



County Council Meeting Beaufort County, SC

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

Monday, November 13, 2023
5:00 PM

AGENDA

COUNCIL MEMBERS:

JOSEPH F. PASSIMENT, CHAIRMAN
DAVID P. BARTHOLOMEW
LOGAN CUNNINGHAM
YORK GLOVER
MARK LAWSON
ANNA MARIA TABERNIK

LAWRENCE MCELYNN, VICE CHAIR
PAULA BROWN
GERALD DAWSON
ALICE HOWARD
THOMAS REITZ

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE AND INVOCATION- Council Member Gerald Dawson
3. PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES - September 25, 2023
6. ADMINISTRATOR'S REPORT
7. PROCLAMATION RECOGNIZING BEAUFORT COUNTY DISTRICT TEACHER OF THE YEAR - Council Member Tabernik
8. PROCLAMATION RECOGNIZING COOSA ELEMENTARY NATIONAL BLUE RIBBON SCHOOL - Council Member Tabernik
9. PROCLAMATION RECOGNIZING NATIONAL AMERICAN INDIAN HERITAGE MONTH - Chairman Passiment

CITIZEN COMMENTS

10. CITIZEN COMMENT PERIOD - 15 MINUTES TOTAL

Anyone who wishes to speak during the Citizen Comment portion of the meeting will limit their comments to AGENDA ITEMS ONLY and speak no longer than three (3) minutes. Speakers will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of

profane, abusive, or obscene language. In accordance with Beaufort County's Rules and Procedures, giving of a speaker's time to another is not allowed.

COMMITTEE REPORTS

11. LIASION AND COMMITTEE REPORTS

PUBLIC HEARINGS AND ACTION ITEMS

12. APPROVAL OF CONSENT AGENDA

13. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE TO AMEND BEAUFORT COUNTY'S FISCAL YEAR 2024 BUDGET ORDINANCE (ORDINANCE NO. 2023/22) TO PROVIDE ROLLOVER APPROPRIATIONS IN THE AMOUNT OF \$3,432,768 FROM THE CAPITAL IMPROVEMENT FUND (FUND 1040) FOR CAPITAL IMPROVEMENT PROJECTS APPROVED BUT NOT COMPLETED IN FISCAL YEAR 2023 (**FISCAL IMPACT: This will increase the Capital Improvement Fund's budget from \$21,232,455 to \$24,665,223. There will be a balance of \$703,423 remaining in Fund Balance should 100% of all budgeted line items be expended FY'24)**)

Vote at First Reading on October 23, 2023- 9:0

14. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE ADOPTING AMENDMENTS TO THE BUSINESS AND PROFESSIONAL LICENSES ORDINANCE CHAPTER 18, ARTICLE III, SECTION 18-67 (A) (B), APPENDIX A&B (**FISCAL IMPACT: Updated Rate Schedule will have a minor fiscal revenue impact.**)

Vote at First Reading on October 23, 2023- 9:0

15. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE RATIFYING THE SALARIES FOR VARIOUS ELECTED OFFICIALS AND TO AMEND SECTION 2-347 OF THE BEAUFORT COUNTY CODE OF LAWS ESTABLISHING THE SALARIES FOR VARIOUS ELECTED AND APPOINTED OFFICIALS (**FISCAL IMPACT: Potential salary amounts owed totals \$45,417.78 to be paid from the payroll contingency account)**)

Vote at First Reading on September 25, 2023 - (send back to Finance, Administration, and Economic Development Committee) 6:4

Vote at Finance, Administration, & Economic Development Committee on October 16, 2023- 7:0

Vote at First Reading on October 23, 2023- 9:0

16. FIRST READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT FOR REAL PROPERTY LOCATED AT 39 AIRPORT CIRCLE WITH BEAUFORT FLIGHT TRAINING (**FISCAL IMPACT: Beaufort Executive Airport will receive monthly income generated through lease revenue – Tenant shall pay \$437.25 (265 sq ft x \$19.80/12) in monthly base lease payments for premises located at the Beaufort Executive Airport terminal. Annual Expected Revenue increase: \$5247.00. These lease rates are in accordance with current Beaufort County lease policies)**)

17. FIRST READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT FOR REAL PROPERTY LOCATED AT 39 AIRPORT CIRCLE WITH TIM VERROI(**FISCAL IMPACT: Beaufort Executive Airport will receive monthly income generated through lease revenue – Tenant shall pay \$145.20 (88 sq ft x \$19.80/12) in monthly base lease payments for premises located at the Beaufort Executive Airport terminal. Annual Expected Revenue increase: \$1742.40. These lease rates are in accordance with current Beaufort County lease policies)**) - Steve Parry, Deputy Airports Director

18. APPROVAL OF A RESOLUTION TO ACCEPT THE RECOMMENDATIONS FROM THE US 278 CORRIDOR PROJECT JOINT INDEPENDENT REVIEW PERFORMED BY CBB AND AUTHORIZATION FOR THE INTERIM

COUNTY ADMINISTRATOR TO SEND CORRESPONDENCE TO TOWN OF HILTON HEAD REQUESTING THEIR MUNICIPAL CONSENT FOR THE PROJECT **(FISCAL IMPACT: N/A)** - Jared Fralix, Assistant County Administrator, Infrastructure

- [19.](#) APPROVAL OF A RESOLUTION DECLARING THE RESULTS OF BOND REFERENDA CONDUCTED IN THE FRIPP ISLAND PUBLIC SERVICE DISTRICT, SOUTH CAROLINA ON NOVEMBER 7, 2023.

CITIZEN COMMENTS

20. CITIZEN COMMENT PERIOD- 15 MINUTES TOTAL

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EXECUTIVE SESSION

21. PURSUANT TO S. C. CODE OF LAWS SECTION 30-4-70(A)(2) DISCUSSION OF CONTRACTUAL ARRANGEMENTS AND OTHER MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (INQUIRIES AND INVESTIGATIONS PURSUANT TO S. C. CODE SECTION 4-9-660)
22. PURSUANT TO S. C. CODE SECTION 30-4-70(A)(2) DISCUSSIONS INCIDENT TO CONTRACTUAL ARRANGEMENTS (CommunityWorks)
23. PURSUANT TO S. C. CODE SECTION 30-4-70(A)(2) TO RECEIVE LEGAL ADVICE WHERE THE ADVICE RELATES TO PENDING LITIGATION
24. PURSUANT TO S.C. CODE SECTION 30-4-70(A)(1) DISCUSSION OF EMPLOYMENT OF A PERSON REGULATED BY COUNTY COUNCIL

Matters Arising Out of the Executive Session

END OF EXECUTIVE SESSION

25. ADJOURNMENT

CONSENT AGENDA

Items Originating from the Public Facilities and Safety Committee

1. THIRD READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO ACCEPT RIGHT OF WAY ON DIANAH'S DRIVE

Vote at First Reading on October 9, 2023- 8:0

Vote at Second Reading and Public Hearing on October 23, 2023- 9:0
2. THIRD READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT FOR REAL PROPERTY LOCATED AT 30 HUNTER ROAD WITH EDISON FOARD, INC. (**FISCAL IMPACT: Hilton Head Island Airport will receive income generated through lease revenue - -Tenant shall pay \$1,390.00 for office space (814 square feet x \$20.50/12) and \$1,698 for warehouse space (1,406 square feet x \$14.50/12) in monthly base rental payments for premises located at 30 Hunter Rd. These lease rates are in accordance with current Beaufort County lease policies**)

Vote at First Reading on October 9, 2023- 8:0

Vote at Public Hearing and Second Reading on October 23, 2023- 9:0
3. THIRD READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT FOR REAL PROPERTY LOCATED AT 39 AIRPORT CIRCLE WITH HIGH TIDE AVIATION SCENIC TOURS (**FISCAL IMPACT: Beaufort Executive Airport will receive income generated through fuel sales, the airport's standard 3% operating agreement, and lease revenue --Tenant shall pay \$231.00 (140 square feet x \$19.80/12) in monthly base rental payments for premises located at the Beaufort Executive Airport terminal. These lease rates are in accordance with current Beaufort County lease policies**)

Vote at First Reading on October 9, 2023- 8:0

Vote at Public Hearing and Second Reading on October 23, 2023 - 9:0
4. APPROVAL OF A CONTRACT AWARD FOR ALLJOY BOAT LANDING REPAIRS TO R.L. MORRISON & SONS, INC. (**FISCAL IMPACT: The project cost is funded by an Accommodations and Hospitality Tax Grant (A&H - 20020021-54124) in the amount of \$534,730.00 with an account balance of \$1,092,017.00**)
5. APPROVAL OF A CONTRACT AWARD TO O'QUINN MARINE CONSTRUCTION FOR RFP #090723 WHITEHALL PHASE 2 DESIGN-BUILD CONSTRUCTION SERVICES (**FISCAL IMPACT: \$250,000. Funding to come from the Passive Park Budget account #45020011-54417. Current account balance is \$937,336.60**) - Eric Larson, Capital Projects
6. APPROVAL OF CONTRACT AWARD TO TERRA EXCAVATING, INC. FOR IFB #101223 SOUTHSIDE PARK PICKLE BALL COURTS CONSTRUCTION SERVICES (**FISCAL IMPACT: \$570,024.00 to come from the Parks and Recreation Capital Fund account #10401600-54436 with an account balance of \$4,551,060.13**)

END OF CONSENT AGENDA

TO WATCH COMMITTEE OR COUNTY COUNCIL MEETINGS OR FOR A COMPLETE LIST OF AGENDAS AND BACKUP PACKAGES, PLEASE VISIT:

<https://beaufortcountysc.gov/council/council-committee-meetings/index.html>



County Council Meeting Beaufort County, SC

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

Monday, September 25, 2023
5:00 PM

MINUTES

Watch the video stream available on the County's website to hear the Council's discussion of a specific topic or the complete meeting. <https://beaufortcountysc.gov/council/council-committee-meetings/index.html>

1. CALL TO ORDER

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

PRESENT

Chairman Joseph F. Passiment
Vice-Chairman Lawrence McElynn
Council Member David P. Bartholomew
Council Member Paula Brown
Council Member Logan Cunningham
Council Member Gerald Dawson
Council Member York Glover
Council Member Alice Howard
Council Member Mark Lawson
Council Member Anna Maria Tabernik
Council Member Thomas Reitz

2. PLEDGE OF ALLEGIANCE AND INVOCATION

Chairman Passiment led the Pledge of Allegiance, and Council Member Brown led the Invocation.

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

Chairman Passiment noted that public notification of this meeting had been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

4. APPROVAL OF AGENDA

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Dawson, to approve the agenda.

The Vote – The motion was approved without objection.

5. APPROVAL OF MINUTES - August 14, 2023

Motion: It was moved by Council Member Tabernik, seconded by Council Member Cunningham, to approve the minutes of August 14, 2023.

The Vote – The motion was approved without objection.

6. ADMINISTRATOR'S REPORT

Interim County Administrator Robinson updated the Council on a new workflow system for processing documents that require signature to ensure compliance with the County's rules and regulations. Interim County Administrator Robinson also recognized Heather Dorrell and Eddie Schroeder with Beaufort County EMS, Tyrone Jenkins with Solid Waste and Recycling, and Director Robert Cartner with Mosquito Control.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375?ts=3275>

7. PROCLAMATION RECOGNIZING NATIONAL HISPANIC HERITAGE MONTH

Vice-Chairman McElynn presented a proclamation recognizing National Hispanic Heritage Month.

8. PROCLAMATION RECOGNIZING THE BEAUFORT COUNTY DIXIE JUNIOR BOYS BASEBALL TEAM

Council Member Lawson presented a proclamation recognizing the Beaufort County Dixie Junior Boys Baseball Team.

9. PROCLAMATION RECOGNIZING THE BEAUFORT COUNTY DIXIE BOYS BASEBALL TEAM

Council Member Cunningham presented a proclamation recognizing the Beaufort County Dixie Boys Baseball Team.

Vice-Chairman McElynn also commented on National Family Day.

10. CITIZEN COMMENT PERIOD - 15 MINUTES TOTAL

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The following individuals made citizen comments:

1. Roberts Vaux
2. John Kammer
3. Derek Stetter
4. Scottie Daniel
5. Terry Laseter

Motion: It was moved by Council Member Bartholomew, seconded by Council Member Cunningham, to extend the public comment.

Citizen Comment was extended and Felice Lamarca made the final comments.

Please watch the video stream available on the County's website to view the full comment.

<https://beaufortcountysc.new.swagit.com/videos/272375>

11. LIASION AND COMMITTEE REPORTS

Council Member Reitz provided an update on the Airports Board, including the Hilton Head Airport terminal contract, St. James Church, and the Ambassador's Club.

Council Member Tabernik discussed the Library Board of Trustees, including an update on the Port Royal Library, options for a new branch in Pritchardville, and a Gullah Geechee Trail. Council Member Tabernik also discussed updates from the County Transportation Committee, including the resurfacing and pavement preservation projects, work on SC 170, and repairs to Bluffton Parkway.

Council Member Howard highlighted the final reading of the Greenspace Committee Ordinance.

Council Member Lawson commented on the Southern Carolina Regional Development contract renewal item originating from the Finance, Administration, and Economic Development Committee.

Chairman Passiment commented on the County Council's attendance at the South Carolina Association of Counties meetings on September 19 and 20, 2023.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

12. APPROVAL OF CONSENT AGENDA

Motion: It was moved by Council Member Cunningham, seconded by Council Member Lawson, to approve the consent agenda.

The Vote – The motion was approved without objection.

13. TIME SENSITIVE ITEM FROM THE 9.25.2023 PUBLIC FACILITIES AND SAFETY COMMITTEE MEETING - APPROVAL OF THE PROPOSED MEMBERS DISCUSSED DURING THE PUBLIC FACILITIES AND SAFETY COMMITTEE MEETING TO THE SALES TAX COMMITTEE

Motion: It was moved by Council Member Cunningham, seconded by Council Member Howard, to appoint UnTron Solomon from St Helena Island (District 3), Carol Ruff from Lady's Island (District 2), and Tom Lennox from Hilton Head Island (District 11) to the Tax Advisory Committee in accordance with South Carolina Code Section 4-10-320.

Discussion: Chairman Passiment commented on the makeup and purpose of the Committee.

The Vote – The motion was approved without objection.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

14. PUBLIC HEARING AND THIRD READING OF AN ORDINANCE TO AMEND BEAUFORT COUNTY'S BUDGET ORDINANCE FOR FISCAL YEAR 2024 (ORDINANCE 2023/22) TO APPROPRIATE \$350,000 TO COUNTY COUNCIL TO COVER COST OF REVIEWS, AUDITS, AND INVESTIGATIONS

First Reading by Title only on August 28, 2023 - 10:0

Second Reading on September 11, 2023 - 10:0

Motion: It was moved by Council Member Bartholomew, seconded by Council Member Brown, to approve the public hearing and third reading of an ordinance to amend Beaufort County's Budget Ordinance for Fiscal Year 2024 (Ordinance 2023/22) to appropriate \$350,000 to County Council to cover the cost of reviews, audits, and investigations.

Chairman Passiment opened the floor for public comment.

Joyce Hamm spoke regarding the investigation.

The Chairman closed the public comment.

Discussion: In response to Ms. Hamm’s questions, Council Member Cunningham stated that an outside consultant was being hired to conduct audits and investigations to ensure no misappropriation of funds or interference by anyone in the County.

Council Member Bartholomew noted that while Council was potentially appropriating \$350,000, the total amount would not necessarily be spent.

The Vote – The motion was approved without objection.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

15. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE PURCHASE OF REAL PROPERTY IDENTIFIED AS 34 ULMER ROAD

Vote at First Reading on July 10, 2023- 11:0

Vote at Public Hearing and Second Reading on August 14, 2023: Postpone until September 25, 2023- 11:0

Motion: It was moved by Council Member Lawson, seconded by Council Member Cunningham, to approve the public hearing and second reading of an ordinance authorizing the Interim County Administrator to execute the necessary documents and provide funding for the purchase of real property identified as 34 Ulmer Road.

Chairman Passiment opened the floor for public comment.

Joyce Hamm spoke regarding the county buying land and asked if it would ever be given back to the citizens.

The Chairman closed the public comment.

Discussion: Council Member Howard noted that the property was discussed during a Rural and Critical Lands Preservation Board meeting and that the due diligence vote failed. Council Member Howard also voiced her objection to the motion.

Council Member Lawson commented that the purchase would be made through the General Fund. Council Member Lawson also highlighted the seller’s reduction in price to \$2.5 million if the County could close on the property in 30 days.

Council Members Howard and Cunningham discussed whether the property could have ball fields.

Passive Parks Director Nagid provided background on the adjacent Baliey Memorial Park property and the interest in the property from a habitat connectivity and water quality standpoint. Director Nagid added while the property may not be suitable for parks and recreation because of the wetlands and existing cell tower, she did think it would make a good passive park with the proximity to downtown Bluffton.

