into this Agreement, and there are no agreements between the parties not specifically set forth herein. Any amendment to the terms of this Agreement must be in writing signed by the party to be charged therewith. Any letter agreements that have passed between the Seller and Purchaser prior to this Agreement are deemed superceded by this Agreement.

12. Time. Time shall be considered of the essence in the performance of the requirements of this Agreement.

13. Assignment. Purchaser shall have the right to assign this Agreement. In the event of such an assignment by Purchaser of its right hereunder, the Purchaser shall promptly deliver an executed copy of the instrument of assignment to the Seller.

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14. Applicable Law. This Agreement shall be construed in accordance with the laws of the State of South Carolina without regard to its conflicts of laws provisions.

15. No Merger. Unless specifically precluded or limited herein, the rights, obligations, covenants, and agreements of the parties created by this Agreement shall survive the Closing Date and the execution of the Deed to the Property, and shall not be merged therein.

16. Captions/Headings. The captions and headings in this Agreement are for the convenience of reference only of the parties, shall not be considered a material part hereof, and do not in any manner define, describe, or limit the scope or intent of this Agreement or any of the provisions or terms hereof.

17. Binding Effect. The covenants, conditions and agreements herein contained shall inure to the benefit of and bind the heirs, executors, legal representatives, successors and/or assigns of the parties hereto.

18. Counterparts. This Agreement may be executed by the various parties hereto in counterparts, and when all counterpart documents are executed, the counterparts shall constitute a single binding instrument.

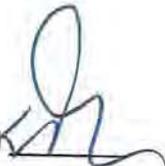
19. Relationship of the Parties. Notwithstanding any other provision of this Agreement, or any agreements, contracts or obligations that may derive herefrom, nothing herein shall be construed to make the parties hereto partners or joint venturers, or to render either party liable for any of the debts or obligations of the other party, it being the intention of this Agreement merely to create the relationship of seller and purchaser with regard to the Property to be conveyed hereby.

20. Amendments; Waivers. No change or modification to this Agreement shall be valid unless the same is in writing and signed by Purchaser and Seller. No purported or alleged waiver of any of the provisions of this Agreement shall be binding or effective unless in writing and signed by the party against whom it is sought to be enforced.

21. Risk of Loss. All risk of loss to the Property shall remain with Seller prior to the Closing Date.

22. Expiration. This Agreement shall expire unless executed by the Seller on or before January 25, 2020.

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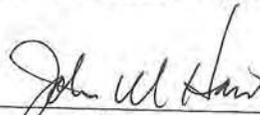


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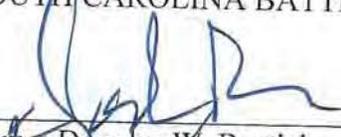


IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Agreement of Purchase and Sale to be executed effective the date first above written.

SELLER:
HARRIS PILLOW SUPPLY, INC.


_____(SEAL)
Name: JOHN W. HARRIS
Title: PRESIDENT
Date: JANUARY 21, 2020

PURCHASER:
SOUTH CAROLINA BATTLEGROUND PRESERVATION TRUST


_____(SEAL)
Name: Douglas W. Bostick
Title: Executive Director / CEO
Date: January 20, 2020

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Harris Pillow Supply, Inc. Initial



Exhibit D

Exhibit A

AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY

THIS AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY (the "Agreement") is made effective as of the 17th day of January, 2020 (being the last and latest date affixed hereto next to the signature lines of the Seller and Purchaser, the "Effective Date"), by and between: MICHAEL T. KLING, with a mailing address of 13 Verdier Bluff, Beaufort, South Carolina 29902 (the "Seller"); and SOUTH CAROLINA BATTLEGROUND PRESERVATION TRUST, Inc., a South Carolina non-profit organization, with a mailing address of P.O. Box 80668, Charleston, SC 29416-0668 (the "Purchaser").

RECITALS:

A. Seller is the fee simple record title owner of a certain parcel of land located in Beaufort County, South Carolina, including a total of approximately 3.73 acres, more or less, located at or near 3020 Trask Parkway (Highway 21), Beaufort, South Carolina 29906, identified as tax parcel #R100-020-000-0047-0000 among the land records of Beaufort County, together with all the improvements and buildings constructed thereon (if any), timber, and all rights, privileges, and easements appurtenant thereto or used in connection therewith, including all of Seller's right, title, and interest in and to any streets, alleys, easements, rights-of-way, public ways, or other rights appurtenant, adjacent, or connected thereto or used in connection therewith (collectively herein referred to as the "Property").

B. Seller desires to sell and convey all of its right, title and interest in and to the Property, and Purchaser desires to buy and acquire the above-described Property AS-IS, WHERE-IS, subject only to the contingencies, terms and conditions herein contained in this Agreement, and as a consequence, Seller and Purchaser are executing and ratifying the Agreement to specify and set forth the terms and conditions under which the Seller will sell and convey, and the Purchaser will buy and acquire the aforesaid Property.

NOW THEREFORE, WITNESSETH: In consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller hereby agrees to sell to Purchaser, and Purchaser agrees to buy from the Seller in fee simple title, the Property, under the following terms and conditions:

1. Sale of Property. Subject to the terms and conditions of this Agreement, Seller will sell and convey to Purchaser, and Purchaser will buy and acquire from Seller all of Seller's right, title and interest in and to the Property.

2. Purchase Price; Terms of Payment; Deposit. On the date of settlement and closing (the "Closing Date") of the purchase and sale of the Property (the "Closing"), Purchaser shall purchase and buy the Property from the Seller for the purchase price (the "Purchase Price") of \$245,000.00. At Closing, the Purchaser shall pay the Seller the Purchase Price in cash, or by cashier's or certified check, or by wire transfer of funds delivered to the settlement/closing agent for the Purchaser, and which Purchase Price (net of the Seller's costs and expenses of Closing) is to be disbursed by the settlement/closing agent of the Purchaser to Seller on the same day

recording of the deed conveying title to the Property is accomplished, which recording is to be accomplished within three (3) business days after the Closing Date.

Within fifteen (15) business days of the mutual and full execution and delivery of this Agreement, Purchaser shall deliver in escrow to an "Escrow Agent" an earnest money deposit in the amount of TEN DOLLARS (\$10.00) (the "Deposit"), which Deposit shall be paid by Purchaser in the form of cash or cashier's or certified check, or by wire transfer of funds. The Deposit shall be deposited and held by Escrow Agent. The Deposit is refundable to Purchaser in the event of default hereunder by Seller. If this Agreement is not closed, then the Escrow Agent shall disburse the Deposit as applicable in the manner provided for elsewhere herein, and the parties agree to promptly notify the Escrow Agent in writing upon any termination of this Agreement and which party is entitled to the Deposit.

Unless prior to the Closing Date hereunder the Purchaser or Seller becomes entitled to the Deposit as provided in this Agreement, the Escrow Agent shall, concurrent with Closing, pay over and transfer the Deposit to the settlement agent (if a different party from Escrow Agent) for application and credit of Purchaser towards the payment of Purchase Price.

The Settlement Agent shall be:
Thomas A. Bendle, Jr.,
Howell, Gibson & Hughes, P.A.
Post Office Box 40, Beaufort, SC 29901
25 Rue Du Bois, Beaufort, SC 29907.

3. Contingencies.

3.1 Environmental Site Assessment. This Agreement is contingent upon the completion of a Phase I Environmental Site Assessment (the "ESA") of the Property to be paid for by Purchaser; and upon there being no items or information contained in said Phase I of the Property that the Purchaser, in its sole and absolute discretion, finds unsatisfactory.

3.2 Survey. This Agreement is contingent upon the completion of an ALTA or appropriate boundary survey depicting the Property and all easements, encumbrances and river frontage, to be paid for by Purchaser; and upon there being no items or information contained in said survey of the Property that the Purchaser, in its sole and absolute discretion, finds unsatisfactory.