Council Member Glover asked for clarification on the Rural and Critical Lands Preservation Board’s decision not to proceed with this property. Director Nagid said that half of the Board was interested in having a conservation appraiser perform a second appraisal, but there was a motion to deny the project. Director Nagid also mentioned concerns about the long-term lease on the cell tower and the low development pressure.

Interim County Administrator Robinson reiterated that the funding would be supplied through the General Fund and explained that there would need to be a budget amendment to approve the appropriation. County Attorney Ward clarified that the funding appropriation was included in this ordinance.

Director Nagid commented that a second appraisal would take a couple of weeks but that the County could ask for an expedited appraisal.

Council Member Bartholomew asked if the cell tower on the property could be moved. Council Attorney Ward replied that it would stay in the same location.

Council and County Attorney Ward discussed the possibility of having a second appraisal, the previous appraisal completed in July, and the dropped price if the County can close on the property in 30 days.

Council and Interim County Administrator Robinson also discussed the balance of the General Fund and the Rural and Critical Lands Program, which are around 60 million and 2.6 million, respectively.

The Vote – Voting Yea: Chairman Passiment, Vice-Chairman McElynn, Council Member Bartholomew, Council Member Brown, Council Member Cunningham, Council Member Dawson, Council Member Lawson, Council Member Reitz, and Council Member Tabernik. Voting Nay: Council Member Glover and Council Member Howard. The motion passed by 9:2.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

16. FIRST READING OF AN ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 62, SOLID WASTE, BEAUFORT COUNTY CODE OF ORDINANCE

Motion: It was moved by Council Member Cunningham, seconded by Council Member Howard, to approve the first reading of an ordinance adopting amendments to Chapter 62, Solid Waste, Beaufort County Code of Ordinances.

The Vote – The motion was approved without objection.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

17. FIRST READING OF AN ORDINANCE ADOPTING AMENDMENTS TO CH 38. ARTICLE II. TRASH AND LITTER CONTROL OF THE BEAUFORT COUNTY CODE OF ORDINANCES

Motion: It was moved by Council Member Dawson, seconded by Council Member Glover, to approve the first reading of an ordinance adopting amendments to Chapter 38, Article II, Trash and Litter Control of the Beaufort County Code of Ordinances.

The Vote – The motion was approved without objection.

Council Member Dawson excused himself from the meeting.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

18. FIRST READING OF AN ORDINANCE FOR A PROPOSED TEXT AMENDMENT TO ARTICLE 7, DIVISION 7.4, SECTION 7.4.50 (PUBLIC HEARING SCHEDULING AND NOTICE) AND SECTION 7.4.70 (PUBLIC HEARING PROCEDURES) TO CLARIFY THAT PUBLIC COMMENT IS NOT TAKEN FOR APPEALS TO THE PLANNING COMMISSION OR THE ZONING BOARD OF APPEALS

Motion: It was moved by Council Member Tabernik, seconded by Vice-Chairman McElynn, to approve the first reading of an ordinance for a proposed text amendment to Article 7, Division 7.4, Section 7.4.50 (Public Hearing Scheduling and Notice) and Section 7.4.70 (Public Hearing Procedures) to clarify that public comment is not taken for appeals to the Planning Commission or the Zoning Board of Appeals.

The Vote – The motion was approved without objection.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

19. **FIRST READING OF AN ORDINANCE FOR A ZONING MAP AMENDMENT/REZONING REQUEST FOR 71.54 ACRES (R600 013 000 0008 0000 AND R600 013 000 0050 0000), LOCATED AT 1691 OKATIE HIGHWAY, FROM T2 RURAL (T2R) TO T4 NEIGHBORHOOD CENTER (T4NC) AND T3 NEIGHBORHOOD (T3N) USING A VILLAGE PLACE TYPE OVERLAY (PTO) (ARTICLE 3 DIVISION 4 SECTION 80, ARTICLE 7 DIVISION 3 SECTION 50).**

Item failed at the Community Services and Land Use Committee on September 11, 2023: 5/5

Motion: It was moved by Council Member Howard, seconded by Council Member Glover, to send the item back to the Community Services and Land Use Committee, where more work can be done and give more opportunities for the public to have input.

Discussion: Council Member Brown noted that constituents asked the Council to vote no on this item, not that it should be sent back to the committee for further review.

Council Member Howard explained that if the Council voted no on the item, it would be a year before it could come up again.

Council Member Reitz advocated for the Council to move forward with the vote on the item.

Council Member Cunningham discussed how the schools and roads are overpopulated and how that should be the County's focus. Council Member Cunningham added that the area does not have the infrastructure yet to support the addition of 400 homes.

Council Member Howard explained how sending the item back to the committee allows timing and infrastructure development requirements to be negotiated. Council Member Howard also noted that the potential developer changed the proposal to have 20% of the homes be workforce housing, which could also be further negotiated.

Council Member Lawson commented that the Council is trying to limit growth so it is more palatable and that sending the item back to the committee would allow for continued discussion of all available options.

Council Member Tabernik asked what would be built on the property under the current zoning. Chairman Passiment replied that it would be one house per three acres.

Chairman Passiment commented that the Council does not have the right to stop growth but does have the right to manage growth in the County. Chairman Passiment also explained that the property would connect with surrounding properties to create a village-type, walkable community.

Council Member Glover asked about potential annexation by another County. ACA Atkinson replied that he was unsure about the growth boundary but that staff could contact Hardeeville. ACA Atkinson added that the opportunity is unique because the County could change the zoning and enter into development agreements to determine the type of development on the property.

Council further discussed whether the item should be sent back to the committee.

The Vote - Voting Yea: Chairman Passiment, Council Member Glover, Council Member Howard, Council Member Lawson, and Council Member Tabernik. **Voting Nay:** Vice-Chairman McElynn, Council Member Bartholomew, Council Member Brown, Council Member Cunningham, and Council Member Reitz.

The motion failed 5:5.

Council made no second motion and Council Member Cunningham stated the item fails by doing such.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

20. FIRST READING OF AN ORDINANCE RATIFYING THE SALARIES FOR VARIOUS ELECTED OFFICIALS AND TO AMEND SECTION 2-347 OF THE BEAUFORT COUNTY CODE OF LAWS ESTABLISHING THE SALARIES FOR VARIOUS ELECTED AND APPOINTED OFFICIALS

Main Motion: It was moved by Council Member Cunningham, seconded by Council Member Bartholomew, to approve the first reading of an ordinance ratifying the salaries for various elected officials and to amend Section 2-347 of the Beaufort County Code of Laws establishing the salaries for various elected and appointed officials.

Discussion: County Attorney Ward presented the current salaries for the Auditor and Coroner, the suggested amended salary rates based on the July 2019 proposal, and the amount of money retroactively owned to both officials.

Vice-Chairman McElynn and County Attorney Ward discussed reelection bonuses and the removal of those bonuses when a new person is elected to the position.

Chairman Passiment clarified that Vice-Chairman McElynn proposed to update the salaries of elected officials in 2019 but that the ordinance was never adopted. Chairman Passiment also asked for clarification on the salary calculations.

County Attorney Ward explained that the Coroner and Auditor had been paid at the 2015 salary rate and would be retroactively compensated for the 2019 rate other elected officials received. County Attorney Ward also noted that this ordinance puts the 2019 salary rates on the books so that the 2015 salary rate would no longer be used.

Chairman Passiment and County Attorney Ward discussed the breakdown of COLAs applied to the positions.

Subsidiary Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Howard, to send the item back to the Finance, Administration, and Economic Development Committee.

The Vote - Voting Yea: Chairman Passiment, Vice-Chairman McElynn, Council Member Brown, Council Member Howard, Council Member Tabernik, and Council Member Reitz. **Voting Nay:** Council Member Bartholomew, Council Member Cunningham, Council Member Glover, and Council Member Lawson.

The motion passed by 6:4.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

21. APPROVAL OF A RESOLUTION TO ACCEPT A GRANT FOR PROJECT COMIDA

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Bartholomew, to approve a resolution to accept a grant for Project Comida.

The Vote – The motion was made without objection.

22. APPROVAL OF PURCHASE AND PAYMENT OF HANDICAP ACCESSIBLE PLAYGROUND EQUIPMENT AT BEAUFORT COUNTY'S PORT ROYAL CENTER IN THE AMOUNT OF \$799,052.

Motion: It was moved by Council Member Cunningham, seconded by Council Member Howard, to approve the purchase and payment of handicap-accessible playground equipment at Beaufort County's Port Royal Center in the amount of \$799,052.

Discussion: Council Member Brown commented that the County should negotiate the price and pay only half the bill.

Council Member Bartholomew asked about the cost of removing the unapproved equipment and sending it back to the provider. Assistant County Administrator Atkinson replied that he was uncertain about the removal cost.

Council Member Bartholomew also raised concerns about how the unapproved equipment got installed in the first place and highlighted a September 25 article in The Island News that covered the matter. Vice-Chairman McElynn commented that personnel matters cannot be discussed in the open session.

Council Member Lawson noted that the County paid less than the going rate for the equipment. Council Member Lawson added that the vendor did what was asked of them and that the issue is that County staff did not follow the procurement process.

The Vote - Voting Yea: Chairman Passiment, Vice-Chairman McElynn, Council Member Cunningham, Council Member Glover, Council Member Howard, Council Member Lawson, Council Member Tabernik, and Council Member Reitz. **Voting Nay:** Council Member Bartholomew and Council Member Brown.

The motion passed by 8:2.

To watch the full discussion please click on the video link below.

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23. CITIZEN COMMENT PERIOD- 15 MINUTES TOTAL

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The following individuals made citizen comments:

1. Lillie Harris
2. Theresa White
3. Robert Adams
4. Roy Brown
5. Marlyn Hemmingway

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Bartholomew, to extend the citizen comment period. The motion to extend was approved without objection.

6. Willie Turrall
7. Tade' Oyeilumi

24. PURSUANT TO S. C. CODE SEC. 30-4-70(A)(1) TO DISCUSS EMPLOYMENT, APPOINTMENT, COMPENSATION, PROMOTION, DEMOTION, DISCIPLINE, OR RELEASE OF A PERSON REGULATED BY A PUBLIC BODY.

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Brown, to go into executive session.

The Vote – The motion was approved without objection.

25. MATTERS ARISING OUT OF EXECUTIVE SESSION

No matters arose out of the executive session.

26. ADJOURNMENT

The Chairman adjourned the meeting at 7:30 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

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

ATTEST:

Sarah W. Brock, Clerk to Council
Ratified:



County Council Meeting Beaufort County, SC

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

Monday, September 25, 2023
5:00 PM

MINUTES

Watch the video stream available on the County's website to hear the Council's discussion of a specific topic or the complete meeting. <https://beaufortcountysc.gov/council/council-committee-meetings/index.html>

1. CALL TO ORDER

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

PRESENT

Chairman Joseph F. Passiment
Vice-Chairman Lawrence McElynn
Council Member David P. Bartholomew
Council Member Paula Brown
Council Member Logan Cunningham
Council Member Gerald Dawson
Council Member York Glover
Council Member Alice Howard
Council Member Mark Lawson
Council Member Anna Maria Tabernik
Council Member Thomas Reitz

2. PLEDGE OF ALLEGIANCE AND INVOCATION

Chairman Passiment led the Pledge of Allegiance, and Council Member Brown led the Invocation.

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

Chairman Passiment noted that public notification of this meeting had been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act.

4. APPROVAL OF AGENDA

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Dawson, to approve the agenda.

The Vote – The motion was approved without objection.

5. APPROVAL OF MINUTES - August 14, 2023

Motion: It was moved by Council Member Tabernik, seconded by Council Member Cunningham, to approve the minutes of August 14, 2023.

The Vote – The motion was approved without objection.

6. ADMINISTRATOR'S REPORT

Interim County Administrator Robinson updated the Council on a new workflow system for processing documents that require signature to ensure compliance with the County's rules and regulations. Interim County Administrator Robinson also recognized Heather Dorrell and Eddie Schroeder with Beaufort County EMS, Tyrone Jenkins with Solid Waste and Recycling, and Director Robert Cartner with Mosquito Control.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375?ts=3275>

7. PROCLAMATION RECOGNIZING NATIONAL HISPANIC HERITAGE MONTH

Vice-Chairman McElynn presented a proclamation recognizing National Hispanic Heritage Month.

8. PROCLAMATION RECOGNIZING THE BEAUFORT COUNTY DIXIE JUNIOR BOYS BASEBALL TEAM

Council Member Lawson presented a proclamation recognizing the Beaufort County Dixie Junior Boys Baseball Team.

9. PROCLAMATION RECOGNIZING THE BEAUFORT COUNTY DIXIE BOYS BASEBALL TEAM

Council Member Cunningham presented a proclamation recognizing the Beaufort County Dixie Boys Baseball Team.

Vice-Chairman McElynn also commented on National Family Day.

10. CITIZEN COMMENT PERIOD - 15 MINUTES TOTAL

Anyone who wishes to speak during the Citizen Comment portion of the meeting will limit their comments to AGENDA ITEMS ONLY and speak no longer than three (3) minutes. Speakers will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language. In accordance with Beaufort County's Rules and Procedures, giving of a speaker's time to another is not allowed.

The following individuals made citizen comments:

1. Roberts Vaux
2. John Kammer
3. Derek Stetter
4. Scottie Daniel
5. Terry Laseter

Motion: It was moved by Council Member Bartholomew, seconded by Council Member Cunningham, to extend the public comment.

Citizen Comment was extended and Felice Lamarca made the final comments.

Please watch the video stream available on the County's website to view the full comment.

<https://beaufortcountysc.new.swagit.com/videos/272375>

11. LIASION AND COMMITTEE REPORTS

Council Member Reitz provided an update on the Airports Board, including the Hilton Head Airport terminal contract, St. James Church, and the Ambassador's Club.

Council Member Tabernik discussed the Library Board of Trustees, including an update on the Port Royal Library, options for a new branch in Pritchardville, and a Gullah Geechee Trail. Council Member Tabernik also discussed updates from the County Transportation Committee, including the resurfacing and pavement preservation projects, work on SC 170, and repairs to Bluffton Parkway.

Council Member Howard highlighted the final reading of the Greenspace Committee Ordinance.

Council Member Lawson commented on the Southern Carolina Regional Development contract renewal item originating from the Finance, Administration, and Economic Development Committee.

Chairman Passiment commented on the County Council's attendance at the South Carolina Association of Counties meetings on September 19 and 20, 2023.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

12. APPROVAL OF CONSENT AGENDA

Motion: It was moved by Council Member Cunningham, seconded by Council Member Lawson, to approve the consent agenda.

The Vote – The motion was approved without objection.

13. TIME SENSITIVE ITEM FROM THE 9.25.2023 PUBLIC FACILITIES AND SAFETY COMMITTEE MEETING - APPROVAL OF THE PROPOSED MEMBERS DISCUSSED DURING THE PUBLIC FACILITIES AND SAFETY COMMITTEE MEETING TO THE SALES TAX COMMITTEE

Motion: It was moved by Council Member Cunningham, seconded by Council Member Howard, to appoint UnTron Solomon from St Helena Island (District 3), Carol Ruff from Lady's Island (District 2), and Tom Lennox from Hilton Head Island (District 11) to the Tax Advisory Committee in accordance with South Carolina Code Section 4-10-320.

Discussion: Chairman Passiment commented on the makeup and purpose of the Committee.

The Vote – The motion was approved without objection.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

14. PUBLIC HEARING AND THIRD READING OF AN ORDINANCE TO AMEND BEAUFORT COUNTY'S BUDGET ORDINANCE FOR FISCAL YEAR 2024 (ORDINANCE 2023/22) TO APPROPRIATE \$350,000 TO COUNTY COUNCIL TO COVER COST OF REVIEWS, AUDITS, AND INVESTIGATIONS

First Reading by Title only on August 28, 2023 - 10:0

Second Reading on September 11, 2023 - 10:0

Motion: It was moved by Council Member Bartholomew, seconded by Council Member Brown, to approve the public hearing and third reading of an ordinance to amend Beaufort County's Budget Ordinance for Fiscal Year 2024 (Ordinance 2023/22) to appropriate \$350,000 to County Council to cover the cost of reviews, audits, and investigations.

Chairman Passiment opened the floor for public comment.

Joyce Hamm spoke regarding the investigation.

The Chairman closed the public comment.

Discussion: In response to Ms. Hamm’s questions, Council Member Cunningham stated that an outside consultant was being hired to conduct audits and investigations to ensure no misappropriation of funds or interference by anyone in the County.

Council Member Bartholomew noted that while Council was potentially appropriating \$350,000, the total amount would not necessarily be spent.

The Vote – The motion was approved without objection.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

15. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE PURCHASE OF REAL PROPERTY IDENTIFIED AS 34 ULMER ROAD

Vote at First Reading on July 10, 2023- 11:0

Vote at Public Hearing and Second Reading on August 14, 2023: Postpone until September 25, 2023- 11:0

Motion: It was moved by Council Member Lawson, seconded by Council Member Cunningham, to approve the public hearing and second reading of an ordinance authorizing the Interim County Administrator to execute the necessary documents and provide funding for the purchase of real property identified as 34 Ulmer Road.

Chairman Passiment opened the floor for public comment.

Joyce Hamm spoke regarding the county buying land and asked if it would ever be given back to the citizens.

The Chairman closed the public comment.

Discussion: Council Member Howard noted that the property was discussed during a Rural and Critical Lands Preservation Board meeting and that the due diligence vote failed. Council Member Howard also voiced her objection to the motion.

Council Member Lawson commented that the purchase would be made through the General Fund. Council Member Lawson also highlighted the seller’s reduction in price to \$2.5 million if the County could close on the property in 30 days.

Council Members Howard and Cunningham discussed whether the property could have ball fields.

Passive Parks Director Nagid provided background on the adjacent Baliey Memorial Park property and the interest in the property from a habitat connectivity and water quality standpoint. Director Nagid added while the property may not be suitable for parks and recreation because of the wetlands and existing cell tower, she did think it would make a good passive park with the proximity to downtown Bluffton.

Council Member Glover asked for clarification on the Rural and Critical Lands Preservation Board’s decision not to proceed with this property. Director Nagid said that half of the Board was interested in having a conservation appraiser perform a second appraisal, but there was a motion to deny the project. Director Nagid also mentioned concerns about the long-term lease on the cell tower and the low development pressure.

Interim County Administrator Robinson reiterated that the funding would be supplied through the General Fund and explained that there would need to be a budget amendment to approve the appropriation. County Attorney Ward clarified that the funding appropriation was included in this ordinance.

Director Nagid commented that a second appraisal would take a couple of weeks but that the County could ask for an expedited appraisal.

Council Member Bartholomew asked if the cell tower on the property could be moved. Council Attorney Ward replied that it would stay in the same location.

Council and County Attorney Ward discussed the possibility of having a second appraisal, the previous appraisal completed in July, and the dropped price if the County can close on the property in 30 days.

Council and Interim County Administrator Robinson also discussed the balance of the General Fund and the Rural and Critical Lands Program, which are around 60 million and 2.6 million, respectively.

The Vote – Voting Yea: Chairman Passiment, Vice-Chairman McElynn, Council Member Bartholomew, Council Member Brown, Council Member Cunningham, Council Member Dawson, Council Member Lawson, Council Member Reitz, and Council Member Tabernik. Voting Nay: Council Member Glover and Council Member Howard. The motion passed by 9:2.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

16. FIRST READING OF AN ORDINANCE ADOPTING AMENDMENTS TO CHAPTER 62, SOLID WASTE, BEAUFORT COUNTY CODE OF ORDINANCE

Motion: It was moved by Council Member Cunningham, seconded by Council Member Howard, to approve the first reading of an ordinance adopting amendments to Chapter 62, Solid Waste, Beaufort County Code of Ordinances.

The Vote – The motion was approved without objection.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

17. FIRST READING OF AN ORDINANCE ADOPTING AMENDMENTS TO CH 38. ARTICLE II. TRASH AND LITTER CONTROL OF THE BEAUFORT COUNTY CODE OF ORDINANCES

Motion: It was moved by Council Member Dawson, seconded by Council Member Glover, to approve the first reading of an ordinance adopting amendments to Chapter 38, Article II, Trash and Litter Control of the Beaufort County Code of Ordinances.

The Vote – The motion was approved without objection.

Council Member Dawson excused himself from the meeting.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

18. FIRST READING OF AN ORDINANCE FOR A PROPOSED TEXT AMENDMENT TO ARTICLE 7, DIVISION 7.4, SECTION 7.4.50 (PUBLIC HEARING SCHEDULING AND NOTICE) AND SECTION 7.4.70 (PUBLIC HEARING PROCEDURES) TO CLARIFY THAT PUBLIC COMMENT IS NOT TAKEN FOR APPEALS TO THE PLANNING COMMISSION OR THE ZONING BOARD OF APPEALS

Motion: It was moved by Council Member Tabernik, seconded by Vice-Chairman McElynn, to approve the first reading of an ordinance for a proposed text amendment to Article 7, Division 7.4, Section 7.4.50 (Public Hearing Scheduling and Notice) and Section 7.4.70 (Public Hearing Procedures) to clarify that public comment is not taken for appeals to the Planning Commission or the Zoning Board of Appeals.

The Vote – The motion was approved without objection.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

19. **FIRST READING OF AN ORDINANCE FOR A ZONING MAP AMENDMENT/REZONING REQUEST FOR 71.54 ACRES (R600 013 000 0008 0000 AND R600 013 000 0050 0000), LOCATED AT 1691 OKATIE HIGHWAY, FROM T2 RURAL (T2R) TO T4 NEIGHBORHOOD CENTER (T4NC) AND T3 NEIGHBORHOOD (T3N) USING A VILLAGE PLACE TYPE OVERLAY (PTO) (ARTICLE 3 DIVISION 4 SECTION 80, ARTICLE 7 DIVISION 3 SECTION 50).**

Item failed at the Community Services and Land Use Committee on September 11, 2023: 5/5

Motion: It was moved by Council Member Howard, seconded by Council Member Glover, to send the item back to the Community Services and Land Use Committee, where more work can be done and give more opportunities for the public to have input.

Discussion: Council Member Brown noted that constituents asked the Council to vote no on this item, not that it should be sent back to the committee for further review.

Council Member Howard explained that if the Council voted no on the item, it would be a year before it could come up again.

Council Member Reitz advocated for the Council to move forward with the vote on the item.

Council Member Cunningham discussed how the schools and roads are overpopulated and how that should be the County's focus. Council Member Cunningham added that the area does not have the infrastructure yet to support the addition of 400 homes.

Council Member Howard explained how sending the item back to the committee allows timing and infrastructure development requirements to be negotiated. Council Member Howard also noted that the potential developer changed the proposal to have 20% of the homes be workforce housing, which could also be further negotiated.

Council Member Lawson commented that the Council is trying to limit growth so it is more palatable and that sending the item back to the committee would allow for continued discussion of all available options.

Council Member Tabernik asked what would be built on the property under the current zoning. Chairman Passiment replied that it would be one house per three acres.

Chairman Passiment commented that the Council does not have the right to stop growth but does have the right to manage growth in the County. Chairman Passiment also explained that the property would connect with surrounding properties to create a village-type, walkable community.

Council Member Glover asked about potential annexation by another County. ACA Atkinson replied that he was unsure about the growth boundary but that staff could contact Hardeeville. ACA Atkinson added that the opportunity is unique because the County could change the zoning and enter into development agreements to determine the type of development on the property.

Council further discussed whether the item should be sent back to the committee.

The Vote - Voting Yea: Chairman Passiment, Council Member Glover, Council Member Howard, Council Member Lawson, and Council Member Tabernik. **Voting Nay:** Vice-Chairman McElynn, Council Member Bartholomew, Council Member Brown, Council Member Cunningham, and Council Member Reitz.

The motion failed 5:5.

Council made no second motion and Council Member Cunningham stated the item fails by doing such.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

20. FIRST READING OF AN ORDINANCE RATIFYING THE SALARIES FOR VARIOUS ELECTED OFFICIALS AND TO AMEND SECTION 2-347 OF THE BEAUFORT COUNTY CODE OF LAWS ESTABLISHING THE SALARIES FOR VARIOUS ELECTED AND APPOINTED OFFICIALS

Main Motion: It was moved by Council Member Cunningham, seconded by Council Member Bartholomew, to approve the first reading of an ordinance ratifying the salaries for various elected officials and to amend Section 2-347 of the Beaufort County Code of Laws establishing the salaries for various elected and appointed officials.

Discussion: County Attorney Ward presented the current salaries for the Auditor and Coroner, the suggested amended salary rates based on the July 2019 proposal, and the amount of money retroactively owned to both officials.

Vice-Chairman McElynn and County Attorney Ward discussed reelection bonuses and the removal of those bonuses when a new person is elected to the position.

Chairman Passiment clarified that Vice-Chairman McElynn proposed to update the salaries of elected officials in 2019 but that the ordinance was never adopted. Chairman Passiment also asked for clarification on the salary calculations.

County Attorney Ward explained that the Coroner and Auditor had been paid at the 2015 salary rate and would be retroactively compensated for the 2019 rate other elected officials received. County Attorney Ward also noted that this ordinance puts the 2019 salary rates on the books so that the 2015 salary rate would no longer be used.

Chairman Passiment and County Attorney Ward discussed the breakdown of COLAs applied to the positions.

Subsidiary Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Howard, to send the item back to the Finance, Administration, and Economic Development Committee.

The Vote - Voting Yea: Chairman Passiment, Vice-Chairman McElynn, Council Member Brown, Council Member Howard, Council Member Tabernik, and Council Member Reitz. **Voting Nay:** Council Member Bartholomew, Council Member Cunningham, Council Member Glover, and Council Member Lawson.

The motion passed by 6:4.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

21. APPROVAL OF A RESOLUTION TO ACCEPT A GRANT FOR PROJECT COMIDA

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Bartholomew, to approve a resolution to accept a grant for Project Comida.

The Vote – The motion was made without objection.

22. APPROVAL OF PURCHASE AND PAYMENT OF HANDICAP ACCESSIBLE PLAYGROUND EQUIPMENT AT BEAUFORT COUNTY'S PORT ROYAL CENTER IN THE AMOUNT OF \$799,052.

Motion: It was moved by Council Member Cunningham, seconded by Council Member Howard, to approve the purchase and payment of handicap-accessible playground equipment at Beaufort County's Port Royal Center in the amount of \$799,052.

Discussion: Council Member Brown commented that the County should negotiate the price and pay only half the bill.

Council Member Bartholomew asked about the cost of removing the unapproved equipment and sending it back to the provider. Assistant County Administrator Atkinson replied that he was uncertain about the removal cost.

Council Member Bartholomew also raised concerns about how the unapproved equipment got installed in the first place and highlighted a September 25 article in The Island News that covered the matter. Vice-Chairman McElynn commented that personnel matters cannot be discussed in the open session.

Council Member Lawson noted that the County paid less than the going rate for the equipment. Council Member Lawson added that the vendor did what was asked of them and that the issue is that County staff did not follow the procurement process.

The Vote - Voting Yea: Chairman Passiment, Vice-Chairman McElynn, Council Member Cunningham, Council Member Glover, Council Member Howard, Council Member Lawson, Council Member Tabernik, and Council Member Reitz. **Voting Nay:** Council Member Bartholomew and Council Member Brown.

The motion passed by 8:2.

To watch the full discussion please click on the video link below.

<https://beaufortcountysc.new.swagit.com/videos/272375>

23. CITIZEN COMMENT PERIOD- 15 MINUTES TOTAL

Anyone who wishes to speak during the Citizen Comment portion of the meeting will limit their comments and speak no longer than three (3) minutes. Speakers will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language. In accordance with Beaufort County's Rules and Procedures, giving of a speaker's time to another is not allowed.

The following individuals made citizen comments:

1. Lillie Harris
2. Theresa White
3. Robert Adams
4. Roy Brown
5. Marlyn Hemmingway

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Bartholomew, to extend the citizen comment period. The motion to extend was approved without objection.

6. Willie Turrall
7. Tade' Oyeilumi

24. PURSUANT TO S. C. CODE SEC. 30-4-70(A)(1) TO DISCUSS EMPLOYMENT, APPOINTMENT, COMPENSATION, PROMOTION, DEMOTION, DISCIPLINE, OR RELEASE OF A PERSON REGULATED BY A PUBLIC BODY.

Motion: It was moved by Vice-Chairman McElynn, seconded by Council Member Brown, to go into executive session.

The Vote – The motion was approved without objection.

25. MATTERS ARISING OUT OF EXECUTIVE SESSION

No matters arose out of the executive session.

26. ADJOURNMENT

The Chairman adjourned the meeting at 7:30 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

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

ATTEST:

Sarah W. Brock, Clerk to Council
Ratified:

~ Proclamation ~

Whereas, In May 2023, each school in the Beaufort County School District selected a Teacher of the Year; and

Whereas, beyond this recognition, five finalists were selected, and one was to be titled District Teacher of the Year, representing Beaufort County in the South Carolina State Teacher of the Year program; and

Whereas, this year, the praiseworthy award went to April Bryant, a fifth-grade teacher at Coosa Elementary; and

Whereas, nominated by her peers, Ms. Bryant was recommended by Coosa Elementary Principal Melissa Pender to be named District Teacher of the Year; and

Whereas, Ms. Pender describes Ms. Bryant as “an individual that was born to be in this profession; she is student-centered, she consistently shares her craft with other teachers, and her classroom serves as a model for others in the district.” Ms. Bryant’s recommendation letter sang high praises for being an integral part of Coosa Elementary’s faculty for the past four years; and

Whereas, Ms. Bryant holds a Master of Science in Education, Pre-K – 6th Grade Literacy, and a Bachelor of Arts in Education, Elementary and Early Childhood, with a concentration in Behavior Studies; and

Whereas, Ms. Bryant displays strong interpersonal skills and builds relationships with students, parents, community members, faculty, and staff. These relationships foster her desire to make all learners feel and be successful in their education journey; and

Whereas, Ms. Bryant's reach of influence extends beyond the classroom as she is an active member of the community through mentoring youth and beginning teachers via the University of South Carolina, Beaufort cohort, and the South Carolina Beginning Teacher Mentor Program. Ms. Bryant also volunteers for the Gullah Geechee Corridor, the Gullah Geechee Initiative Foundation, and the Heritage Day Celebration. Ms. Bryant has also partnered with the National Park Service to share local history within the Coosa community, with the goal of transcending partnership into the neighboring elementary schools; and

Now, therefore be it resolved, Beaufort County Council would like to recognize Ms. April Bryant for her continuous efforts to serve as a model for the education community and for representing Beaufort County as the District Teacher of the Year.

“April Bryant~ Beaufort County 2023-2024 District School Teacher of the Year”



Dated this 13th Day of November 2023

Joseph Passiment
Beaufort County Council

Joseph F. Passiment, Chairman

~ Proclamation ~

Whereas, The U.S. Department of Education recognized 353 schools as National Blue Ribbon Schools for 2023; and

Whereas, The recognition is based on a school’s overall academic performance or progress in closing achievement gaps among student groups on assessments; and

Whereas, The National Blue Ribbon Award affirms and validates the hard work of students, educators, families, and communities in striving for and attaining exemplary achievement; and

Whereas, National Blue Ribbon School leaders articulate a vision of excellence and hold everyone to high standards by demonstrating effective and innovative teaching and learning, and the schools value and support teachers and staff through meaningful professional learning; and

Whereas, National Blue Ribbon Schools serve as models of effective and innovative school practices for state and district educators and other schools across the nation; and

Whereas, Out of 420 nominations, South Carolina has been awarded five National Blue Ribbon Awards. Coosa Elementary in Beaufort was one of the five awarded in the nomination category of Exemplary High Performing Schools; and

Whereas, Coosa Elementary, home of the Bobcats, has approximately 450 students in pre-kindergarten through fifth grade, and one-third of the students are comprised of military families; and

Whereas, The prestigious 2023 National Blue Ribbon Schools Recognition Ceremony is November 16th and 17th in Washington, DC.

Now, therefore be it resolved, Beaufort County Council would like to recognize Coosa Elementary and its staff for being awarded the National Blue Ribbon School Award 2023.

“Coosa Elementary National Blue Ribbon School Award 2023”



Dated this 13th Day of November 2023

Joseph F. Passiment
Beaufort County Council
Joseph F. Passiment, Chairman

~ Proclamation ~

Whereas, the history and culture of our great nation have been significantly influenced by American Indians and indigenous peoples; and

Whereas, the contributions of American Indians have enhanced the freedom, prosperity, and greatness of America today; and

Whereas, their customs and traditions are respected and celebrated as part of a rich legacy throughout the United States; and

Whereas, Native American Awareness Week began in 1976 and recognition was expanded by Congress and approved by President George Bush in August 1990, designating the month of November, as National American Indian Heritage Month; and

Whereas, in honor of National American Indian Heritage Month, community celebrations as well as numerous cultural, artistic, educational, and historical activities have been planned;

Now, therefore, be it resolved, that Beaufort County declares November as

“National American Indian Heritage Month”

And we urge all our citizens to observe this month with appropriate programs, ceremonies, and activities.

National Society Daughters
Of the American Revolution
American Indians Committee



Dated this 13th day of November 2023

Joseph Passiment, Chairman
Beaufort County Council

CITIZEN COMMENTS 2nd Portion

County Council
November 13, 2023

CITIZEN COMMENT PERIOD- 15 MINUTES TOTAL

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

In accordance with Beaufort County's Rules and Procedures, page 7(D4): 1) Each speaker is limited to three minutes 2) Only one speaker limit at microphone, and 3) Giving of a speaker's time is not allowed.