4. Title. It shall be a condition precedent to Purchaser's obligation to proceed to Closing that, on the Closing Date, title to the Property shall be good of record and in fact, marketable, free of any liens and encumbrances except the Permitted Encumbrances (as defined below), and otherwise insurable at regular rates by a reputable title insurance company. Purchaser has ordered a commitment from a title company (the "Title Company") to issue an owner's policy of title insurance insuring the Property (the "Title Commitment"), and promptly upon receipt, shall provide the Seller with a true and complete copy of the Title Commitment. At that time Purchaser shall notify Seller in writing as to which (if any) of the matters disclosed in the Title Commitment are unacceptable to the Purchaser, except that the Purchaser shall not be

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obligated to notify the Seller of Purchaser's objections to any financial liens or encumbrances created by Seller that may be released upon payment of a specified or computable sum of money (the "Financial Liens") affecting the Property, as Seller is obligated to cure such Financial Liens before the Closing Date (and if not so cured, Purchaser hereby directs the Escrow Agent to cure such Financial Liens out of the proceeds to be paid to Seller at Closing, and deduct such amounts from the Purchase Price paid to Seller). Within seven (7) days after receipt of the Title Commitment and Purchaser's letter of objections, the Seller shall notify the Purchaser in writing as to which (if any) of the title matters objected to by the Purchaser the Seller is willing to correct. If Seller does not notify Purchaser as set forth above, it shall be deemed that Seller has refused to correct any such matter(s) to which Purchaser has objected. Purchaser shall then have the balance of the Feasibility Study Period to either elect to waive those title defects that the Seller has not agreed to remedy and cure, or to terminate this Agreement if Purchaser remains unsatisfied with the condition of title to the Property. In the event of termination of this Agreement by Purchaser, neither party shall have any further rights or obligations under this Agreement, except for those obligations which survive termination hereunder, and Escrow Agent shall return the Deposit to Purchaser. "Permitted Encumbrances" as used herein shall mean (i) those title matters that appear on Schedule B-2 of the Title Commitment (other than Financial Liens and the so-called "pre-printed exceptions") and to which Purchaser makes no objection and (ii) those title matters to which Purchaser makes objection, and Seller refuses to correct, and in spite of such refusal Purchaser nevertheless elects to proceed hereunder after expiration of the Feasibility Study Period.

5. Disclaimer. Except for the express representations made herein by Seller to Purchaser with regard to the Property, Purchaser acknowledges and agrees that Seller has not made, does not make, and specifically negates and disclaims any other representations, warranties, promises, covenants, agreements, or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present, or future, of, as, to, concerning, or with respect to (a) the value, nature, quality, or condition of the Property, (b) the income to be derived from the Property, (c) the suitability of the Property for any and all activities and uses which Purchaser may conduct thereon, (d) the compliance of or by the Property or its operation with any laws, rules, ordinances, or regulations of any applicable governmental authority or body, (e) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property, (f) the manner, quality, state of repair, or lack of repair of the Property, or (g) any other matter with respect to the Property. Seller is not liable or bound in any manner by any verbal or written statements, representations, or information pertaining to the Property, or the operation thereof, furnished by any real estate broker, agent, servant, or other person. Purchaser further acknowledges and agrees that to the maximum extent permitted by law, the sale of the Property as provided for herein is made on an "AS IS" "WHERE IS" condition and basis with all faults. The provisions of this section/paragraph shall survive Closing.

6. Representations of Seller. Seller represents the following:

6.1 Due Authorization, Ownership, and Authority. Seller is the legal owner of the Property, and does have the legal right, power and authority to enter into this Agreement and to perform its obligations hereunder, including conveying the Property. Seller has not granted any

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options or rights of first refusal or rights of first offer to other third parties to purchase or otherwise acquire an interest in the Property.

6.2 Encroachments. To the best knowledge of Seller there are no encroachments on to the Property from adjoining property, and the Property does not encroach on adjoining property, easements, or streets.

6.3 FIRPTA. Seller hereby represents and warrants to Purchaser that Seller is not a "foreign person or company" within the meaning of Section 1445 of the Internal Revenue Code of 1986, and Seller further agrees, if requested at closing, to furnish Purchaser an affidavit to this effect.

6.4 Litigation. To the best of Seller's knowledge, Seller has received no notice of liens or other special assessments being levied and made against the Property by any governmental authority; there are no actions, suits, or proceedings before any judicial or quasi-judicial body, or by or before any governmental authority, pending or threatened, against or affecting Seller or the Property; and to the best knowledge of Seller there is no basis for any such action. Seller shall comply with all notices, orders, or requirements of any governmental authority asserting jurisdiction over the Property that are noted or issued prior to the Closing Date.

6.5 Bankruptcy. Seller is not the subject of any bankruptcy, reorganization, or receivership proceedings filed or petitioned for under United States Bankruptcy laws.

6.6 Compliance with Laws. Seller has no actual knowledge or notice of and, to the best of Seller's knowledge, no fact or condition currently exists or previously existed on the Property which may give rise to any violation of state, local, or federal law and regulations (zoning, occupancy, fire, environmental) governing the Property.

6.7 Leases. The Property is not subject to any lease or other agreement granting another party possession or occupancy of the Property.

6.8 Environmental. To the Seller's best knowledge, without any independent study or assessment having been made or conducted, the Property is free of all contamination by hazardous waste and materials and toxic substances as those terms are defined under federal and state environmental regulations and laws governing the Property, except as otherwise previously disclosed to Purchaser or identified in the Phase I Environmental Site Assessment acquired by Purchaser. Seller has received no notice and has not been cited for violating such environmental regulations.

All of the above representations and warranties of the Seller set forth in this Agreement shall be true upon the execution of this Agreement and shall be deemed to be repeated by Seller on the Closing Date without the necessity of a separate certificate with respect thereto, and shall survive the delivery of the Deed and other closing instruments and documents for a period of six (6) months.

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7. Covenants and Understandings of the Parties.

7.1 Seller's Actions. From and after the Effective Date of this Agreement, Seller shall refrain from making any other change to the Property without the express written permission of Purchaser having been first obtained; refrain from committing any waste to the Property; and shall observe all laws, ordinances, regulations, and restrictions affecting the Property and the use thereof.

7.2 No Further Encumbrance. From and after the Effective Date of this Agreement, without in each instance first obtaining the prior written consent of Purchaser, the Seller shall not (i) encumber and/or pledge the Property or any portion thereof, or otherwise grant a further lease, lien or security interest to another in the Property or any portion thereof, or (ii) permit to exist any recorded mechanic's, materialmen's, laborer's, judgment or other adversarial lien upon all or any portion of the Property unless such lien is as the result of work performed by or on behalf of the Purchaser.

7.3 Payment of Charges. Seller shall, prior to the Closing Date, (i) pay as and when due and owing all real estate taxes and other public charges assessed against the Property, subject to adjustment at Closing as provided herein; (ii) pay all of its bills for labor, materials, or services for work performed on or with respect to the Property; (iii) pay and keep current without delinquency all existing loan obligations of Seller presently collaterally secured against the Property; (iv) in no way or manner adversely change the state or condition of title to the Property; and (v) not breach or violate the terms of any covenants, restrictions, easements or agreements affecting the Property.

7.4 All of the representations set forth in Section 7 herein are true and correct as if made by Seller as of the Closing Date, unless permitted to be otherwise qualified and/or waived by Purchaser in their sole discretion.

8. Closing. The purchase and sale of the Property shall be consummated as follows:

8.1 Closing Date. Closing on the purchase and sale of the Property shall occur on or before June 30, 2020.

8.2 Location of Closing. The Closing shall be consummated on the Closing Date at the office of Thomas A. Bendle, Jr., 25 Rue Du Bois, Beaufort, South Carolina 29907.