BY SIGNING UP FOR PUBLIC COMMENT, YOU ACKNOWLEDGE THE ABOVE RULES AND WILL COMPLY.

FULL NAME (PLEASE PRINT LEGIBLY)

Topic

SKIP HUAGLAND

FINANCE

LYNN GREELEY

POA

FELICE LAMARCA

MORATORIUM

[Crossed out name]

[Crossed out topic]

Senator Margie Bright Matthews

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12:49

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Hilton Head Island-Bluffton Chamb...



Hilton Head Island-Bluffton Chamber of Commerce

16m · 🌐

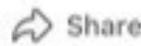
Congratulations to Hilton Head Island Airport on the groundbreaking of the terminal expansion!

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-
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#HHILoveMyIsland #FlyHiltonHead Hilton Head Island Airport , Town of Hilton Head Island Government , Beaufort County Government SC

6

1 share



Message Hilton Head Island-Bluffton Chamber...



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
RECOMMEND APPROVAL OF AN ORDINANCE TO AMEND BEAUFORT COUNTY'S FISCAL YEAR 2024 BUDGET ORDINANCE (ORDINANCE NO. 2023/22) TO PROVIDE ROLLOVER APPROPRIATIONS IN THE AMOUNT OF \$3,432,768 FROM THE CAPITAL IMPROVEMENT FUND (FUND 1040) FOR CAPITAL IMPROVEMENT PROJECTS APPROVED BUT NOT COMPLETED IN FISCAL YEAR 2023
MEETING NAME AND DATE:
Finance, Administration, and Economic Development Committee
PRESENTER INFORMATION:
Denise Christmas, Interim Deputy County Administrator/Interim CFO <i>5 minutes</i>
ITEM BACKGROUND:
Has not come before committee nor council <i>This will be 1st reading on the Amended Budget Ordinance</i>
PROJECT / ITEM NARRATIVE:
Recommend approval of an ordinance amending Beaufort County Ordinance 2023/22 to appropriate \$3,432,768 of the Capital Improvement Fund's (Fund 1040) Fund Balance to cover all purchase orders which rolled from FY 2023 to FY 2024 for ongoing capital projects and capital purchases which did not get completed/purchased by June 30, 2023
FISCAL IMPACT:
<i>This will increase the Capital Improvement Fund's budget from \$21,232,455 to \$24,665,223. There will be a balance of \$703,423 remaining in Fund Balance should 100% of all budgeted line items be expended FY'24.</i>
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approving budget amendment to allow projects and capital purchases to complete with existing purchase orders.
OPTIONS FOR COUNCIL MOTION:
<ul style="list-style-type: none">• Motion to approve/deny Budget Ordinance 2023/22 Amendment for purchase order rollovers/budget carryforward in the Capital Improvement Fund• Move forward to Council for First Reading

ORDINANCE 2023/_____

AN ORDINANCE TO AMEND BEAUFORT COUNTY’S BUDGET ORDINANCE FOR FISCAL YEAR 2024 (ORDINANCE NO. 2023/22) TO PROVIDE ROLLOVER APPROPRIATIONS IN THE AMOUNT OF \$3,432,768 FROM THE CAPITAL IMPROVEMENT FUND’S (FUND 1040) FUND BALANCE TO COVER ALL PURCHASE ORDERS WHICH ROLLED OVER FROM FY23 TO FY24 FOR ONGOING CAPITAL PROJECTS AND CAPITAL PURCHASES

WHEREAS, on June 12, 2023, Beaufort County Council adopted Ordinance 2023/22 which set the County’s FY 2023-2024 budget and associated expenditures; and

WHEREAS, in the interest of good accounting practices and transparency in the budget process it is beneficial and necessary to amend the budget to reflect the additional appropriation of funds which are to be carried over (rolled over) from the Fiscal Year 2022-2023 budget to the Fiscal Year 2023-2024 budget to cover capital improvements which were properly authorized in FY23 but which were not completed in FY23 and which have rolled over into FY24.

NOW, THEREFORE, BE IT ORDAINED, by Beaufort County Council that the FY 2023-2024 Beaufort County Budget Ordinance (Ordinance 2023/22) is hereby amended as shown on the attached “Exhibit A” and incorporated herein by reference.

Done this _____ day of _____, 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

**By: _____
Joseph Passiment, Chairman**

ATTEST:

Sarah Brock, Clerk to Council

First Reading: _____, 2023

EXHIBIT A

<u>PO#</u>	<u>Vendor Name</u>	<u>PO Date</u>	<u>Amount</u>	<u>Status</u>	<u>GL Account</u>
20231061	STURRE ENGINEERING	03/31/2023	\$5,400	9 - Carry Fwd	10401000-54420
20231175	MOSELEY ARCHITECTS PC	05/03/2023	\$27,850	9 - Carry Fwd	10401143-54420
20230504	NORTHWESTERN EMERGENCY VEHICLES, INC	09/14/2022	\$557,244	9 - Carry Fwd	10401230-54000
20230505	NORTHWESTERN EMERGENCY VEHICLES, INC	09/14/2022	\$259,996	9 - Carry Fwd	10401230-54000
20230970	STANTEC CONSULTING SERVICES, INC	03/02/2023	\$54,277	9 - Carry Fwd	10401243-54500
20231131	KIMLEY-HORN AND ASSOCIATES INC.	04/21/2023	\$143,107	9 - Carry Fwd	10401243-54500
20231133	STANTEC CONSULTING SERVICES, INC	04/21/2023	\$146,225	9 - Carry Fwd	10401243-54500
20231134	MEAD & HUNT INC	04/21/2023	\$18,717	9 - Carry Fwd	10401243-54500
20230959	KIMLEY-HORN AND ASSOCIATES INC.	03/02/2023	\$32,920	9 - Carry Fwd	10401243-54500
20230960	KIMLEY-HORN AND ASSOCIATES INC.	03/02/2023	\$8,940	9 - Carry Fwd	10401243-54500
20231260	KIMLEY-HORN AND ASSOCIATES INC.	05/23/2023	\$51,405	9 - Carry Fwd	10401243-54500
20231266	MEAD & HUNT INC	05/23/2023	\$889,210	9 - Carry Fwd	10401243-54500
20231325	MOSELEY ARCHITECTS OF SOUTH CAROLINA, PC	05/26/2023	\$48,500	9 - Carry Fwd	10401250-54300
20230761	JOHN CREWS CONSTRUCTION LLC	01/05/2023	\$49,695	9 - Carry Fwd	10401301-54450
20230406	BEAUFORT DESIGN BUILD LLC	06/30/2023	\$1,781	9 - Carry Fwd	10401310-51160
20231121	CREATIVE INTERIORS	04/20/2023	\$5,620	9 - Carry Fwd	10401330-54420
20231152	FORMS & SUPPLY INC.	04/20/2023	\$18,438	9 - Carry Fwd	10401330-54420
20231296	CREATIVE INTERIORS	05/26/2023	\$3,068	9 - Carry Fwd	10401330-54420
20231306	GRAYBAR FENCE COMPANY, INC.	05/26/2023	\$7,555	9 - Carry Fwd	10401330-54420
20231159	FORMS & SUPPLY INC.	05/01/2023	\$5,465	9 - Carry Fwd	10401330-54420
20230406	BEAUFORT DESIGN BUILD LLC	08/29/2022	\$858	9 - Carry Fwd	10401330-54420
20230567	ANDREWS ENGINEERING COMPANY, INC.	10/13/2022	\$11,850	9 - Carry Fwd	10401400-54450
20230680	HORD, COPLAN, & MACHT, INC	11/18/2022	\$6,681	9 - Carry Fwd	10401400-54450
20210074	ANDREWS ENGINEERING COMPANY, INC.	07/01/2023	-\$9,656	9 - Carry Fwd	10401600-54436
20230781	RMF ENGINEERING, INC.	01/12/2023	\$33,844	9 - Carry Fwd	10401600-54436
20230784	HORD, COPLAN, & MACHT, INC	01/12/2023	\$23,851	9 - Carry Fwd	10401600-54436
20230853	THE LANDPLAN GROUP SOUTH INC	02/03/2023	\$16,995	9 - Carry Fwd	10401600-54436
20231252	MUSCO SPORTS LIGHTING, LLC	05/19/2023	\$799,325	9 - Carry Fwd	10401600-54436
20231207	RMF ENGINEERING, INC.	05/10/2023	\$20,500	9 - Carry Fwd	10401600-54436
20231208	RMF ENGINEERING, INC.	05/10/2023	\$26,500	9 - Carry Fwd	10401600-54436
20231210	HORD, COPLAN, & MACHT, INC	05/10/2023	\$5,772	9 - Carry Fwd	10401600-54436
20231211	HORD, COPLAN, & MACHT, INC	05/10/2023	\$6,547	9 - Carry Fwd	10401600-54436
20231162	JEFF LEWIS AIA ARCHITECT	05/01/2023	\$22,000	9 - Carry Fwd	10401600-54436
20230309	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/29/2023	\$44,096	9 - Carry Fwd	10401600-54200
20230367	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/30/2023	\$43,684	9 - Carry Fwd	10401600-54200
20230367	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/27/2023	<u>\$44,508</u>	9 - Carry Fwd	10401604-54200
			\$3,432,768		

EXHIBIT A

<u>PO#</u>	<u>Vendor Name</u>	<u>PO Date</u>	<u>Status</u>
20231061	STURRE ENGINEERING	03/31/2023	\$5,400.00 9 - Carry Fwd
20231175	MOSELEY ARCHITECTS PC	05/03/2023	\$27,850.00 9 - Carry Fwd
20230504	NORTHWESTERN EMERGENCY VEHICLES, INC	09/14/2022	\$557,244.00 9 - Carry Fwd
20230505	NORTHWESTERN EMERGENCY VEHICLES, INC	09/14/2022	\$259,996.00 9 - Carry Fwd
20230970	STANTEC CONSULTING SERVICES, INC	03/02/2023	\$54,277.23 9 - Carry Fwd
20231131	KIMLEY-HORN AND ASSOCIATES INC.	04/21/2023	\$143,106.50 9 - Carry Fwd
20231133	STANTEC CONSULTING SERVICES, INC	04/21/2023	\$146,225.34 9 - Carry Fwd
20231134	MEAD & HUNT INC	04/21/2023	\$18,717.30 9 - Carry Fwd
20230959	KIMLEY-HORN AND ASSOCIATES INC.	03/02/2023	\$32,920.00 9 - Carry Fwd
20230960	KIMLEY-HORN AND ASSOCIATES INC.	03/02/2023	\$8,940.00 9 - Carry Fwd
20231260	KIMLEY-HORN AND ASSOCIATES INC.	05/23/2023	\$51,405.00 9 - Carry Fwd
20231266	MEAD & HUNT INC	05/23/2023	\$889,210.04 9 - Carry Fwd
20231325	MOSELEY ARCHITECTS OF SOUTH CAROLINA, PC	05/26/2023	\$48,500.00 9 - Carry Fwd
20230761	JOHN CREWS CONSTRUCTION LLC	01/05/2023	\$49,695.00 9 - Carry Fwd
20230406	BEAUFORT DESIGN BUILD LLC	06/30/2023	\$1,780.58 9 - Carry Fwd
20231121	CREATIVE INTERIORS	04/20/2023	\$5,620.23 9 - Carry Fwd
20231152	FORMS & SUPPLY INC.	04/20/2023	\$18,438.16 9 - Carry Fwd
20231296	CREATIVE INTERIORS	05/26/2023	\$3,068.42 9 - Carry Fwd
20231306	GRAYBAR FENCE COMPANY, INC.	05/26/2023	\$7,555.35 9 - Carry Fwd
20231159	FORMS & SUPPLY INC.	05/01/2023	\$5,464.56 9 - Carry Fwd
20230406	BEAUFORT DESIGN BUILD LLC	08/29/2022	\$858.14 9 - Carry Fwd
20230567	ANDREWS ENGINEERING COMPANY, INC.	10/13/2022	\$11,850.00 9 - Carry Fwd
20230680	HORD, COPLAN, & MACHT, INC	11/18/2022	\$6,680.87 9 - Carry Fwd
20210074	ANDREWS ENGINEERING COMPANY, INC.	07/01/2023	-\$9,656.00 9 - Carry Fwd
20230781	RMF ENGINEERING, INC.	01/12/2023	\$33,843.82 9 - Carry Fwd
20230784	HORD, COPLAN, & MACHT, INC	01/12/2023	\$23,850.68 9 - Carry Fwd
20230853	THE LANDPLAN GROUP SOUTH INC	02/03/2023	\$16,995.00 9 - Carry Fwd
20231252	MUSCO SPORTS LIGHTING, LLC	05/19/2023	\$799,325.00 9 - Carry Fwd
20231207	RMF ENGINEERING, INC.	05/10/2023	\$20,500.00 9 - Carry Fwd
20231208	RMF ENGINEERING, INC.	05/10/2023	\$26,500.00 9 - Carry Fwd
20231210	HORD, COPLAN, & MACHT, INC	05/10/2023	\$5,772.00 9 - Carry Fwd
20231211	HORD, COPLAN, & MACHT, INC	05/10/2023	\$6,547.20 9 - Carry Fwd
20231162	JEFF LEWIS AIA ARCHITECT	05/01/2023	\$22,000.00 9 - Carry Fwd
20230309	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/29/2023	\$44,095.77 9 - Carry Fwd
20230367	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/30/2023	\$43,683.66 9 - Carry Fwd
20230367	DEERE & COMPANY STRATEGIC ACCT BUS DIV	06/27/2023	<u>\$44,507.88</u> 9 - Carry Fwd
			\$3,432,767.73

GL Account

10401000-54420
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BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
An Ordinance Adopting Amendments to the Business and Professional Licenses Ordinance Chapter 18, Article III, Section 18-67 (a) (b), Appendix A&B.
MEETING NAME AND DATE:
Finance, Administration, and Economic Development Committee - October 16, 2023
PRESENTER INFORMATION:
Chuck Atkinson - Assistant County Administrator, Development and Recreation <i>(10 mins)</i>
ITEM BACKGROUND:
December 2020 - County Council adopted Chapter 18 Article III Business and Professional Licenses Ordinance
PROJECT / ITEM NARRATIVE:
The South Carolina Business License Tax Standardization Act requires that by December 31 of every odd year, the County must adopt, by ordinance, the latest Standardized Business License Class Schedule.
FISCAL IMPACT:
Updated Rate Schedule will have a minor fiscal revenue impact.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of the amendments to the Business and Professional Licenses Ordinance Chapter 18, Article III, Section 18-67 (a) (b), Appendix A&B.
OPTIONS FOR COUNCIL MOTION:
Motion to approve/deny amendments to the Business and Professional Licenses Ordinance Chapter 18, Article III, Section 18-67 (a) (b), Appendix A&B. (Next Step – Upon approval, send to County Council for First Reading)

ORDINANCE 2023/XX

AN ORDINANCE TO AMEND THE BUSINESS AND PROFESSIONAL LICENSES ORDINANCE, CHAPTER 18, ARTICLE III, SECTION 18-67(A)(B), APPENDIX A&B.

WHEREAS, the County of Beaufort is authorized by S.C. Code Section 4-9-30 and Title 6, Chapter 1, Article 3 to impose a business license tax on gross income; and

WHEREAS, Beaufort County has been in the practice of regulating business licensing as evidenced by the Beaufort County Code of Ordinances Chapter 18, Article III, Sections 18-46 through 18-71; and

WHEREAS, by Act No. 176 of 2020, known as the South Carolina Business License Tax Standardization Act (“Standardization Act”). The South Carolina General Assembly imposed additional requirements and conditions on the administration of business license taxes; and

WHEREAS, the Standardization Act requires that by December thirty-first of every odd year, the County must adopt, by ordinance, the latest Standardized Business License Class Schedule as recommended by the Municipal Association of South Carolina (the “Association”) and adopted by the Director of the Revenue and Fiscal Affairs Office; and

WHEREAS, the County Council of Beaufort County now wishes to amend the Current Business and Professional License Ordinance to adopt the latest Standardized Business License Class Schedule, as required by the Standardization Act, and to make other minor amendments as recommended by the Association.

NOW, THEREFORE, be it ordained by Beaufort County Council, in a meeting duly assembled, that Chapter 18, Article III, Section 18-67 (a) (b), Appendix A&B of the Code of Ordinances is amended to adopt the latest Standardization Business License Class Schedule and to make other minor amendments as recommended by the Association and as set forth in Exhibit "A".

Adopted this _____ day of _____ 2023

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, JD, Clerk to Council

ARTICLE III. - BUSINESS AND PROFESSIONAL LICENSES

Section 1. License Required. Every person engaged or intending to engage in any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, in whole or in part within the limits of Beaufort County, South Carolina, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided.

Section 2. Definitions. The following words, terms, and phrases, when used in this ordinance, shall have the meaning ascribed herein. Defined terms are not capitalized when used in this ordinance unless the context otherwise requires.

"*Business*" means any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, either directly or indirectly. In addition to the above-described activities constituting doing business in the count an individual shall be deemed to be in business if that individual owns and rents two or more residential rental units (or holds a partial interest therein) within the County, excluding the municipality therein. This applies to long-term rentals (30 days or more) only.

"*Charitable Organization*" means an organization that is determined by the Internal Revenue Service to be exempt from Federal income taxes under 26 U.S.C. Section 501 (c)(3), (4), (6), (7), (8), (10) or (19).

"*Charitable Purpose*" means a benevolent, philanthropic, patriotic, or eleemosynary purpose that does not result in personal gain to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization.

"*Classification*" means that division of businesses by NAICS codes subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by the Council.

"*Council*" means the County Council of Beaufort County.

"*Domicile*" means a principal place from which the trade or business of a licensee is conducted, directed, or managed. For purposes of this ordinance, a licensee may be deemed to have more than one domicile.

"*Gross Income*" means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within the County. If the licensee has a domicile within the County, business done within the County shall include all gross receipts or revenue received or accrued by such licensee. If the licensee does not have a domicile within the County, business done within the County shall include only gross receipts or revenue received or accrued within the County. In all cases, if the licensee pays a business license tax to another Municipality or County, then the licensee's gross income for the purpose of computing the tax within the County must be reduced by the amount of revenues or receipts taxed in the other Municipality or County and fully reported to the County. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds that are the property of a third party. The value of bartered goods or trade-in merchandise

shall be included in gross income. The gross receipts or gross revenues for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Department of Insurance, or other government agencies. In calculating gross income for certain businesses, the following rules shall apply:

- A. Gross income for agents shall be calculated on gross commissions received or retained, unless otherwise specified. If commissions are divided with other brokers or agents, then only the amount retained by the broker or agent is considered gross income.
- B. Except as specifically required by S.C. Code 38-7-20, gross income for insurance companies shall be calculated on gross premiums written.
- C. Gross income for manufacturers of goods or materials with a location in the County shall be calculated on the lesser of (i) gross revenues or receipts received or accrued from business done at the location, (ii) the amount of income allocated and apportioned to that location by the business for purposes of the business's state income tax return, or (iii) the amount of expenses attributable to the location as a cost center of the business. Licensees reporting gross income under this provision shall have the burden to establish the amount and method of calculation by satisfactory records and proof. Manufacturers include those taxpayers reporting a manufacturing principal business activity code on their federal income tax returns.

"*License Official*" means a person designated to administer this ordinance. Notwithstanding the designation of a primary license official, the County may designate one or more alternate license officials to administer particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code.

"*Licensee*" means the business, the person applying for the license on behalf of the business, an agent or legal representative of the business, a person who receives any part of the net profit of the business, or a person who owns or exercises control of the business.

"*County*" means the Beaufort County, South Carolina.

"*NAICS*" means the North American Industry Classification System for the United States published under the auspices of the Federal Office of Management and Budget.

"*Person*" means any individual, firm, partnership, limited liability partnership, limited liability company, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principal.

Section 3. Purpose and Duration. The business license required by this ordinance is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. The license year ending on December 31, 2021 shall commence on May 1st, 2022 and shall run through April 30th 2023. Thereafter, the license periods shall be established as follows. Except as set forth below for business licenses issued to contractors with respect to specific construction projects, each yearly license

shall be issued for the twelve-month period of May 1 to April 30. A business license issued for a construction contract may, at the request of the licensee, be stated to expire at the completion of the construction project; provided, any such business license may require that the licensee file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by the Council.

Section 4. Business License Tax Refund.

- A. The required business license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the due date of the 30th day of April in each year, except for those businesses in Rate Class 8 for which a different due date is specified. Late payments shall be subject to penalties as set forth in Section 12 hereof, except that admitted insurance companies may pay before June 1 without penalty.
- B. A separate license shall be required for each place of business and for each classification or business conducted at one place. If gross income cannot be separated for classifications at one location, the business license tax shall be computed on the combined gross income for the classification requiring the highest rate. The business license tax must be computed based on the licensee's gross income for the calendar year preceding the due date, for the licensee's twelve-month fiscal year preceding the due date, or on a twelve-month projected income based on the monthly average for a business in operation for less than one year. The business license tax for a new business must be computed on the estimated probable gross income for the balance of the license year. A business license related to construction contract projects may be issued on a per-project basis, at the option of the taxpayer. No refund shall be made for a business that is discontinued.
- C. A licensee that submits a payment greater than the amount owed may request a refund. To be considered, a refund request must be submitted in writing to the County before the June 1 immediately following the April 30 on which the payment was due and must be supported by adequate documentation supporting the refund request. The County shall approve or deny the refund request, and if approved shall issue the refund to the business, within thirty days after receipt of the request.

Section 5. Registration Required.

- A. The owner, agent, or legal representative of every business subject to this ordinance, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year; provided, a new business shall be required to have a business license prior to operation within the County, and an annexed business shall be required to have a business license within thirty (30) days of the annexation. A license for a bar (NAICS 722410) must be issued in the name of the individual who has been issued the corresponding state alcohol, beer, or wine permit or license and will have actual control and management of the business.

- B. Application shall be on the then-current standard business license application as established and provided by the Director of the South Carolina Revenue and Fiscal Affairs Office and shall be accompanied by all information about the applicant, the licensee, and the business deemed appropriate to carry out the purpose of this ordinance by the license official.

Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross receipts and gross revenue figures.

- C. The applicant shall certify under oath that the information given in the application is true, that the gross income is accurately reported (or estimated for a new business) without any unauthorized deductions, and that all assessments, personal property taxes on business property, and other monies due and payable to the County have been paid.
- D. The County shall allow application, reporting, calculation, and payment of business license taxes through the business license tax portal hosted and managed by the South Carolina Revenue and Fiscal Affairs Office, subject to the availability and capability thereof. Any limitations in portal availability or capability do not relieve the applicant or Licensee from existing business license or business license tax obligations.

Section 6. Deductions, Exemptions, and Charitable Organizations.

- A. No deductions from gross income shall be made except income earned outside of the County on which a license tax is paid by the business to some other County or county and fully reported to the County, taxes collected for a governmental entity, or income which cannot be included for computation of the tax pursuant to state or federal law. Properly apportioned income from business in interstate commerce shall be included in the calculation of gross income and is not exempted. The applicant shall have the burden to establish the right to exempt income by satisfactory records and proof.
- B. No person shall be exempt from the requirements of the ordinance by reason of the lack of an established place of business within the County, unless exempted by state or federal law. The license official shall determine the appropriate classification for each business in accordance with the latest issue of NAICS. No person shall be exempt from this ordinance by reason of the payment of any other tax, unless exempted by state law, and no person shall be relieved of liability for payment of any other tax or fee by reason of application of this ordinance.
- C. Wholesalers are exempt from business license taxes unless they maintain warehouses or distribution establishments within the County. A wholesale transaction involves a sale to an individual who will resell the goods and includes delivery of the goods to the reseller. It does not include a sale of goods to a user or consumer.
- D. A charitable organization shall be exempt from the business license tax on its gross income unless it is deemed a business subject to a business license tax on all or part of its gross income as provided in this section. A charitable organization, or any affiliate of a charitable organization, that reports income from for-profit activities or unrelated business income for federal income tax purposes to the Internal Revenue Service shall be deemed a business subject to a business license tax on the part of its gross income from such for-profit activities or unrelated business income.

- E. A charitable organization shall be deemed a business subject to a business license tax on its total gross income if (1) any net proceeds of operation, after necessary expenses of operation, inure to the benefit of any individual or any entity that is not itself a charitable organization as defined in this ordinance, or (2) any net proceeds of operation, after necessary expenses of operation, are used for a purpose other than a charitable purpose as defined in this ordinance. Excess benefits or compensation in any form beyond fair market value to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

Section 7. False Application Unlawful. It shall be unlawful for any person subject to the provisions of this ordinance to make a false application for a business license or to give or file, or direct the giving or filing of, any false information with respect to the license or tax required by this ordinance.

Section 8. Display and Transfer.

- A. All persons shall display the license issued to them on the original form provided by the license official in a conspicuous place in the business establishment at the address shown on the license. A transient or non-resident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the County.
- B. A change of address must be reported to the license official within ten (10) days after removal of the business to a new location and the license will be valid at the new address upon written notification by the license official and compliance with zoning and building codes. Failure to obtain the approval of the license official for a change of address shall invalidate the license and subject the licensee to prosecution for doing business without a license. A business license shall not be transferable, and a transfer of controlling interest shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on old business income.

Section 9. Administration of Ordinance. The license official shall administer the provisions of this ordinance, collect business license taxes, issue licenses, make or initiate investigations and audits to ensure compliance, initiate denial or suspension and revocation procedures, report violations to the municipal attorney, assist in prosecution of violators, produce forms, undertake reasonable procedures relating to the administration of this ordinance, and perform such other duties as may be duly assigned.

Section 10. Inspection and Audits.

- A. For the purpose of enforcing the provisions of this ordinance, the license official or other authorized agent of the County is empowered to enter upon the premises of any person subject to this ordinance to make inspections and to examine and audit books and records. It shall be unlawful for any such person to fail or refuse to make available the necessary books and records. In the event an audit or inspection reveals that the licensee has filed false information, the costs of the audit shall be added to the correct business license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of business license tax shall constitute a separate offense.

- B. The license official shall have the authority to make inspections and conduct audits of businesses to ensure compliance with the ordinance. Financial information obtained by inspections and audits shall not be deemed public records, and the license official shall not release the amount of business license taxes paid or the reported gross income of any person by name without written permission of the licensee, except as authorized by this ordinance, state or federal law, or proper judicial order. Statistics compiled by classifications are public records.

Section 11. Assessments. Payment under Protest, Appeal.

- A. Assessments, payments under protest, and appeals of assessment shall be allowed and conducted by the County pursuant to the provisions of S.C. Code 6-1-410, as amended. In preparing an assessment, the license official may examine such records of the business, or any other available records as may be appropriate and conduct such investigations and statistical surveys as the license official may deem appropriate to assess a business license tax and penalties as provided herein.
- B. The license official shall establish a uniform local procedure consistent with S.C. Code § 4-9-30 for hearing an application for adjustment of assessment and issuing a notice of final assessment; provided that for particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the County, by separate ordinance, may establish a different procedure and may delegate one or more rights, duties, and functions hereunder to the Municipal Association of South Carolina.

Section 12. Delinquent License Taxes, Partial Payment.

- A. For non-payment of all or any part of the correct business license tax, the license official shall impose and collect a late penalty of five (5%) percent of the unpaid tax for each month or portion thereof after the due date until paid. Penalties shall not be waived. If any business license tax remains unpaid for sixty (60) days after its due date, the license official shall report it to the municipal attorney for appropriate legal action.
- B. Partial payment may be accepted by the license official to toll imposition of penalties on the portion paid; provided, however, no business license shall be issued or renewed until the full amount of the tax due, with penalties, has been paid.

Section 13. Notices. The license official may, but shall not be required to, mail written notices that business license taxes are due. If notices are not mailed, there shall be published a notice of the due date in a newspaper of general circulation within the County three (3) times prior to the due date in each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or grounds for waiver of penalties.

Section 14. Denial of License. The license official may deny a license to an applicant when the license official determines:

- A. The application is incomplete or contains a misrepresentation, false or misleading statement, or evasion or suppression of a material fact;

- B. The activity for which a license is sought is unlawful or constitutes a public nuisance *per se* or *per accidens*;
- C. The applicant, licensee, prior licensee, or the person in control of the business has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- D. The applicant, licensee, prior licensee, or the person in control of the business has engaged in an unlawful activity or nuisance related to the business or to a similar business in the County or in another jurisdiction;
- E. The applicant, licensee, prior licensee, or the person in control of the business is delinquent in the payment to the County of any tax or fee;
- F. A licensee has actual knowledge or notice, or based on the circumstances reasonably should have knowledge or notice, that any person or employee of the licensee has committed a crime of moral turpitude on the business premises, or has permitted any person or employee of the licensee to engage in the unlawful sale of merchandise or prohibited goods on the business premises and has not taken remedial measures necessary to correct such activity; or
- G. The license for the business or for a similar business of the licensee in the County or another jurisdiction has been denied, suspended, or revoked in the previous license year.

A decision of the license official shall be subject to appeal as herein provided. Denial shall be written with reasons stated.

Section 15. Suspension or Revocation of License. When the license official determines:

- A. A license has been mistakenly or improperly issued or issued contrary to law;
- B. A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance;
- C. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in the license application;
- D. A licensee has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- E. A licensee has engaged in an unlawful activity or nuisance related to the business; or
- F. A licensee is delinquent in the payment to the County of any tax or fee,

the license official may give written notice to the licensee or the person in control of the business within the County by personal service or mail that the license is suspended pending a single hearing before Council or its designee for the purpose of determining whether the suspension should be upheld and the license should be revoked.

The written notice of suspension and proposed revocation shall state the time and place at which the hearing is to be held, and shall contain a brief statement of the reasons for the suspension and proposed revocation and a copy of the applicable provisions of this ordinance.

Section 16. Appeals to Council or its Designee.

- A. Except with respect to appeals of assessments under Section 11 hereof, which are governed by S.C. Code 6-1-410, any person aggrieved by a determination, denial, or suspension and proposed revocation of a business license by the license official may appeal the decision to the Council or its designee by request stating the reasons for appeal, filed with the license official within ten (10) days after service by mail or personal service of the notice of determination, denial, or suspension and proposed revocation.
- B. A hearing on an appeal from a license denial or other determination of the license official and a hearing on a suspension and proposed revocation shall be held by the Council or its designee within ten (10) business days after receipt of a request for appeal or service of a notice of suspension and proposed revocation. The hearing shall be held upon written notice at a regular or special meeting of the Council, or, if by designee of the Council, at a hearing to be scheduled by the designee. The hearing may be continued to another date by agreement of all parties. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Council or its designee shall govern the hearing. Following the hearing, the Council by majority vote of its members present, or the designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the standards herein. The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the County.
- C. Timely appeal of a decision of Council or its designee does not effectuate a stay of that decision. The decision of the Council or its designee shall be binding and enforceable unless overturned by an applicable appellate court after a due and timely appeal.
- D. For business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the County may establish a different procedure by ordinance.

Section 17. Consent, franchise, or license required for use of streets.

- A. It shall be unlawful for any person to construct, install, maintain, or operate in, on, above, or under any street or public place under control of the County any line, pipe, cable, pole, structure, or facility for utilities, communications, cablevision, or other purposes without a consent agreement or franchise agreement issued by the Council by ordinance that prescribes the term, fees, and conditions for use.
- B. The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be consistent with limits set by state law. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of

or be credited against business license taxes unless specifically provided by the franchise or consent agreement.

Section 18. Confidentiality. Except in accordance with proper judicial order or as otherwise provided by law, no official or employee of the County may divulge or make known in any manner the amount of income or any financial particulars set forth or disclosed in any report or return required under this ordinance. Nothing in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns. Any license data may be shared with other public officials or employees in the performance of their duties, whether or not those duties relate to enforcement of this ordinance.

Section 19. Violations. Any person violating any provision of this ordinance shall be deemed guilty of an offense and shall be subject to a fine of up to \$500.00 or imprisonment for not more than thirty (30) days or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties, and costs provided for in this ordinance.

Section 20. Severability. A determination that any portion of this ordinance is invalid or unenforceable shall not affect the remaining portions. To the extent of any conflict between the provisions of this ordinance and the provisions of the South Carolina Business License Tax Standardization Act, as codified at S.C. Code 6-1-400 et seq., the standardization act shall control.

Section 21. Classification and Rates.

- A. The business license tax for each class of businesses subject to this ordinance shall be computed in accordance with the current business license rate schedule, designated as Appendix A to this ordinance, which may be amended from time to time by the Council.
- B. The current business license class schedule is attached hereto as Appendix B. Hereafter, no later than December 31 of each odd year, the County shall adopt, by ordinance, the latest standardized business license class schedule as recommended by the Municipal Association of South Carolina and adopted by the Director of the South Carolina Revenue and Fiscal Affairs Office. Upon adoption by the County, the revised business license class schedule shall then be appended to this ordinance as a replacement Appendix B.
- C. The classifications included in each rate class are listed with NAICS codes, by sector, subsector, group, or industry. The business license class schedule (Appendix B) is a tool for classification and not a limitation on businesses subject to a business license tax. The classification in the most recent version of the business license class schedule adopted by the Council that most specifically identifies the subject business shall be applied to the business. The license official shall have the authority to make the determination of the classification most specifically applicable to a subject business.
- D. A copy of the class schedule and rate schedule shall be filed in the office of the clerk.