8.3 Conditions to Closing. It is an express precondition to Purchaser's obligation to close hereunder that all of the following are true and correct (or waived in writing by Purchaser) on and as of the Closing Date:

8.3(1) Title to the Property shall be in the condition required by Section 5 herein.

8.3(2) Approval of the acquisition of this Property in all respects by the Board of Directors of the Purchaser.

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8.3(3) Approval and receipt of Federal, State, and County grant funding equal to the Purchase Price.

8.3(4) Satisfactory environmental site assessment report.

In the event of a failure of a condition which the Purchaser refuses to waive, Purchaser may in its sole and absolute discretion, extend the date of Closing up to 30 days from the last date provided in Section 9.1, in order to permit time to satisfy the contingency, or, in the event said contingency(ies) cannot be satisfied in a timeframe agreeable to both parties, terminate this Agreement and receive the prompt return of the Deposit from the Seller or Escrow Agent, or waive such condition and proceed to Closing.

8.4 Seller's Instruments and Items. At Closing, Seller shall (i) deliver or cause to be delivered to Purchaser (a) a customary and recordable General Warranty Deed conveying to the Purchaser fee simple title to the Property (title being in the condition required in Section 5 of this Agreement), and (b) the following other documents: (1) a Non-Foreign Affidavit, and (2) an Owner's Title Affidavit, and (ii) execute such documents or instruments as shall be reasonably required by the Purchaser, and the title company and settlement agent of Purchaser, to consummate the sale of the Property and insure title to the Property in the condition required by the terms hereof.

8.5 Purchaser's Instruments. At Closing the Purchaser shall pay to the Seller the Purchase Price for the Property, and execute such documents or instruments as shall be reasonably required by the title/settlement agent of the Purchaser to consummate the sale of the Property.

8.6 Tender of Settlement. Delivery of all required items and documents by either party to the settlement agent/title company conducting settlement and closing hereunder shall constitute performance of such party's delivery obligations hereunder.

8.7 Costs and Expenses of Closing. At Closing, Purchaser shall pay the Purchaser's attorney's fees, the cost of title examination, title insurance premiums (to the extent any such insurance is purchased), all of the applicable state and county transfer and deed recordation taxes imposed on the Deed (other than the Grantor's tax), and any and all other costs and expenses customarily paid by the Purchaser at Closing. At Closing, Seller shall pay all costs pertaining to the pay-off and release of any existing financial liens or encumbrances, which are required to be released by Seller pursuant to the terms of this Agreement, the Grantor's recording tax assessed by the Clerk of the Circuit Court in recording the Deed, the cost of the preparation of the Deed and any delinquent or current owing real estate taxes that may be then due and owing against the Property and Seller's attorney's fees (if Seller retains an attorney in this matter).

8.8 Adjustments. The payment of all real estate taxes then assessed and owing against the Property by Beaufort County, South Carolina, and any public and/or private utilities

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not otherwise paid for and owing from Seller on the Property, and other revenues and/or expenses affecting the Property, shall all be adjusted and pro rated as of and on the Closing Date as between Seller and Purchaser, and the payment of the real estate taxes and other municipal charges and assessments assumed thereafter by the Purchaser.

8.9 Possession. Possession of the Property shall be delivered by Seller to Purchaser at Closing without any leases or parties in possession or occupancy.

9. Notices. All notices, demands, requests and other communications permitted or required pursuant to the provisions of the Agreement shall be in writing and shall be deemed to have been properly given or served for all purposes on that day when actually presented personally by hand delivery, or the day after deposit with a nationally recognized overnight express delivery/courier service, charges prepaid, or three (3) business days after deposit in the U.S. mail, first class, postage prepaid, properly addressed to the respective addresses as follows:

Seller:

Michael T. Kling
13 Verdier Bluff
Beaufort, SC 29902

Purchaser:

South Carolina Battleground Trust
P.O. Box 80668
Charleston, SC 29416-0668
Attention: Doug Bostick, Executive Director / CEO

10. Default and Remedies.

10.1 By Purchaser. If Purchaser shall fail to discharge any of its obligations hereunder and shall fail to cure same within fifteen (15) days after receiving written notice of default from Seller (except that no notice shall be required in connection with a failure to timely close the acquisition contemplated herein), then this Agreement is terminated. Thereafter neither Purchaser nor Seller shall have any liability or obligations one to the other under this Agreement.

10.2 By Seller. If Seller shall default in its obligations hereunder, or shall breach a representation made herein, or shall fail to perform any covenant provided herein, and such default, breach, or failure is not cured within fifteen (15) days after written notice of same from Purchaser (except that no such notice shall be required in connection with a failure to timely close the transaction contemplated herein) then Purchaser, upon providing written notice to Seller, shall at Purchaser's option and election be entitled to either (a) terminate this Agreement and declare it null and void; or (b) waive such default or breach and proceed to Closing, without any reduction in the Purchase Price and without any further claim against Seller therefor; or (c) exercise its right to obtain specific performance of such term, provision, covenant, or agreement, and of Seller's obligation to convey the Property pursuant to this Agreement.

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10.3 Both Parties. Anything in this Agreement to the contrary notwithstanding, at any time prior to the Closing Date the Seller (in the event of the occurrence or happening, from time to time, of any one of the following to the Purchaser), or the Purchaser (in the event of the occurrence or happening, from time to time, of any one of the following to the Seller), may, at their sole option and discretion, deem this Agreement to be in breach and elect to terminate this Agreement, and in addition thereto, should the breach be by the Seller, the Purchaser shall be entitled to receive back the Deposit, and should the breach be by the Purchaser, the Seller shall be entitled to receive the Deposit:

(i) If by the order of a court having or claiming jurisdiction, a trustee, receiver or liquidator of the Seller or Purchaser shall be appointed and such order shall not be discharged or dismissed within sixty (60) days after such appointment; or

(ii) If the Seller or Purchaser shall file a petition in bankruptcy or for an arrangement or for reorganization pursuant to the Bankruptcy Reform Act of 1978, as amended, or any similar law, federal or state, or if, by decree of a court having or claiming jurisdiction, the Seller or Purchaser shall be adjudicated a bankrupt, or be declared insolvent, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a custodian, trustee, receiver or liquidator of all or any part of its property, or shall file an answer admitting the material allegations of any petition filed against it in any bankruptcy, reorganization or insolvency proceeding; or

(iii) If any of the creditors of the Seller or of the Purchaser, or any other person shall file a petition in bankruptcy against the Seller or Purchaser pursuant to the Bankruptcy Reform Act of 1978, as amended, or any similar law, federal or state, and if such petition shall not be discharged or dismissed within sixty (60) days after the date on which such petition was filed.

10.4 Prevailing Parties. In any action to enforce the provisions of this Agreement, the prevailing party shall be entitled to the award of its reasonable attorney's fees and costs.

11. Entire Agreement. All prior negotiations between the parties hereto concerning the Property shall be considered integrated into this Agreement, and there are no agreements between the parties not specifically set forth herein. Any amendment to the terms of this Agreement must be in writing signed by the party to be charged therewith. Any letter agreements that have passed between the Seller and Purchaser prior to this Agreement are deemed superceded by this Agreement.

12. Time. Time shall be considered of the essence in the performance of the requirements of this Agreement.

13. Assignment. Purchaser shall have the right to assign this Agreement. In the event of such an assignment by Purchaser of its right hereunder, the Purchaser shall promptly deliver an executed copy of the instrument of assignment to the Seller.

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14. Applicable Law. This Agreement shall be construed in accordance with the laws of the State of South Carolina without regard to its conflicts of laws provisions.

15. No Merger. Unless specifically precluded or limited herein, the rights, obligations, covenants, and agreements of the parties created by this Agreement shall survive the Closing Date and the execution of the Deed to the Property, and shall not be merged therein.