APPENDIX A: BUSINESS LICENSE RATE SCHEDULE

<u>RATE CLASS</u> <u>FRACTION THEREOF</u>	<u>BASE RATE</u>	INCOME: \$0 - \$2,000	INCOME OVER \$2,000
			<u>RATE PER \$1 000 OR</u>
1	\$ 35.00		\$ 0.37
2	\$ 40.00		\$ 0.47
3	\$ 45.00		\$ 0.57
4	\$ 50.00		\$ 0.67
5	\$ 55.00		\$ 0.77
6	\$ 60.00		\$ 0.87
7	\$ 65.00		\$ 0.97
8.1	\$ 40.00		\$ 0.47
8.2	Set by state statute		
8.3	MASC Telecommunications		
8.4	MASC Insurance		
8.51	\$12.50 + \$12.50 per machine		
8.52	\$12.50 + \$180.00 per machine		
8.6	\$ 45.00 plus \$5.00 -OR- \$12.50 per table		\$ 0.5

NON-RESIDENT RATES

Unless otherwise specifically provided, all taxes and rates shall be doubled for nonresidents and itinerants having no fixed principal place of business within the County.

CLASS 8 RATES

Each NAICS number designates a separate subclassification. The businesses in this section are treated as separate and individual subclasses due to provisions of state law, regulatory requirements, service burdens, tax equalization considerations, and other factors that are deemed sufficient to require individually determined rates. In accordance with state law, the County also may provide for reasonable subclassifications for rates, described by an NAICS sector, subsector, or industry, that are based on particularized considerations as needed for economic stimulus or for the enhanced or disproportionate demands on municipal services or infrastructure.

Non-resident rates do not apply except where indicated.

8.1 NAICS 230000 — Contractors, Construction. All Types [Non-resident rates apply].

Resident rates, for contractors having a permanent place of business within the County: Minimum

on first \$2,000_____ \$ see rates PLUS

Each additional 1,000_____ \$ see rates

Non-resident rates apply to contractors that do not have a permanent place of business within the County. A trailer at the construction site or structure in which the contractor temporarily resides is not a permanent place of business under this ordinance.

No contractor shall be issued a business license until all state and municipal qualification examination and trade license requirements have been met. Each contractor shall post a sign in plain view on each job identifying the contractor with the job.

Sub-contractors shall be licensed on the same basis as general or prime contractors for the same job. No deductions shall be made by a general or prime contractor for value of work performed by a sub-contractor.

No contractor shall be issued a business license until all performance and indemnity bonds required by the Building Code have been filed and approved. Zoning permits must be obtained when required by the Zoning Ordinance.

Each prime contractor shall file with the License Official a list of sub-contractors furnishing labor or materials for each project.

For licenses issued on a per-job basis, the total tax for the full amount of the contract shall be paid prior to commencement of work and shall entitle the contractor to complete the job without regard to the normal license expiration date. An amended report shall be filed for each new job and the appropriate additional license fee per \$1,000 of the contract amount shall be paid prior to commencement of new work. Only one base tax shall be paid in a license year. Licensees holding a per-job license shall file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount.

8.2 NAICS 482 - Railroad Companies (See S.C. Code 12-23-210).

8.3 NAICS 517311, 517312 517111, 517112, 517222 - Telephone Companies.

With respect to "retail telecommunications services" as defined in S. C. Code 58-9-2200, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program by separate ordinance (the "Telecommunications Collections Ordinance"). The rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to retail telecommunications services are set forth in the Telecommunications Collections Ordinance.

8.4 NAICS 5241 — Insurance Companies:

Independent agents, brokers, their employees are subject to a business license tax based on their natural class. With respect to insurers subject to license fees and taxes under Chapter 7 of Title 38 and to brokers under Chapter 45 of Title 38, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program by separate ordinance (the "Insurers and Brokers Collections Ordinance"). The rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to insurers and brokers are set forth in the Insurers and Brokers Collections Ordinance.

8.51 NAICS 713120 — Amusement Machines, coin operated (except gambling). Music machines, juke boxes, kiddie rides, video games, pin tables with levers, and other amusement machines with or without free play feature licensed by SC Department of Revenue pursuant to S.C. Code 12-21-2720(A)(1) and (A)(2) [Type I and Type II].

For operation of all machines (not on gross income), pursuant to S.C. Code 12-21-2746:

Per Machine _____ \$12.50 PLUS
Business license _____ \$12.50

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.51.

8.52 NAICS 713290 — Amusement Machines, coin operated, non-payout. Amusement machines of the non-payout type or in-line pin game licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(3) [Type III].

For operation of all machines (not on gross income), pursuant to S.C. Code 512-21-2720(B):

Per Machine _____ \$180.00 PLUS
Business license _____ \$12.50

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.52.

8.6 NAICS 713990 - Billiard or Pool Rooms, all types. A business that offers the use of billiard or pool tables shall be subject to business license taxation under its natural class for all gross income of the business excluding the gross income attributable to the billiard or pool tables. In addition, the billiard or pool tables shall require their own separate business licenses (A) P pursuant to SC Code 12-21-2746 and shall be subject to a license tax of \$5.00 per table measuring less than

3 ½ feet wide and 7 feet long, and \$12.50 per table longer than that.; PLUS, (B) with respect to gross income from the entire business in addition to the tax authorized by state law for each table:

~~Minimum on first \$2,000~~ _____ ~~\$ see rates~~ PLUS

~~Per \$ 1,000, or fraction, over \$2,000~~ _____ ~~\$ see rates~~

Business License Class Schedule by NAICS Code

Appendix B

NAICS Sector/Subsector	Industry Sector	Class
11	Agriculture, forestry, hunting and fishing	2-0
21	Mining	4-0
23	Construction	8-1
31-33	Manufacturing	2-0
42	Wholesale trade	1-0
423930	Recyclable Material Merchant Wholesalers (Junk)	9-1
44-45	Retail trade	1-0
4411	Automobile Dealers	9-3
4412	Other Motor Vehicle Dealers	9-3
454390	Other Direct Selling Establishments (Peddlers)	9.41 & 9.4
48-49	Transportation and warehousing	2-0
482	Rail Transportation	8-2
51	Information	4-0
517311	Wired Telecommunications Carriers	8-3
517312	Wireless Telecommunications Carriers (except Satellite)	8-3
52	Finance and insurance	7-0
522298	Pawnshops	9-2
5241	Insurance Carriers	8-4
5242	Insurance Brokers for non-admitted Insurance Carriers	8-4
53	Real estate and rental and leasing	7-0
54	Professional, scientific, and technical services	5-0
55	Management of companies	7-0
56	Administrative and support and waste management and remediation services	4-0
61	Educational services	4-0
62	Health care and social assistance	4-0
71	Arts, entertainment, and recreation	3-0
711190	Other Performing Arts Companies (Carnivals and Circuses)	9-6
713120	Amusement Parks and Arcades	8-5
713290	Nonpayout Amusement Machines	8-5
713290	Bingo Halls	9-5
713990	All Other Amusement and Recreational Industries (pool tables)	
721	Accommodation	3-0
722	Food services and drinking places	1-0
722410	Drinking Places (Alcoholic Beverages)	
81	Other services	5-0

Note: Class Schedule is based on 2017 IRS data.

APPENDIX B
Classes 1 – 8: Business License Class Schedule by NAICS Codes

NAICS Sector/Subsector	Industry Sector	Class
11	Agriculture, forestry, hunting and fishing	1
21	Mining	2
22	Utilities	1
31 - 33	Manufacturing	3
42	Wholesale trade	1
44 - 45	Retail trade	1
48 - 49	Transportation and warehousing	1
51	Information	4
52	Finance and insurance	7
53	Real estate and rental and leasing	7
54	Professional, scientific, and technical services	5
55	Management of companies	7
56	Administrative and support and waste management and remediation services	3
61	Educational services	3
62	Health care and social assistance	4
71	Arts, entertainment, and recreation	3
721	Accommodation	1
722	Food services and drinking places	2
81	Other services	4
Class 8	Subclasses	
23	Construction	8.1
482	Rail Transportation	8.2
517111	Wired Telecommunications Carriers	8.3
517112	Wireless Telecommunications Carriers (except Satellite)	8.3
517122	Agents for Wireless Telecommunications Services	8.3
5241	Insurance Carriers	8.4
5242	Insurance Brokers for non-admitted Insurance Carriers	8.4
713120	Amusement Parks and Arcades	8.51
713290	Nonpayout Amusement Machines	8.52
713990	All Other Amusement and Recreational Industries (pool tables)	8.6

2023 Class Schedule is based on a three-year average (2017 - 2019) of IRS statistical data.

This appendix will be updated every odd year based on the latest available IRS statistics. The Business License Class Schedule may be accessed at:

Item 14.

ORDINANCE 2023/XX

AN ORDINANCE TO AMEND THE BUSINESS AND PROFESSIONAL LICENSES ORDINANCE, CHAPTER 18, ARTICLE III, SECTION 18-67(A)(B), APPENDIX A&B.

WHEREAS, the County of Beaufort is authorized by S.C. Code Section 4-9-30 and Title 6, Chapter 1, Article 3 to impose a business license tax on gross income; and

WHEREAS, Beaufort County has been in the practice of regulating business licensing as evidenced by the Beaufort County Code of Ordinances Chapter 18, Article III, Sections 18-46 through 18-71; and

WHEREAS, by Act No. 176 of 2020, known as the South Carolina Business License Tax Standardization Act (“Standardization Act”). The South Carolina General Assembly imposed additional requirements and conditions on the administration of business license taxes; and

WHEREAS, the Standardization Act requires that by December thirty-first of every odd year, the County must adopt, by ordinance, the latest Standardized Business License Class Schedule as recommended by the Municipal Association of South Carolina (the “Association”) and adopted by the Director of the Revenue and Fiscal Affairs Office; and

WHEREAS, the County Council of Beaufort County now wishes to amend the Current Business and Professional License Ordinance to adopt the latest Standardized Business License Class Schedule, as required by the Standardization Act, and to make other minor amendments as recommended by the Association.

NOW, THEREFORE, be it ordained by Beaufort County Council, in a meeting duly assembled, that Chapter 18, Article III, Section 18-67 (a)(b), Appendix A&B of the Code of Ordinances is amended to adopt the latest Standardization Business License Class Schedule and to make other minor amendments as recommended by the Association and as set forth in Exhibit "A".

Adopted this _____ day of _____ 2023

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, JD, Clerk to Council

ARTICLE III. - BUSINESS AND PROFESSIONAL LICENSES

Section 1. License Required. Every person engaged or intending to engage in any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, in whole or in part within the limits of Beaufort County, South Carolina, is required to pay an annual license tax for the privilege of doing business and obtain a business license as herein provided.

Section 2. Definitions. The following words, terms, and phrases, when used in this ordinance, shall have the meaning ascribed herein. Defined terms are not capitalized when used in this ordinance unless the context otherwise requires.

"*Business*" means any business, calling, occupation, profession, or activity engaged in with the object of gain, benefit, or advantage, either directly or indirectly. In addition to the above-described activities constituting doing business in the count an individual shall be deemed to be in business if that individual owns and rents two or more residential rental units (or holds a partial interest therein) within the County, excluding the municipality therein. This applies to long-term rentals (30 days or more) only.

"*Charitable Organization*" means an organization that is determined by the Internal Revenue Service to be exempt from Federal income taxes under 26 U.S.C. Section 501 (c)(3), (4), (6), (7), (8), (10) or (19).

"*Charitable Purpose*" means a benevolent, philanthropic, patriotic, or eleemosynary purpose that does not result in personal gain to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization.

"*Classification*" means that division of businesses by NAICS codes subject to the same license rate as determined by a calculated index of ability to pay based on national averages, benefits, equalization of tax burden, relationships of services, or other basis deemed appropriate by the Council.

"*Council*" means the County Council of Beaufort County.

"*Domicile*" means a principal place from which the trade or business of a licensee is conducted, directed, or managed. For purposes of this ordinance, a licensee may be deemed to have more than one domicile.

"*Gross Income*" means the gross receipts or gross revenue of a business, received or accrued, for one calendar or fiscal year collected or to be collected from business done within the County. If the licensee has a domicile within the County, business done within the County shall include all gross receipts or revenue received or accrued by such licensee. If the licensee does not have a domicile within the County, business done within the County shall include only gross receipts or revenue received or accrued within the County. In all cases, if the licensee pays a business license tax to another Municipality or County, then the licensee's gross income for the purpose of computing the tax within the County must be reduced by the amount of revenues or receipts taxed in the other Municipality or County and fully reported to the County. Gross income for business license tax purposes shall not include taxes collected for a governmental entity, escrow funds, or funds that are the property of a third party. The value of bartered goods or trade-in merchandise

shall be included in gross income. The gross receipts or gross revenues for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Department of Insurance, or other government agencies. In calculating gross income for certain businesses, the following rules shall apply:

- A. Gross income for agents shall be calculated on gross commissions received or retained, unless otherwise specified. If commissions are divided with other brokers or agents, then only the amount retained by the broker or agent is considered gross income.
- B. Except as specifically required by S.C. Code 38-7-20, gross income for insurance companies shall be calculated on gross premiums written.
- C. Gross income for manufacturers of goods or materials with a location in the County shall be calculated on the lesser of (i) gross revenues or receipts received or accrued from business done at the location, (ii) the amount of income allocated and apportioned to that location by the business for purposes of the business's state income tax return, or (iii) the amount of expenses attributable to the location as a cost center of the business. Licensees reporting gross income under this provision shall have the burden to establish the amount and method of calculation by satisfactory records and proof. Manufacturers include those taxpayers reporting a manufacturing principal business activity code on their federal income tax returns.

"*License Official*" means a person designated to administer this ordinance. Notwithstanding the designation of a primary license official, the County may designate one or more alternate license officials to administer particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code.

"*Licensee*" means the business, the person applying for the license on behalf of the business, an agent or legal representative of the business, a person who receives any part of the net profit of the business, or a person who owns or exercises control of the business.

"*County*" means the Beaufort County, South Carolina.

"*NAICS*" means the North American Industry Classification System for the United States published under the auspices of the Federal Office of Management and Budget.

"*Person*" means any individual, firm, partnership, limited liability partnership, limited liability company, cooperative non-profit membership, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, and the agent or employee having charge or control of a business in the absence of the principal.

Section 3. Purpose and Duration. The business license required by this ordinance is for the purpose of providing such regulation as may be required for the business subject thereto and for the purpose of raising revenue for the general fund through a privilege tax. The license year ending on December 31, 2021 shall commence on May 1st, 2022 and shall run through April 30th 2023. Thereafter, the license periods shall be established as follows. Except as set forth below for business licenses issued to contractors with respect to specific construction projects, each yearly license

shall be issued for the twelve-month period of May 1 to April 30. A business license issued for a construction contract may, at the request of the licensee, be stated to expire at the completion of the construction project; provided, any such business license may require that the licensee file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount. The provisions of this ordinance and the rates herein shall remain in effect from year to year as amended by the Council.

Section 4. Business License Tax Refund.

- A. The required business license tax shall be paid for each business subject hereto according to the applicable rate classification on or before the due date of the 30th day of April in each year, except for those businesses in Rate Class 8 for which a different due date is specified. Late payments shall be subject to penalties as set forth in Section 12 hereof, except that admitted insurance companies may pay before June 1 without penalty.
- B. A separate license shall be required for each place of business and for each classification or business conducted at one place. If gross income cannot be separated for classifications at one location, the business license tax shall be computed on the combined gross income for the classification requiring the highest rate. The business license tax must be computed based on the licensee's gross income for the calendar year preceding the due date, for the licensee's twelve-month fiscal year preceding the due date, or on a twelve-month projected income based on the monthly average for a business in operation for less than one year. The business license tax for a new business must be computed on the estimated probable gross income for the balance of the license year. A business license related to construction contract projects may be issued on a per-project basis, at the option of the taxpayer. No refund shall be made for a business that is discontinued.
- C. A licensee that submits a payment greater than the amount owed may request a refund. To be considered, a refund request must be submitted in writing to the County before the June 1 immediately following the April 30 on which the payment was due and must be supported by adequate documentation supporting the refund request. The County shall approve or deny the refund request, and if approved shall issue the refund to the business, within thirty days after receipt of the request.

Section 5. Registration Required.

- A. The owner, agent, or legal representative of every business subject to this ordinance, whether listed in the classification index or not, shall register the business and make application for a business license on or before the due date of each year; provided, a new business shall be required to have a business license prior to operation within the County, and an annexed business shall be required to have a business license within thirty (30) days of the annexation. A license for a bar (NAICS 722410) must be issued in the name of the individual who has been issued the corresponding state alcohol, beer, or wine permit or license and will have actual control and management of the business.

- B. Application shall be on the then-current standard business license application as established and provided by the Director of the South Carolina Revenue and Fiscal Affairs Office and shall be accompanied by all information about the applicant, the licensee, and the business deemed appropriate to carry out the purpose of this ordinance by the license official.

Applicants may be required to submit copies of portions of state and federal income tax returns reflecting gross receipts and gross revenue figures.

- C. The applicant shall certify under oath that the information given in the application is true, that the gross income is accurately reported (or estimated for a new business) without any unauthorized deductions, and that all assessments, personal property taxes on business property, and other monies due and payable to the County have been paid.
- D. The County shall allow application, reporting, calculation, and payment of business license taxes through the business license tax portal hosted and managed by the South Carolina Revenue and Fiscal Affairs Office, subject to the availability and capability thereof. Any limitations in portal availability or capability do not relieve the applicant or Licensee from existing business license or business license tax obligations.

Section 6. Deductions, Exemptions, and Charitable Organizations.

- A. No deductions from gross income shall be made except income earned outside of the County on which a license tax is paid by the business to some other County or county and fully reported to the County, taxes collected for a governmental entity, or income which cannot be included for computation of the tax pursuant to state or federal law. Properly apportioned income from business in interstate commerce shall be included in the calculation of gross income and is not exempted. The applicant shall have the burden to establish the right to exempt income by satisfactory records and proof.
- B. No person shall be exempt from the requirements of the ordinance by reason of the lack of an established place of business within the County, unless exempted by state or federal law. The license official shall determine the appropriate classification for each business in accordance with the latest issue of NAICS. No person shall be exempt from this ordinance by reason of the payment of any other tax, unless exempted by state law, and no person shall be relieved of liability for payment of any other tax or fee by reason of application of this ordinance.
- C. Wholesalers are exempt from business license taxes unless they maintain warehouses or distribution establishments within the County. A wholesale transaction involves a sale to an individual who will resell the goods and includes delivery of the goods to the reseller. It does not include a sale of goods to a user or consumer.
- D. A charitable organization shall be exempt from the business license tax on its gross income unless it is deemed a business subject to a business license tax on all or part of its gross income as provided in this section. A charitable organization, or any affiliate of a charitable organization, that reports income from for-profit activities or unrelated business income for federal income tax purposes to the Internal Revenue Service shall be deemed a business subject to a business license tax on the part of its gross income from such for-profit activities or unrelated business income.

- E. A charitable organization shall be deemed a business subject to a business license tax on its total gross income if (1) any net proceeds of operation, after necessary expenses of operation, inure to the benefit of any individual or any entity that is not itself a charitable organization as defined in this ordinance, or (2) any net proceeds of operation, after necessary expenses of operation, are used for a purpose other than a charitable purpose as defined in this ordinance. Excess benefits or compensation in any form beyond fair market value to a sponsor, organizer, officer, director, trustee, or person with ultimate control of the organization shall not be deemed a necessary expense of operation.

Section 7. False Application Unlawful. It shall be unlawful for any person subject to the provisions of this ordinance to make a false application for a business license or to give or file, or direct the giving or filing of, any false information with respect to the license or tax required by this ordinance.

Section 8. Display and Transfer.

- A. All persons shall display the license issued to them on the original form provided by the license official in a conspicuous place in the business establishment at the address shown on the license. A transient or non-resident shall carry the license upon his person or in a vehicle used in the business readily available for inspection by any authorized agent of the County.
- B. A change of address must be reported to the license official within ten (10) days after removal of the business to a new location and the license will be valid at the new address upon written notification by the license official and compliance with zoning and building codes. Failure to obtain the approval of the license official for a change of address shall invalidate the license and subject the licensee to prosecution for doing business without a license. A business license shall not be transferable, and a transfer of controlling interest shall be considered a termination of the old business and the establishment of a new business requiring a new business license, based on old business income.

Section 9. Administration of Ordinance. The license official shall administer the provisions of this ordinance, collect business license taxes, issue licenses, make or initiate investigations and audits to ensure compliance, initiate denial or suspension and revocation procedures, report violations to the municipal attorney, assist in prosecution of violators, produce forms, undertake reasonable procedures relating to the administration of this ordinance, and perform such other duties as may be duly assigned.

Section 10. Inspection and Audits.

- A. For the purpose of enforcing the provisions of this ordinance, the license official or other authorized agent of the County is empowered to enter upon the premises of any person subject to this ordinance to make inspections and to examine and audit books and records. It shall be unlawful for any such person to fail or refuse to make available the necessary books and records. In the event an audit or inspection reveals that the licensee has filed false information, the costs of the audit shall be added to the correct business license tax and late penalties in addition to other penalties provided herein. Each day of failure to pay the proper amount of business license tax shall constitute a separate offense.

- B. The license official shall have the authority to make inspections and conduct audits of businesses to ensure compliance with the ordinance. Financial information obtained by inspections and audits shall not be deemed public records, and the license official shall not release the amount of business license taxes paid or the reported gross income of any person by name without written permission of the licensee, except as authorized by this ordinance, state or federal law, or proper judicial order. Statistics compiled by classifications are public records.

Section 11. Assessments. Payment under Protest, Appeal.

- A. Assessments, payments under protest, and appeals of assessment shall be allowed and conducted by the County pursuant to the provisions of S.C. Code 6-1-410, as amended. In preparing an assessment, the license official may examine such records of the business, or any other available records as may be appropriate and conduct such investigations and statistical surveys as the license official may deem appropriate to assess a business license tax and penalties as provided herein.
- B. The license official shall establish a uniform local procedure consistent with S.C. Code § 4-9-30 for hearing an application for adjustment of assessment and issuing a notice of final assessment; provided that for particular types of business licenses, including without limitation for business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the County, by separate ordinance, may establish a different procedure and may delegate one or more rights, duties, and functions hereunder to the Municipal Association of South Carolina.

Section 12. Delinquent License Taxes, Partial Payment.

- A. For non-payment of all or any part of the correct business license tax, the license official shall impose and collect a late penalty of five (5%) percent of the unpaid tax for each month or portion thereof after the due date until paid. Penalties shall not be waived. If any business license tax remains unpaid for sixty (60) days after its due date, the license official shall report it to the municipal attorney for appropriate legal action.
- B. Partial payment may be accepted by the license official to toll imposition of penalties on the portion paid; provided, however, no business license shall be issued or renewed until the full amount of the tax due, with penalties, has been paid.

Section 13. Notices. The license official may, but shall not be required to, mail written notices that business license taxes are due. If notices are not mailed, there shall be published a notice of the due date in a newspaper of general circulation within the County three (3) times prior to the due date in each year. Failure to receive notice shall not constitute a defense to prosecution for failure to pay the tax due or grounds for waiver of penalties.

Section 14. Denial of License. The license official may deny a license to an applicant when the license official determines:

- A. The application is incomplete or contains a misrepresentation, false or misleading statement, or evasion or suppression of a material fact;

- B. The activity for which a license is sought is unlawful or constitutes a public nuisance *per se* or *per accidens*;
- C. The applicant, licensee, prior licensee, or the person in control of the business has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- D. The applicant, licensee, prior licensee, or the person in control of the business has engaged in an unlawful activity or nuisance related to the business or to a similar business in the County or in another jurisdiction;
- E. The applicant, licensee, prior licensee, or the person in control of the business is delinquent in the payment to the County of any tax or fee;
- F. A licensee has actual knowledge or notice, or based on the circumstances reasonably should have knowledge or notice, that any person or employee of the licensee has committed a crime of moral turpitude on the business premises, or has permitted any person or employee of the licensee to engage in the unlawful sale of merchandise or prohibited goods on the business premises and has not taken remedial measures necessary to correct such activity; or
- G. The license for the business or for a similar business of the licensee in the County or another jurisdiction has been denied, suspended, or revoked in the previous license year.

A decision of the license official shall be subject to appeal as herein provided. Denial shall be written with reasons stated.

Section 15. Suspension or Revocation of License. When the license official determines:

- A. A license has been mistakenly or improperly issued or issued contrary to law;
- B. A licensee has breached any condition upon which the license was issued or has failed to comply with the provisions of this ordinance;
- C. A licensee has obtained a license through a fraud, misrepresentation, a false or misleading statement, or evasion or suppression of a material fact in the license application;
- D. A licensee has been convicted within the previous ten years of an offense under a law or ordinance regulating business, a crime involving dishonest conduct or moral turpitude related to a business or a subject of a business, or an unlawful sale of merchandise or prohibited goods;
- E. A licensee has engaged in an unlawful activity or nuisance related to the business; or
- F. A licensee is delinquent in the payment to the County of any tax or fee,

the license official may give written notice to the licensee or the person in control of the business within the County by personal service or mail that the license is suspended pending a single hearing before Council or its designee for the purpose of determining whether the suspension should be upheld and the license should be revoked.

The written notice of suspension and proposed revocation shall state the time and place at which the hearing is to be held, and shall contain a brief statement of the reasons for the suspension and proposed revocation and a copy of the applicable provisions of this ordinance.

Section 16. Appeals to Council or its Designee.

- A. Except with respect to appeals of assessments under Section 11 hereof, which are governed by S.C. Code 6-1-410, any person aggrieved by a determination, denial, or suspension and proposed revocation of a business license by the license official may appeal the decision to the Council or its designee by request stating the reasons for appeal, filed with the license official within ten (10) days after service by mail or personal service of the notice of determination, denial, or suspension and proposed revocation.
- B. A hearing on an appeal from a license denial or other determination of the license official and a hearing on a suspension and proposed revocation shall be held by the Council or its designee within ten (10) business days after receipt of a request for appeal or service of a notice of suspension and proposed revocation. The hearing shall be held upon written notice at a regular or special meeting of the Council, or, if by designee of the Council, at a hearing to be scheduled by the designee. The hearing may be continued to another date by agreement of all parties. At the hearing, all parties shall have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The proceedings shall be recorded and transcribed at the expense of the party so requesting. The rules of evidence and procedure prescribed by Council or its designee shall govern the hearing. Following the hearing, the Council by majority vote of its members present, or the designee of Council if the hearing is held by the designee, shall render a written decision based on findings of fact and conclusions on application of the standards herein. The written decision shall be served, by personal service or by mail, upon all parties or their representatives and shall constitute the final decision of the County.
- C. Timely appeal of a decision of Council or its designee does not effectuate a stay of that decision. The decision of the Council or its designee shall be binding and enforceable unless overturned by an applicable appellate court after a due and timely appeal.
- D. For business licenses issued to businesses subject to business license taxes under Article 20, Chapter 9, Title 58, and Chapters 7 and 45, Title 38, of the South Carolina Code, the County may establish a different procedure by ordinance.

Section 17. Consent, franchise, or license required for use of streets.

- A. It shall be unlawful for any person to construct, install, maintain, or operate in, on, above, or under any street or public place under control of the County any line, pipe, cable, pole, structure, or facility for utilities, communications, cablevision, or other purposes without a consent agreement or franchise agreement issued by the Council by ordinance that prescribes the term, fees, and conditions for use.
- B. The annual fee for use of streets or public places authorized by a consent agreement or franchise agreement shall be set by the ordinance approving the agreement and shall be consistent with limits set by state law. Existing franchise agreements shall continue in effect until expiration dates in the agreements. Franchise and consent fees shall not be in lieu of

or be credited against business license taxes unless specifically provided by the franchise or consent agreement.

Section 18. Confidentiality. Except in accordance with proper judicial order or as otherwise provided by law, no official or employee of the County may divulge or make known in any manner the amount of income or any financial particulars set forth or disclosed in any report or return required under this ordinance. Nothing in this section shall be construed to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns. Any license data may be shared with other public officials or employees in the performance of their duties, whether or not those duties relate to enforcement of this ordinance.

Section 19. Violations. Any person violating any provision of this ordinance shall be deemed guilty of an offense and shall be subject to a fine of up to \$500.00 or imprisonment for not more than thirty (30) days or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for violation shall not relieve the offender of liability for delinquent taxes, penalties, and costs provided for in this ordinance.

Section 20. Severability. A determination that any portion of this ordinance is invalid or unenforceable shall not affect the remaining portions. To the extent of any conflict between the provisions of this ordinance and the provisions of the South Carolina Business License Tax Standardization Act, as codified at S.C. Code 6-1-400 et seq., the standardization act shall control.

Section 21. Classification and Rates.

- A. The business license tax for each class of businesses subject to this ordinance shall be computed in accordance with the current business license rate schedule, designated as Appendix A to this ordinance, which may be amended from time to time by the Council.
- B. The current business license class schedule is attached hereto as Appendix B. Hereafter, no later than December 31 of each odd year, the County shall adopt, by ordinance, the latest standardized business license class schedule as recommended by the Municipal Association of South Carolina and adopted by the Director of the South Carolina Revenue and Fiscal Affairs Office. Upon adoption by the County, the revised business license class schedule shall then be appended to this ordinance as a replacement Appendix B.
- C. The classifications included in each rate class are listed with NAICS codes, by sector, subsector, group, or industry. The business license class schedule (Appendix B) is a tool for classification and not a limitation on businesses subject to a business license tax. The classification in the most recent version of the business license class schedule adopted by the Council that most specifically identifies the subject business shall be applied to the business. The license official shall have the authority to make the determination of the classification most specifically applicable to a subject business.
- D. A copy of the class schedule and rate schedule shall be filed in the office of the clerk.

APPENDIX A: BUSINESS LICENSE RATE SCHEDULE

RATE CLASS FRACTION THEREOF	BASE RATE	INCOME: \$0 - \$2,000	INCOME OVER \$2,000
			RATE PER \$1 000 OR
1	\$ 35.00		\$ 0.37
2	\$ 40.00		\$ 0.47
3	\$ 45.00		\$ 0.57
4	\$ 50.00		\$ 0.67
5	\$ 55.00		\$ 0.77
6	\$ 60.00		\$ 0.87
7	\$ 65.00		\$ 0.97
8.1	\$ 40.00		\$ 0.47
8.2	Set by state statute		
8.3	MASC Telecommunications		
8.4	MASC Insurance		
8.51	\$12.50 + \$12.50 per machine		
8.52	\$12.50 + \$180.00 per machine		
8.6	\$ 45.00 plus \$5.00 -OR- \$12.50 per table		\$ 0.5

NON-RESIDENT RATES

Unless otherwise specifically provided, all taxes and rates shall be doubled for nonresidents and itinerants having no fixed principal place of business within the County.

CLASS 8 RATES

Each NAICS number designates a separate subclassification. The businesses in this section are treated as separate and individual subclasses due to provisions of state law, regulatory requirements, service burdens, tax equalization considerations, and other factors that are deemed sufficient to require individually determined rates. In accordance with state law, the County also may provide for reasonable subclassifications for rates, described by an NAICS sector, subsector, or industry, that are based on particularized considerations as needed for economic stimulus or for the enhanced or disproportionate demands on municipal services or infrastructure.

Non-resident rates do not apply except where indicated.

8.1 NAICS 230000 — Contractors, Construction. All Types [Non-resident rates apply].

Resident rates, for contractors having a permanent place of business within the County: Minimum

on first \$2,000_____ \$ see rates PLUS

Each additional 1,000_____ \$ see rates

Non-resident rates apply to contractors that do not have a permanent place of business within the County. A trailer at the construction site or structure in which the contractor temporarily resides is not a permanent place of business under this ordinance.

No contractor shall be issued a business license until all state and municipal qualification examination and trade license requirements have been met. Each contractor shall post a sign in plain view on each job identifying the contractor with the job.

Sub-contractors shall be licensed on the same basis as general or prime contractors for the same job. No deductions shall be made by a general or prime contractor for value of work performed by a sub-contractor.

No contractor shall be issued a business license until all performance and indemnity bonds required by the Building Code have been filed and approved. Zoning permits must be obtained when required by the Zoning Ordinance.

Each prime contractor shall file with the License Official a list of sub-contractors furnishing labor or materials for each project.

For licenses issued on a per-job basis, the total tax for the full amount of the contract shall be paid prior to commencement of work and shall entitle the contractor to complete the job without regard to the normal license expiration date. An amended report shall be filed for each new job and the appropriate additional license fee per \$1,000 of the contract amount shall be paid prior to commencement of new work. Only one base tax shall be paid in a license year. Licensees holding a per-job license shall file, by each April 30 during the continuation of the construction project, a statement of compliance, including but not limited to a revised estimate of the value of the contract. If any revised estimate of the final value of such project exceeds the amount for which the business license was issued, the licensee shall be required to pay a license fee at the then-prevailing rate on the excess amount.

8.2 NAICS 482 - Railroad Companies (See S.C. Code 12-23-210).

8.3 NAICS 517111, 517112, 517222 - Telephone Companies.

With respect to "retail telecommunications services" as defined in S. C. Code 58-9-2200, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program by separate ordinance (the "Telecommunications Collections Ordinance"). The rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to retail telecommunications services are set forth in the Telecommunications Collections Ordinance.

8.4 NAICS 5241 — Insurance Companies:

Independent agents, brokers, their employees are subject to a business license tax based on their natural class. With respect to insurers subject to license fees and taxes under Chapter 7 of Title 38 and to brokers under Chapter 45 of Title 38, the Municipality participates in a collections program administered by the Municipal Association of South Carolina. The Municipality has approved participation in the collections program by separate ordinance (the "Insurers and Brokers Collections Ordinance"). The rates, terms, conditions, dates, penalties, appeals process, and other details of the business license applicable to insurers and brokers are set forth in the Insurers and Brokers Collections Ordinance.