16. Captions/Headings. The captions and headings in this Agreement are for the convenience of reference only of the parties, shall not be considered a material part hereof, and do not in any manner define, describe, or limit the scope or intent of this Agreement or any of the provisions or terms hereof.

17. Binding Effect. The covenants, conditions and agreements herein contained shall inure to the benefit of and bind the heirs, executors, legal representatives, successors and/or assigns of the parties hereto.

18. Counterparts. This Agreement may be executed by the various parties hereto in counterparts, and when all counterpart documents are executed, the counterparts shall constitute a single binding instrument.

19. Relationship of the Parties. Notwithstanding any other provision of this Agreement, or any agreements, contracts or obligations that may derive herefrom, nothing herein shall be construed to make the parties hereto partners or joint venturers, or to render either party liable for any of the debts or obligations of the other party, it being the intention of this Agreement merely to create the relationship of seller and purchaser with regard to the Property to be conveyed hereby.

20. Amendments; Waivers. No change or modification to this Agreement shall be valid unless the same is in writing and signed by Purchaser and Seller. No purported or alleged waiver of any of the provisions of this Agreement shall be binding or effective unless in writing and signed by the party against whom it is sought to be enforced.

21. Risk of Loss. All risk of loss to the Property shall remain with Seller prior to the Closing Date.

22. Expiration. This Agreement shall expire unless executed by the Seller on or before January 22, 2020.

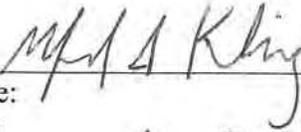
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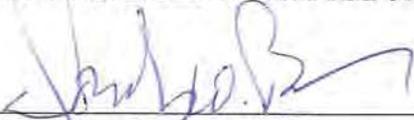
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IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, have caused this Agreement of Purchase and Sale to be executed effective the date first above written.

SELLER:
MICHAEL T. KLING

 (SEAL)
Name:
Title:
Date: 1-17-, 2020

PURCHASER:
SOUTH CAROLINA BATTLEGROUND PRESERVATION TRUST

 (SEAL)
Name: Douglas W. Bostick
Title: Executive Director / CEO
Date: January 17, 2020

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Michael Kling Initial _____

Exhibit E

RESTRICTIVE EASEMENT

THIS GRANT OF EASEMENT, made this ____ day of ____ by and between Beaufort County, South Carolina having an address at 100 Ribaut Road, Beaufort, S.C., hereinafter referred to as the "county" or "Grantor", and the United States of America, acting by and through the Department of the Navy, Naval Facilities Engineering Command Mid-Atlantic, hereinafter referred to as the "Grantee."

WITNESSETH:

WHEREAS, Grantor owns in fee certain real property in Beaufort County, South Carolina more particularly described in Exhibit "A" attached hereto and incorporated by this reference (the "Property"); and

WHEREAS, the Property is in the vicinity of Marine Corps Air Station Beaufort ("MCAS Beaufort"), a parcel of land owned and operated by the United States of America, the ("Installation"); and

WHEREAS, Grantor and Grantee have entered into an agreement pursuant to 10 U.S.C. Section 2684a to acquire property interests that would be otherwise incompatible with the mission of the Installation and otherwise meets the mutual objectives of the Grantor and Grantee; and

WHEREAS, the Property possesses recognized historical and cultural significance due to the 1779 Revolutionary War Battle of Port Royal Island having taken place on the Property and abutting properties; and

WHEREAS, the American Battlefield Trust, the National Park Service, the South Carolina Battleground Preservation Trust and the South Carolina American Revolution Sestercentennial Commission have initiated a heritage and preservation initiative to recognize South Carolina's leading role in the founding of the United States through the "Liberty Trail," a statewide driving tour that tells the unique story of this campaign that secured victory in America's War for Independence; and

WHEREAS, Grantor supports the opportunity of the public to honor America's first veterans and desires to allow limited public access onto the Property in a manner that also minimizes activities that could otherwise be incompatible with the mission of the Installation; and

WHEREAS, the Installation, while concerned that the Property is subject to both elevated noise and increased aircraft accident potential, also recognizes and honors the sacrifices of South Carolinians who served to fight decisive battles in the founding of our nation; and

WHEREAS, it is in the best interest of the Installation to limit development on the Property and to require significant and substantive advance coordination for any known increases in usage, including exceptional circumstances where closure may be necessary; and

WHEREAS, Grantor, acting through its governing body, the Beaufort County Council, finds that this grant of Restrictive Easement on the Property is in the best interests of Beaufort County, and the public in general inasmuch as the same furthers the government interest of fostering the general health and welfare of the citizens of and visitors to Beaufort County, South Carolina; and

NOW THEREFORE, in consideration of \$ [REDACTED] and the mutual covenants, terms, conditions and restrictions contained herein, Grantor hereby grants and conveys to the Grantee and its successors and

assigns this Restrictive Easement (the "Easement") in perpetuity over the Property described in Exhibit "A", of the nature and character and to the extent set forth herein.

1. Purpose. It is the purpose of this Easement to prevent any improvement, development or use of the Property that would otherwise be incompatible with the mission of the Installation (the "Purpose").

2. Rights of Grantee. To accomplish the Purpose, the following rights are conveyed to the Grantee by this Easement:

a. To prohibit any development or use of the Property inconsistent with the Restricted Uses and Development Rights of paragraph 3 that would encumber, impede, limit or otherwise be incompatible with the mission of the Installation and the Purpose herein, and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use, pursuant to Section 6.

b. To enter upon the Property to cut down, top or trim any naturally occurring trees, plants, vines, and like obstructions extending more than 120 feet above ground level at Grantee's sole expense.

c. To enter upon the Property on an annual basis in order to monitor Grantor's compliance with the terms of this Easement or at any time upon an event of non-compliance with the terms of this Easement to enforce the terms of this Easement; provided that Grantee will provide at least ten (10) days' notice of such entry to Grantor: except when there is a threat of imminent harm of personal injury or property damage. Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property.

d. To close or direct Grantor's closure of the gate installed on the Property if the Installation considers the public at heightened risk, with the understanding that the general intent of this agreement is to allow public access during daylight hours. The Installation shall notify Grantor as soon as practicable should the Installation determine a need to secure public access to the Property, which circumstantially may be prior to or after taking such action.

3. Restricted Uses and Development Rights. Any activity or use of the Property inconsistent with the Purpose is prohibited. Without limiting the generality of the foregoing, and except as specifically permitted, the following activities and uses are expressly prohibited:

a. All activities EXCEPT (i.) silviculture and use of natural resources and (ii.) preservation and interpretation of historic resources (as those terms are defined below) are prohibited on the Property.

i. "Silviculture and Use of Natural Resources" means all silvicultural and other use of the Property's natural resources, including but not limited to timber harvesting (to include thinning and clearcutting of marketable timber), mechanical and chemical site preparation, reforestation, and all other activities associated therewith provided such uses are not inconsistent with the restrictions contained in this Agreement or the Purpose. In connection with such uses, fencing may be installed, and maintained on the Property. Notwithstanding anything to the contrary contained herein, no single surface or mineral borrow pit greater in size than one (1) acre, shall be created or excavated on the Property. However, should such surface or mineral borrow pits made attract such a concentration of birds to the extent that they cause a training or operational hazard, or create a safety hazard or attractive nuisance, the Grantor, upon the request of the Grantee, shall remove or alter such

excavations to the extent required to mitigate the training or operational hazard created. Such removal or alterations shall be at the sole cost of the Grantor.

ii. "Preservation and Interpretation of Historic Resources" means protecting the Property's historically significant features, including but not limited to restricting activities that could harm or otherwise cause injury to the archeological integrity of the Property or altering the topography or natural resources of the property in a manner that could harm or otherwise cause injury to the historic resources. In connection with such uses, fencing shall be installed and maintained on the Property in a manner consistent with Grantee's right of closure in paragraph 2(d).

b. Human Habitation. The Property, which includes one existing building, and one existing parking lot, may not be used for passive recreation; active recreation; educational events or other educational opportunities except for those expressly permitted below; human habitation; or transient stays, including but not limited to transient accommodations such as camping, cabins, trailers, RVs, tents, etc.

i. Limited Non-Commercial Public Access. The Grantor may (1) provide limited public access to the Property to allow researchers, scholars, and citizens interested in historic preservation and education to visit the historic site, and (2) allow the site to be a Liberty Trail site. These specific activities by Grantor shall be limited to no more than a 20 person per day occupancy rate and shall be undertaken with the utmost effort to maintain the historic integrity of the Property.

ii. Historic Commemoration Ceremonies and Educational Interpretive Events. The Grantor may allow educational interpretative events and one yearly historic commemoration ceremony so long as the number of persons on the Property does not exceed 20 per day. Should Grantor wish to hold an event or ceremony for a group of more than 20 persons per day, Grantor will notify the Grantee not less than sixty (60) days prior to the date that Grantor intends to allow the educational interpretive event. The notice shall describe the scope, specific location, number of people, length of event, and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the Purpose and/or the restrictions on the use of the Property included herein. Notice should be provided to the Community Plans and Liaison Officer located at MCAS Beaufort via email and written notification. Failure of Grantor to give such notice shall be deemed a breach of the terms of this Agreement. Within thirty (30) days of receipt of the request, the Grantee will grant or withhold its approval in writing. The Grantee's approval may be withheld only upon a reasonable determination by the Grantee that the event would be inconsistent with the Purpose and/or the restrictions on the use of the Property included herein, or would cause a training or operational hazard. If approval or disapproval is not communicated to Grantor within such 30-day period, approval is deemed granted.

c. Number and Location of Existing Structures.

i. Commercial Building. As noted in the Baseline Report, there is one (1) existing commercial building located on Beaufort County Parcel #R100 020 000 0165 0000 of the Property. This building may be repaired, improved or maintained so long as the building is used for no other purpose than for historic education and interpretation. Replacement of the building shall be permitted only upon Grantee's written approval. Grantor and its assigns and successors in interest shall provide Grantee written notice of Grantor's intention to undertake any such replacement construction, together with information on its size, function, capacity and location, not less than sixty days (60) prior to the

construction thereto in accordance with paragraph 5 below. The building may be demolished and removed from the Property in part or in whole.

ii. Parking Lot. There is one (1) existing parking located on Beaufort County Parcels #R100 020 000 0165 0000 and #R100 020 000 047C 0000. This parking lot may be replaced, repaired, improved or maintained so long as the parking is used for no other purpose than for permitted silvicultural and natural resources uses and the Property's historic education and interpretation uses. The parking lot may be demolished and removed from the site in part or in whole.

d. Setbacks. No structure, with the exception of fencing, may be located within 50 feet of any property line abutting the Installation.

e. Height Restrictions. The erection, construction, installation, alteration or cultivation, whether public or private, of any structure, building, antenna, tower, wire, tree or other obstruction, whatever its nature, extending more than 120 feet above ground level (AGL) or penetrating any MCAS Beaufort airspace is prohibited.

f. Lighting. All lighting equipment, to include floodlights and searchlights, and all protective lighting, such as streetlights, shall have positive optical control so that no light is emitted above the horizontal plane.

g. Other Operational & Training Hazards. No operations of any type are permitted that produce smoke, glare or other visual hazards, or encourage concentrations of birds, such as bird feeding stations, ponds (except as otherwise allowed herein) and mature crops left un-harvested, that may be dangerous for aircraft operating from the Installation. Prior to commencing controlled burns for agricultural purposes, habitat improvement and mitigation of fire hazards, Grantor must give as much reasonable prior notice to Grantee as is practical but in no event less than three (3) days' notice, and receive Grantee's approval, which will not be unreasonably withheld. Notice should be provided to the Community Plans and Liaison Officer located at MCAS Beaufort via email.

h. Construction. New construction of any structure or edifice, and any other additions to, or alterations of the Property are prohibited except for those improvements or alterations deemed to be reasonably necessary to the allowed uses of the Property defined within this paragraph 3, and to address any storm water management issues on or affecting the Property authorized pursuant to paragraph 4. Grantor and its assigns and successors in interest shall provide Grantee written notice of Grantor's intention to undertake any such construction, together with information on its size, function, capacity and location, not less than sixty days (60) prior to the commencement thereto in accordance with paragraph 5 below.

i. Subdivision. Except for the already existing subdivision of the Property into three separate tracts identified on tax maps as R100 020 000 0165 0000, R100 020 000 047C 0000 and R100 020 000 0047 0000, no other division, subdivision or de facto subdivision of the Property is permitted, provided, however, that a lease of all or a portion of the Property for an authorized use under this Easement shall not be prohibited.

4. Reserved Rights. In addition to the above allowed uses, Grantor reserves to itself, and its successors and assigns, the following rights:

- a. Controlling predatory and problem animals by the use of selective control techniques.
- b. Establishing retention or detention ponds or impoundments to ameliorate storm water runoff on or affecting the Property. Grantor, in consultation with and with prior approval of Grantee, will be permitted to create such storm water impoundments on the Property, provided they are not enhanced for the attraction of waterfowl. However, should the impoundments or other improvements made attract such a concentration of birds to the extent that they cause a training or operational hazard, the Grantor, upon the request of the Grantee, shall remove or alter the impoundments or improvements to the extent required to mitigate the training or operational hazard created. Such removal or alterations shall be at the sole cost of the Grantor.
- c. To erect and maintain a sign in a prominent location on the Property visible from a public road, bearing information indicating the property is protected by Grantor and the Grantee. Grantor shall be responsible for the costs of erecting and maintaining such signs or markers.

5. Notification and Approval Provisions.

a. Notice of Intent to Undertake New Uses and Construction. Whenever Grantor plans to undertake a new use or perform new construction or reconstruction on the Property, Grantor will notify the Grantee in writing by certified mail not less than sixty (60) days prior to the date that Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to its consistency with the Purpose and/or the restrictions on the use of the Property included herein. Failure of Grantor to give such notice shall be deemed a breach of the terms of this Agreement. Furthermore, should the Grantor undertake to make any improvements to control storm water runoff pursuant to paragraph 4 above, the provisions of this paragraph shall apply.

b. Grantee's Approval. Within twenty (20) days of receipt of the request, the Grantee will grant or withhold its approval in writing. The Grantee's approval may be withheld only upon a reasonable determination by the Grantee that the use or construction proposed would be inconsistent with the Purpose and/or the restrictions on the use of the Property included herein. If approval or disapproval is not communicated in writing to Grantor within such 20-day period, approval is deemed granted.

6. Enforcement and Remedies. In the event of breach by Grantor of any terms, conditions, or obligations created by this Easement, the Grantor shall be afforded sixty (60) days from the receipt of Grantee's notice of non-compliance to cure the subject breach, except where irreparable harm may result from any delay in curing a breach. The Grantee may grant a reasonable extension of time to complete the cure if it is determined by the Grantee to be necessary. In the event that the non-compliance is not cured within the sixty (60) day time frame, or extension of time if granted by the Grantee, the Grantee may:

- a. take necessary actions to correct the non-compliance and upon request by Grantee. Grantor shall reimburse Grantee for its reasonable actual costs incurred to correct the non-compliance; and/or
- b. institute mediation or other alternative dispute resolution strategy that is agreed to-by the parties; and/or

c. institute suits to enjoin any breach or enforce any term by injunction. The Grantee's remedies shall be cumulative and shall be in addition to any other rights and remedies available to the Grantee at law or equity. Enforcement of the terms of this Easement shall be at the discretion of the Grantee. No failure to the part of the Grantee to enforce any term hereof shall discharge or invalidate such term or any other term hereof or affect the right of the Grantee to enforce the same in the event of a subsequent breach or default.

7. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership and maintenance of the Property.

8. Noise and Other Effects of Air Operations. Grantor does hereby fully waive, remise, and release any right or cause of action which Grantor, its successor and assigns, may have due to such noise, noise vibrations, fumes, dust, fuel particles and all other effects that may be caused by the operation of aircraft from the Installation. Grantor represents and warrants that any lease of the Property will contain such waiver of claim by any lessee. Grantor specifically does not waive but retains all rights to causes of action, claims and rights to damages for any aircraft accident affecting the Property or persons thereon, including physical damages, such as contamination from fuel dumping, damage from falling aircraft components, etc. Furthermore, this waiver is with respect to operation of aircraft by or for purposes of the Installation. If the Installation is closed, and the base is converted to private, non-military use, this waiver shall terminate.

i. As used herein, the term "aircraft" shall mean any and all types of aircraft, to include, but not limited to, jet aircraft, propeller driven aircraft, civil aircraft, military aircraft, commercial aircraft, helicopters and all types of aircraft or vehicles now in existence or hereafter developed, regardless of noise levels, for the purpose of military training, and/or transporting persons or property through the air by whomsoever owned or operated.

9. Subsequent Transfers. Grantor agrees to incorporate the terms of this Easement in any deed or other legal instrument by which it divests itself of any interest in the Property, including a leasehold interest. Grantor further agrees to give written notice to the Grantee of any such transfer at least 30 days prior to the date of transfer.

10. Notices. Any notice, approval or communication that either party is required to give in writing may be served personally or mailed to:

To Grantor: Beaufort County Administrator
100 Ribaut Road Post Office Box 1228
Beaufort, SC 29901-1228
Attn: County Administrator

With a copy to: Beaufort County Attorney
25 Rue Du Bois Post Office Box 40
Beaufort, SC 29901-0040
Attn: County Attorney

To USA: Department of the Navy

NAVFACENGCOM MID-ATLANTIC
1322 Patterson Ave. SE, Suite 1000
Washington Navy Yard, D.C. 20374-5065
Attn: Real Estate Department

With copy to: Commanding Officer
P.O. Box 55001 Building 601, Room 219
Community Plans and Liaison Office
Marine Corps Air Station
Beaufort, SC 29904-5001

Or to such other address as either party may designate by written notice to the other.

11. Authority of Grantor. S.C. Code Ann. Section 4-9-30 (2) (1986) authorizes the Grantor to sell or otherwise dispose of real property owned by Grantor pursuant to the provisions set forth in S.C. Code Section 4-9-120 and 4-9-130 (1986). By Ordinance the Beaufort County Council authorized the Beaufort County Administrator to execute this Restrictive Easement by and on behalf of the County of Beaufort.

IN WITNESS WHEREOF, of Grantor and Grantee have set their hands to multiple duplicate original copies of this Conservation Easement under seal on the day and year first above written.

Grantor:
Beaufort County

By: _____
County Administrator

Witness:

Signature

Witness:

Signature

Printed Name

Printed Name

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

The forgoing instrument was acknowledged before me this ___ day of _____, 2020 by County of Beaufort, Grantor, by _____, its County Administrator.

(SEAL)
Notary Public for the State of South Carolina
My commission expires: _____

Exhibit F

of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, in particular, the Protected Property is a significant Revolutionary War battlefield Beaufort County, South Carolina; and

WHEREAS, the Grantor and all successors in interest agree to preserve and protect the Conservation Values of the Protected Property in perpetuity. The Grantor shall coordinate and consult with the Grantee to develop and implement a plan to avoid, minimize or mitigate adverse effects to the significant portions of the site; and

WHEREAS, the Grantor and Grantee acknowledge that there is restrictive easement granted to the United States of America, acting by and through the Department of the Navy, Naval Facilities Engineering Command Mid-Atlantic, recorded on _____. However, the Grantor desires placing additional protection on the Conservation Values of the battlefield on the Protected Property to take advantage of the battlefield expertise of the Grantee. Both the Grantor and Grantee acknowledge that this easement must work in concert with the restrictive easement; and

WHEREAS, the Grantor is willing to forego forever the right to exploit fully the economic potential of the Protected Property by encumbering the Protected Property with a Conservation Easement as herein set forth; and

WHEREAS, by act of the Legislature of the State of South Carolina, as recorded in South Carolina Code (1976, as amended) Section 27-8-10 et seq. (The South Carolina Conservation Easement Act of 1991), the State of South Carolina recognizes and authorizes the creation of conservation restrictions and easements; and

WHEREAS, the Grantee has been authorized by its directors to effect the transactions contemplated herein;

NOW THEREFORE, in consideration of the above and of the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to Section 170(h) of the Internal Revenue Code of 1986 and the laws of the State of South Carolina, as amended, Grantor hereby voluntarily grants and conveys to Grantee and its successors and permitted assigns a conservation easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth (hereinafter the “Easement”). **Grantor herein declares that the Protected Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, restrictions and easements hereinafter set forth, which covenants, conditions, restrictions and easements shall be deemed to run with the land in perpetuity and to be a burden on the Protected Property in perpetuity.**

1. Purposes of the Easement.

(A) It is the Purpose of this Easement to assure the historic and cultural features of the Protected Property will be retained and maintained forever substantially in their current condition for conservation and preservation purposes and to prevent any use or change of the Protected Property

that will significantly impair or interfere with the Protected Property's conservation and preservation values.

(B) It is also the purpose of this easement to prevent any use of the Protected Property that will significantly impair or interfere with the Conservation Values of the Protected Property.

(Hereinafter the purposes stated in Section 1. (A) and (B), above, will be known as the Purposes of this Conservation Easement.)

2. Rights of Grantee. Subject to the reserved rights set forth in Section 5, below, Grantor hereby grants the following rights to the Grantee:

(A) **Right of Visual Access.** To have visual access to and view of the Protected Property; provided, that such right shall not be construed to permit general public access over or upon the Protected Property, except as specifically permitted herein.

(B) **Right to Document.** To take photographs, drawings or measurements documenting the historical, cultural, or architectural character and features of the Conservation Values and to maintain accurate records on the condition of the Conservation Values. Further, the Grantee may distribute pictures, drawings, images or stories of the Battle of Port Royal Island to magazines, newsletters, or other publicly available publications, or use them in any effort and activity for the preservation and conservation of South Carolina's heritage.

(C) **Right to Monitor.** To enter upon the Protected Property, over, upon and through adjacent lands of the Grantor or Grantor's successors or assigns, at reasonable times in order to monitor compliance with this easement and to further document natural, historic and archeological features of the Protected Property; provided, that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Protected Property.

(D) **Right to Prevent Inconsistent Uses.** To prevent Grantor, all subsequent owners, or third persons from conducting any activity on or use of the Protected Property that is inconsistent with the Purposes of this Conservation Easement.

(E) **Right to Require Restoration.** To require of Grantor, all subsequent owners, or third persons the restoration of such areas or features of the Protected Property that may be damaged by any prohibited activity or use, or any activity or use inconsistent with the purposes of the Easement.

(F) **Right of Discretionary Consent.** If, owing to unforeseen circumstances, any of the activities prohibited by this Conservation Easement are deemed desirable by both the Grantor and the Grantee, the Grantee may, in its sole discretion, give permission for such activities, subject to the following limitations:

I. The activities do not violate the Purposes of this Conservation Easement.

II. The activities either enhance or do not impair any significant conservation interests associated with the Protected Property.

III. The activities will not adversely affect the status of Grantee under any applicable laws, including Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

IV. In no case shall the Grantee or Grantor have the right or power to agree to any activities that would result in the termination of this Conservation Easement.

(G) **Right to Conduct Educational Visits.** The Grantee shall have the right, upon forty-eight (48) hours notice to the Grantor, to allow or to conduct visits to the Protected Property by individuals or groups interested in Revolutionary War history, or the history of Beaufort County provided that any such visit shall be during daylight hours.

3. Covenants of Grantor. Grantor covenants and agrees, for its successors and assigns, to do the following:

(A) **Preservation Plan.** Grantor has prepared a Preservation Plan for the Protected Property to which it shall adhere. Variations from the Preservation Plan shall be allowed only with the prior written permission of the Grantee and of the State Historic Preservation Office (“SHPO”) or their successor agencies. A copy of the Preservation Plan is attached hereto as Exhibit C and is made a part hereof by reference thereto. The Preservation Plan and all other plans developed for the treatment of the Protected Property shall incorporate guidance provided by the Secretary of Interior’s “Standards and Guidelines for Archaeological Documentation” (48 FR 44734-37) and the President’s Advisory Council on Historic Preservation publication “Treatment of Archaeological Properties” (ACHP 1980). In addition, the Preservation Plan will be consistent with “South Carolina Standards and Guidelines for Archaeological Investigations (South Carolina Department of Archives and History, 2000; or as amended). The Preservation Plan may be implemented only after prior written approval of the Grantor and the SHPO.

(B) **Site Preparation.** Grantee will assist and advise the Grantor to remove and clear brush, undercover and dead or dying trees from the area of the Protected Property; provided, however, that Grantor shall not remove any tree larger than four inches in diameter at breast height (4”DBH) without the prior written permission of the Grantee. Further, Grantor may grass the area of the Protected Property so cleared with grasses and other flora designed to impede soil erosion of the cleared area and as shall have been approved in advance in writing by the Grantee.

4. Prohibited Uses. Subject to the reserved rights set forth in Section 5, below, Grantor will not perform or permit the following acts or uses on, over or under the Protected Property:

(A) **Subdivision.** There shall be no subdivision of the Protected Property without the prior written consent of the Grantee.

(B) **Activities.** There shall be no residential, commercial or industrial uses, activities or structures that will result in any ground disturbing activity on the Protected Property, other than those previously agreed upon related to interpreting the site to the public through trails and

interpretive signage without the prior written consent of the Grantee. Any removal of structures on the Protected Property shall be coordinated by the Grantee to allow for the investigation of ground disturbing activity to be surveyed and investigated by a qualified archaeologist.

(C) Structures. There shall be no construction or placement of temporary or permanent mobile homes, bridges, piers, radio or telecommunications transmission antennas, utility transmission poles or any other structures upon the Protected Property, other than those previously agreed upon except such utilities, walkways, paths or raised ramps and viewing platforms the placement, construction and materials of which shall have been approved in advance in writing by the Grantee.

(D) Signs. There shall be no construction or placement of any new advertising signs, billboards or other advertising materials on the Protected Property, except as provided in Section 5, below.

(E) Hunting. There shall be no hunting on the Protected Property.

(F) Dumps, USTs. There shall be no installation of underground storage tanks, or the placing, filling, storing, or dumping on the Protected Property of soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk or waste on the Protected Property.

(G) Topography. There shall be no uses of the Protected Property that would adversely alter the topography of the Protected Property, except for construction of the improvements permitted in Section 5, below. The Grantor shall notify the Grantee prior to conducting, or allowing to be conducted, upon the Protected Property any activity that would disturb the topography of the Protected Property other than routine grounds keeping or planting as allowed herein.

(H) Roads. There shall be no paved or unpaved roads through the Protected Property except as those previously agreed upon as further described in Section 5.

(I) Lighting. There shall be no unshielded exterior lighting on any portion of the Protected Property of mercury vapor lights or other high powered exterior lights, defined as lighting in excess of 1750 lumen.

(J) Mining, Excavating Archaeological Sites. There shall be no mining, excavating, dredging or removing from the Protected Property of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit. There shall be no removal of artifacts of a historical nature, except with prior written permission of the Grantee.

(K) Utilities. The Grantor shall not place upon the Protected Property any electrical, telephone, water or sewer or other utilities or utility easements without the prior written consent of the Grantee. The Grantee shall not unreasonably withhold such utility consents as long as Grantor remains compliant with this agreement otherwise. If the Grantor receives notification from any utility company, governmental agency or other entity of proposed utilities or utility easements to be placed upon the Protected Property it shall so notify the Grantee as soon as practicable to do so.

(L) Other Uses. There shall be no other uses of the Protected Property or activity which would impair significant conservation interests unless such use or activity is necessary for the protection of the Conservation Values that are the subject of this Easement.

5. Reserved Rights. Grantor reserves to itself, and to its successors and assigns and transferees of title to the Protected Property, all rights accruing from its ownership of the Protected Property, including the right to engage in, or permit or invite others to engage in, all uses of the Protected Property that are not expressly prohibited in Section 4, above, and that are not inconsistent with the Purposes of this Easement, including the following (collectively, the “Reserved Rights”):

(A) Routine Maintenance. The right to cut and remove grass or other existing vegetation on the Protected Property, and to perform routine maintenance and upkeep, provided that such maintenance is consistent with the purposes of this Easement and subject to the restrictions in Section 3 (C) and 4, above. The right to cut any tree when it is necessary to salvage timber damaged by insect, disease, hurricane, fire, wind or flood damage, or when cutting is necessary to prevent further timber damage by such agents or when a house or some other structure is in danger from a hazardous tree.

(B) Selective Clearing. The right to selective cutting or clearing of vegetation for habitat enhancement and protection, fire protection, road maintenance, tick control, the preservation of vistas, or otherwise to preserve the natural condition of the Protected Property, subject to the restrictions of Section 4, above, and Section 6, below.

(C) Signs. The right to post “no trespassing” signs, and informational and directional signs. Signs may not exceed 12 inches by 18 inches in size, except for informational or interpretive signs, which may exceed such size, subject to the approval of the Grantee.

(D) Horticulture. The right to plant, grow and maintain decorative grasses, plants and trees upon the Protected Property incidental to residential use; provided, however, that the Grantor must obtain prior written approval from the Grantee to plant any trees.

6. Prior Approval be and Notice to Grantee.

(A) The exercise of certain rights reserved by the Grantor under Section 5, above, is subject to the prior approval by or notice to Grantee of such proposed activity when so specifically stated in Section 5, which approval shall not be unreasonably withheld. In evaluating each Grantor request, the Grantee shall take into account the following considerations:

- I. Whether use of the site for the proposed activity would materially and adversely impair the historic qualities of the Protected Property that are visible to the general public;
- II. Whether use of the site for the proposed activity would unnecessarily fragment, harm or obliterate an archaeologically or historically significant site;

- III. Whether use of the site for the proposed activity would create an unreasonable amount of impervious surface;
 - IV. Whether the proposed activity or use of the site for the proposed activity would otherwise materially and adversely affect the Purposes of this Conservation Easement.
- (B) Other Criteria, depending on Conservation Values of the Property:
- I. Any request for Grantee approval of an activity or notification of a new activity as permitted shall be accompanied by a reasonable description of the nature, scope, location, timetable, and any other material aspect of the proposed activity, in sufficient detail to permit Grantee to evaluate and monitor such activity. Grantee shall respond within thirty (30) days of such notice or approval will be deemed to have been granted;
 - II. The Grantor shall give the Grantee notice of any change of possession, ownership or control of the Protected Property or any portion thereof within thirty (30) days of such change, including without limitation, notice of any planned lease or sale of the Protected Property or any lot; and
 - III. The Grantor shall keep the Grantee reasonably informed as to activities being conducted on the Protected Property which are within the scope of this Conservation Easement and as to the identity of any third parties who are conducting or managing such activities.

7. Arbitration. In the event there is a disagreement between the Grantor and the Grantee as to whether or not:

- I. The Grantor has acted unreasonably in the exercise of any discretionary power reserved by the Grantor, such as approving certain requests made by the Grantee; or
- II. The Grantee has acted unreasonably in the exercise of any discretionary power granted to the Grantee, such as approving certain requests made by the Grantor

(collectively “Arbitration Issues”), the Grantor and Grantee will attempt amicable resolution of the Arbitration Issues. In the event that amicable resolution is not reached within a time deemed reasonable by the Grantee, the Arbitration Issue shall be resolved by a committee made up of three individuals who have reasonable experience with conservation easements and land uses of similar properties. One individual shall be selected by the Grantee, one individual shall be selected by the Grantor, and the other individual shall be selected by the two individuals selected by the Grantee and Grantor. All shall be members of the American Arbitration Association. The arbitration committee shall determine by majority vote the Arbitration Issue. The determination of the committee shall be binding upon the Grantor and the Grantee. Only Arbitration Issues shall be subject to the South Carolina Uniform Arbitration Act. In the event that a dispute includes issues in addition to an Arbitration Issue, the matter shall not be subject to arbitration.

8. Grantee’s Remedies. If Grantee determines that Grantor is in violation of the terms of the Conservation Easement or that a violation is threatened, the Grantee shall notify the Grantor

of the violation or threatened violation and request voluntary compliance. In the event that voluntary compliance is not agreed upon within a time deemed by the Grantee to be reasonable, Grantee shall give written notice to Grantor of such violation and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the purpose of the Easement, to restore the portion of the Protected Property so injured.

If Grantor fails to cure the violation within thirty (30) days after receipt of the notice thereof from Grantee (or under circumstances where the violation cannot reasonably be cured within a thirty (30) day period, if Grantor shall fail to begin curing such violation within said thirty (30) day period, or fail to continue diligently to cure such violation until finally cured), Grantee may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement, including damages for the loss of the Conservation Values of the Protected Property, and to require the restoration of the Protected Property to the condition that existed prior to any such injury. Without limiting Grantor's ability therefore, Grantee, in its sole discretion, may apply any damages recovered to the cost of undertaking any corrective action on the Protected Property.

If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values of the Protected Property, Grantee may pursue its legal and equitable remedies under this paragraph without prior notice to Grantor or without waiting for the period provided for cure to expire.

Grantee's rights under this paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Easement are inadequate and that Grantee shall be entitled to seek the injunctive relief described in this paragraph, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Easement, without the necessity of providing either actual damages or the inadequacy of otherwise available legal remedies. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

9. Costs of Enforcement. If Grantee prevails in any action to enforce the terms of this Easement, any costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including without limitation, costs of suit and reasonable attorneys' fees, and any reasonable costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by the Grantor. If Grantor prevails in any action to enforce the terms of this Easement, Grantor's cost of suit, including without limitation, reasonable attorneys' fees, shall be borne by Grantee.

10. Grantee's Discretion. Enforcement of the terms of this Easement shall be at the discretion of the Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any terms of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or any subsequent breach of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or

omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

11. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Protected Property resulting from causes beyond Grantor's control, including, without limitation, trespass by third persons, fire, flood, storm and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Protected Property resulting from such causes.

12. Access. No right of public access to any portion of the Protected Property is conveyed by this Easement, except as expressly provided herein.

13. Costs, Liabilities and Taxes. Grantor and the successors in title to the Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including, but not limited to, the maintenance of general liability insurance coverage.

Each party agrees to release, hold harmless, defend and indemnify the other from any and all liabilities including, but limited to, injury, losses, damages, judgments, costs, expenses and fees that the indemnified party may suffer or incur as a result of or arising out of the activities of the indemnifying party on the Protected Property.

14. Extinguishment. If circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by mutual consent in writing by both the Grantor and Grantee and recorded at the Beaufort County Register of Deeds. Unless otherwise required by applicable law at the time, on the event of any sale of all or a portion of the Protected Property (or any other property received in connection with an exchange or involuntary conversion of the Protected Property) after such termination or extinguishment, and after satisfaction of prior claims and net of any costs or expenses associated with such sale, Grantor and Grantee shall divide the proceeds from such sale (minus any amount attributable to the value of improvements made after the date of this grant, which amount shall be reserved to Grantor) in accordance with their respective percentage interests in the fair market value of this Protected Property. All such proceeds received by Grantee shall be used in a manner consistent with the conservation purposes of this grant.

15. Condemnation. If all or part of the Protected Property is taken, in whole or in part, by exercise of the power of eminent domain, Grantor and Grantee shall be respectively entitled to compensation in accordance with applicable law. In the event that the property taken, in whole or in part, is valued subject to the easement, the Grantor shall receive any and all compensation. In the event that the property taken, in whole or in part, is valued in fee simple without consideration of the easement, any compensation should be allocated between the Grantor and Grantee in accordance with their respective percentage interests in the fair market value of this Protected Property.

22. Effective Date. Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this DEED OF CONSERVATION EASEMENT is recorded in the RMC office for Beaufort County, South Carolina, after all signatures have been affixed hereto.

23. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of South Carolina and in the jurisdiction of Beaufort County, SC.

24. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to affect the purpose of this Easement and the policy and purposes of the Grantee. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Easement that would render the provision valid should be favored over any interpretation that would rend it invalid.

25. Severability. If any provision of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement shall not be affected thereby.

26. Entire Agreement. The covenants, terms, conditions and restrictions of this Easement shall be binding upon and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Protected Property.

TO HAVE AND TO HOLD unto Grantee, its successors and assigns forever.

By Execution of this Conservation Easement, the Grantee accepts this Conservation Easement and the rights and obligations recited herein.

GRANTOR HEREBY WARRANTS and represents that the Grantor is seized of the Protected Property in fee simple and has good right to grant and convey this Conservation Easement, that the Protected Property is free and clear of any and all encumbrances, except easements of record and prescriptive easements, if any, and that the Grantee and its successors and assigns shall have the use of and enjoy all of the benefits derived from and arising out of this Conservation Easement.

**Remainder of Page Intentionally Left Blank
Signatures on Following Pages**

IN WITNESS WHEREOF, of Grantor and Grantee have set their hands to multiple duplicate original copies of this Conservation Easement under seal on the day and year first above written.

Grantor:

By: _____
Ashley M. Jacobs

EXHIBIT A

The Protected Property

A portion of TMS # _____, totaling _____ acres, located in the County of Beaufort, State of South Carolina, and shown more particularly on Exhibit "B" and made a part hereof by reference thereto.

EXHIBIT B
Plat of the Protected Property

EXHIBIT C
Preservation Plan

The Grantor agrees to preserve the Protected Property “as is.” Grantor shall make no material changes or alterations to the topography of the Protected Property and shall not give any other individual or entity permission to make such changes. The Grantor maintains the right to conduct routine maintenance and upkeep. The Grantor maintains the right to remove vines and invasive species of plants that may compete with the trees upon the Protected Property.

Small trees less than four inches in diameter at breast height (4” DBH) and underbrush on the ground may be removed. Trees in excess of four inches in diameter at breast height (4” DBH) may not be removed without the prior written permission of the Grantee.

Decorative grasses, plants, and trees may be planted on the Protected Property with prior written permission of Grantee.

There shall be no structures, temporary or permanent, placed or constructed upon the Protected Property, except such walkways or paths, the placement, construction, and materials of which shall have been approved in advance in writing by the Grantee. Foot traffic on the Protected Property shall be limited to the established public walkways and paths.

There shall be no metal detecting or digging on the Protected Property, however, the Grantor shall not be responsible for constantly enforcing this restriction.

The Protected Property will be used for educational and recreational purposes as outlined in Section 5 – “Reserved Rights.” The Grantee shall have the right to conduct educational visits to the Protected Property as provided for in Section 2, part (G).

The Grantee agrees to serve as an advisor to the Grantor on the proper care and use of the battlefield.