8.51 NAICS 713120 — Amusement Machines, coin operated (except gambling). Music machines, juke boxes, kiddie rides, video games, pin tables with levers, and other amusement machines with or without free play feature licensed by SC Department of Revenue pursuant to S.C. Code 12-21-2720(A)(1) and (A)(2) [Type I and Type II].

For operation of all machines (not on gross income), pursuant to S.C. Code 12-21-2746:

Per Machine _____ \$12.50 PLUS
Business license _____ \$12.50

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.51.

8.52 NAICS 713290 — Amusement Machines, coin operated, non-payout. Amusement machines of the non-payout type or in-line pin game licensed by SC Department of Revenue pursuant to S.C. Code §12-21-2720(A)(3) [Type III].

For operation of all machines (not on gross income), pursuant to S.C. Code 512-21-2720(B):

Per Machine _____ \$180.00 PLUS
Business license _____ \$12.50

Distributors that sell or lease machines and are not licensed by the state as an operator pursuant to §12-21-2728 are not subject to Subclass 8.52.

8.6 NAICS 713990 - Billiard or Pool Rooms, all types. A business that offers the use of billiard or pool tables shall be subject to business license taxation under its natural class for all gross income of the business excluding the gross income attributable to the billiard or pool tables. In addition, the billiard or pool tables shall require their own separate business licenses pursuant to SC Code 12-21-2746 and shall be subject to a license tax of \$5.00 per table measuring less than 3 ½ feet wide and 7 feet long, and \$12.50 per table longer than that.

APPENDIX B
Classes 1 – 8: Business License Class Schedule by NAICS Codes

NAICS Sector/Subsector	Industry Sector	Class
11	Agriculture, forestry, hunting and fishing	1
21	Mining	2
22	Utilities	1
31 - 33	Manufacturing	3
42	Wholesale trade	1
44 - 45	Retail trade	1
48 - 49	Transportation and warehousing	1
51	Information	4
52	Finance and insurance	7
53	Real estate and rental and leasing	7
54	Professional, scientific, and technical services	5
55	Management of companies	7
56	Administrative and support and waste management and remediation services	3
61	Educational services	3
62	Health care and social assistance	4
71	Arts, entertainment, and recreation	3
721	Accommodation	1
722	Food services and drinking places	2
81	Other services	4
Class 8	Subclasses	
23	Construction	8.1
482	Rail Transportation	8.2
517111	Wired Telecommunications Carriers	8.3
517112	Wireless Telecommunications Carriers (except Satellite)	8.3
517122	Agents for Wireless Telecommunications Services	8.3
5241	Insurance Carriers	8.4
5242	Insurance Brokers for non-admitted Insurance Carriers	8.4
713120	Amusement Parks and Arcades	8.51
713290	Nonpayout Amusement Machines	8.52
713990	All Other Amusement and Recreational Industries (pool tables)	8.6

2023 Class Schedule is based on a three-year average (2017 - 2019) of IRS statistical data.

This appendix will be updated every odd year based on the latest available IRS statistics. The Business License Class Schedule may be accessed at:

Item 14.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
AN ORDINANCE RATIFYING THE SALARIES FOR VARIOUS ELECTED OFFICIALS AND TO AMEND SECTION 2-347 OF THE BEAUFORT COUNTY CODE OF LAWS ESTABLISHING THE SALARIES FOR VARIOUS ELECTED AND APPOINTED OFFICIALS
MEETING NAME AND DATE:
September 25, 2023; County Council
PRESENTER INFORMATION:
Brittany Ward, County Attorney; Katherine Mead, Director of Human Resources 10 Minutes
ITEM BACKGROUND:
Discussed at September 18, 2023 Finance Committee. Motion made to present ordinance at the September 25, 2023 County Council meeting.
PROJECT / ITEM NARRATIVE:
On August 12, 2019, the Beaufort County Finance Committee (“Committee”) desired to compensate the Elected Officials based on the average salaries of Tier 1 Counties in South Carolina, and approved to amend the current ordinance to reflect the recommended salaries of the Elected Officials. The funding for the desired salary increase for Elected Officials had been included in the Fiscal Year 2019 budget. The desired ordinance was not presented to County Council. The Elected Officials have been receiving the approved recommended salary rates above since July 1, 2019 and have received all other applicable increases as established in Chapter 2 of the Beaufort County Ordinance
FISCAL IMPACT:
Potential salary amounts owed totals \$45,417.78 to be paid from the payroll contingency account.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends Council vote in favor of the ordinance.
OPTIONS FOR COUNCIL MOTION:
Motion to move forward to second reading and a public hearing of an ordinance ratifying the salaries for various elected officials and to amend Section 2-347 of the Beaufort Bountty Code of Laws establishing the salaries for various elected and appointed officials.

ORDINANCE 2023/ _____

AN ORDINANCE RATIFYING THE SALARIES FOR VARIOUS ELECTED OFFICIALS AND TO AMEND SECTION 2-347 OF THE BEAUFORT COUNTY CODE OF LAWS ESTABLISHING THE SALARIES FOR VARIOUS ELECTED AND APPOINTED OFFICIALS

WHEREAS, the County Council of Beaufort County (“Council”) has created a salary administration program for compensating elected and appointed officials in Section 2-346 of the Beaufort County Code; and

WHEREAS, the Council has the authority to establish salaries for elected officials and in Section 2-347 of the Beaufort County Code has established the Entry Level Salary for the Auditor, Clerk of Court, Coroner, Sheriff, and Treasurer (“Elected Officials”); and

WHEREAS, on August 12, 2019, the Beaufort County Finance Committee (“Committee”) desired to compensate the Elected Officials based on the average salaries of Tier 1 Counties in South Carolina, and approved to amend the current ordinance to reflect the recommended salaries of the Elected Officials as follows:

Elected Official	Recommended Salary
Auditor	\$88,000
Clerk of Court	\$103,000
Coroner	\$92,000
Sheriff	\$149,000
Treasurer	\$93,000

WHEREAS, the funding for the desired salary increase for Elected Officials was included in the Fiscal Year 2019 budget; and

WHEREAS, the desired ordinance amendment to increase salaries for Elected Officials did not receive a public hearing nor was the ordinance amendment presented to Council. Yet, the Elected Officials who held their positions on July 1, 2019, started receiving the above recommended salary rates and have received all other applicable increases as established in Chapter 2 of the Beaufort County Ordinance; and

WHEREAS, Council has determined that it is in its best interest of all parties to ratify the payments for the Elected Official’s salaries who were sworn into their office after July 1, 2019 and to amend Ordinance Section 2-347 to reflect the desired salary increases for the Elected Officials based on the 2019 recommendations; and

WHEREAS, standards that are ~~stricken through~~ shall be deleted text and standards that are underscored shall be added text.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council in a meeting duly assembled, by their authority to ratify the Elected Officials’ salary payments to reflect the above 2019 recommended salaries, and all other applicable increases as established in Chapter 2 of the Beaufort County Ordinance, and to hereby amend Section 2-347 Beaufort County Code of Laws to read as follows:

- (a) *Salary.* The entry level salary for each elected and appointed official is established as follows:
 - (1) *Auditor:* ~~\$59,915.00~~ \$88,000.00, which excludes any other stipend paid by the county and/or state.

- (2) *Clerk of court*: ~~\$79,837.00~~ \$103,000, which excludes any other stipend paid by the county and/or state.
- (3) *Coroner*: ~~\$70,367.00~~ \$92,000, which excludes any other stipend paid by the county and/or state.
- (4) *Probate judge*: \$100,067.00, which excludes any other stipend paid by the county and/or state.
- (5) *Sheriff*: ~~\$102,380.00~~ \$149,000, which excludes any other stipend paid by the county and/or state.
- (6) *Treasurer*: ~~\$64,327.00~~ \$93,000, which excludes any other stipend paid by the county and/or state.
- (7) *Master-in-equity*: Set pursuant to S.C. Code Ann. § 14-11-30, which excludes any other stipend paid by the county and/or state.
- (8) *Magistrate*: Set pursuant to S.C. Code Ann. § 22-8-40(b)(2), which excludes any other stipend paid by the county and/or state.

The above entry level salaries were established using the average salaries of peer counties in the tier 1 classification as determined by population in the South Carolina Association of Counties Annual Salary Survey for each position, or the current Beaufort County salary, whichever is greater.

(b) Cost of living. At each instance of a cost of living allowance (COLA) pay increase awarded by the Beaufort County Council, after the enactment date of this ordinance [September 2007 and amended August 2019], the entry level salary of each elected or appointed office listed in subsection (a) above will be increased accordingly.

Adopted this ____ day of _____, 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock,
Clerk to Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
An ordinance to approve a lease agreement between Beaufort County and Beaufort Flight Training
MEETING NAME AND DATE:
Public Facilities and Safety Committee; October 23, 2023
PRESENTER INFORMATION:
Steve Parry; Deputy Airports Director 3 minutes
ITEM BACKGROUND:
Beaufort Executive Airport’s terminal maintains multiple office spaces available for lease. Beaufort Flight Training (BFT) has operated from this office for several years, producing revenue. When Beaufort County formalized the standard lease rates for North and South of the Broad, the airport addressed the lease rate and drafted an updated lease agreement to meet County standards. The DRAFT lease and legal review - approved by Legal on Sep 22, 2023. Beaufort County Airports Board (BCAB) - recommended approval on October 19, 2023. Public Notice was published in the Sunday, October 8, 2023, edition of <i>The Beaufort Gazette</i> and <i>The Island Packet</i> .
PROJECT / ITEM NARRATIVE:
Beaufort Flight Training (BFT) is a flight training business operating at Beaufort Executive Airport. BFT has expressed a desire to lease an available office space at Beaufort Executive Airport.
FISCAL IMPACT:
Beaufort Executive Airport will receive monthly income generated through lease revenue totaling \$437.25. The monthly base lease payments were calculated using Beaufort County’s approved, North of the Broad lease rates of \$19.80 per sf. The space totals 265 sf. (265 sq ft x \$19.80/12) Annual Expected Revenue: \$5247.00 The lease rates are in accordance with current Beaufort County lease policies.
STAFF RECOMMENDATIONS TO COMMITTEE:
Staff recommends approval of an ordinance to approve the lease agreement between Beaufort County and Beaufort Flight Training.
OPTIONS FOR COMMITTEE MOTION:
Motion to approve/deny an ordinance to approve a lease agreement between Beaufort County and Beaufort Flight Training. Move forward to Council for Approval on November 13, 2023

ORDINANCE 2023/_____

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT BETWEEN BEAUFORT COUNTY AND BEAUFORT FLIGHT TRAINING

WHEREAS, the Beaufort Executive Airport (“Airport”) desires to enter into a lease agreement with Beaufort Flight Training ("Lessee"), that shall include reasonable lease rates based on the square footage of the leased space; and

WHEREAS, the Lessee will engage in the business of flight training, and desires to lease certain space owned by the County and acquire from the County certain rights and privileges in connection with its use of Airport facilities; and

WHEREAS, the County has the right to permit the use of the Airport facilities upon the terms and conditions hereinafter set forth and has full power and authority to enter into this Agreement; and

WHEREAS, County Council finds that it is in the best interest of the citizens and residents of Beaufort County for the County Administrator to enter into a Lease Agreement with Beaufort Flight Training.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL, duly assembled, does hereby authorize the County Administrator to enter into a Lease Agreement with Beaufort Flight Training.

Adopted this ____ day of _____, 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) REAL PROPERTY
 LEASE AGREEMENT

THIS REAL PROPERTY LEASE AGREEMENT is made and entered into this ___ day of _____ 2023, (“Lease”), by and between Beaufort County, a political subdivision of the State of South Carolina, (“Landlord”) and Beaufort Flight Training (“Tenant”), collectively referred to as the “Parties”.

NOW, THEREFORE, Landlord, for and in consideration of the rents paid and to be paid, and the covenants, conditions, and stipulations to be kept and performed by Tenant, agrees to lease the Premises described herein below.

I. DESCRIPTION OF LEASED PREMISES. The premises to be conveyed is located at 39 Airport Circle, Beaufort SC 29907 (Beaufort Executive Airport - Terminal), hereinafter referred to as “Premises”.

Assigned Room number: 103 Total square feet: 265

II. TERM

2.1 Term. The Lease Term shall be effective on the date of execution by the County Administrator (“Commencement Date”) and terminating at 11:59 p.m. on **June 30, 2024** (“Termination Date”).

2.2 Renewal. This Lease may be renewed upon the mutual consent of the Parties and agreed upon in writing. Any Renewal Term shall include the same terms as this Lease and be for a period up to **three (3)** one-year periods, unless thirty (30) days prior written notice of intent not to renew is given by either party. The terms set forth in this Paragraph shall collectively be referred to hereafter as a “Renewal Term”.

III. RENTAL PAYMENT

3.1 Payment of Rent. Tenant shall pay to Landlord Four Hundred Thirty-Seven dollars and Twenty-Five cents (**\$437.25**) (**total square feet x \$19.80/12**) in monthly base rental payments (“Rent”) during the Lease Term. If occupancy begins and/or ends on any day other than the first day of a month, Rent shall be prorated for the month of commencement and/or month of termination and monthly rent collected in advance thereafter.

The first Rent payment shall be made on or before the Commencement Date. Tenant shall pay all rents due and owing, without deduction or set off, to Landlord at the address set forth in Section 9. All Rent payments shall be made in the form of check or direct deposit.

3.2 Renewal Rate. The Rent shall increase by three percent (3%) the first month of any Renewal Term. If the Renewal Term is effective after the 5th of the month, the Rent shall be prorated appropriately.

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

Landlord Initials _____ Tenant Initials _____

- 3.4 *Triple Net Lease.* The Parties agree this is a “triple net lease” and, except as otherwise provided herein, Tenant is responsible for all costs related to the Premises, together with all Improvements constructed thereon, including, without limitation, any taxes or fees, insurance and maintenance. Landlord shall have no responsibility for any such expenses unless specifically provided for herein. The Rent payable under this Lease shall be paid to Landlord without any claim on the part of Tenant for diminution, set-off or abatement and nothing shall suspend, abate or reduce any Rent to be paid hereunder.

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

- 4.1 *Acceptance and Condition of the Premises.* The Parties mutually agree that Tenant shall take possession of the Premises on the Commencement Date. Tenant stipulates that he or she has examined the Premises, including the grounds and all buildings and improvements, and that they are, at the time of this Agreement, in good order, repair, and in a safe, clean and tenantable condition. Landlord has made no representation in connection with the Premises and shall not be liable for any latent defects therein; provided, however, that if such latent defects render the Premises uninhabitable for the purposes of this Lease, Tenant may at its option, and upon written notice to Landlord, terminate this Lease.
- 4.2 *Use of Premises.* Tenant shall use the Premises for the sole purpose of operating fixed-wing scenic air tours and flight training (“Permitted Use”). Any change in the use of the Premises may only be undertaken with the written consent of the Landlord. Tenant shall not use the Premises for any illegal purpose, nor violate any statute, regulation, rule or order of any governmental body in its use thereof, nor create or allow to exist any nuisances, nor do any act in or about the Premises or bring anything upon the Premises which will increase the premium for insurance on the Premises.
- 4.3 *Repairs of Premises.* Tenant shall at its own expense keep the Premises in good repair. Tenant shall not perform any additional work upon the Premises without prior written consent of the Landlord. The Premises shall be maintained in a clean and orderly manner. In the event of any damage of the Premises which is the direct result of Tenant, Tenant shall, immediately upon receiving demand from Landlord, correct the damage.
- 4.4 *Tenant Improvements, Alterations, and Restorations.*

4.4.1 *Initial Improvements.* Promptly after Landlord delivers the Premises to Tenant, Tenant shall proceed to prepare the Premises and perform such improvements that are required to utilize the Premises for the Permitted Use, which shall include approved signage and marketing (the “Tenant’s Initial Improvements”). Prior to performing Tenant’s Initial Improvements and promptly after the Lease is executed, Tenant shall send plans and specifications to Landlord for Landlord’s approval, which approval shall not be unreasonably withheld and Tenant shall not commence any of Tenant’s Initial Improvements until Landlord has approved the plans and specifications.

4.4.2 *Additional Improvements.* Other than Tenant’s Initial Improvements, Tenant shall not make or permit to be made any structural alterations, modifications, additions, decorations or improvements to the Premises, nor shall Tenant make or permit any other work whatsoever that would directly or indirectly involve the penetration or removal (whether permanent or temporary) of, or require access through, in, under, or above any floor, wall or ceiling, or surface or covering thereof in the Premises.

Landlord Initials _____ Tenant Initials _____

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

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

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

V. DESTRUCTION OR DAMAGE

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

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

5.3 If Landlord elects to repair the Premises and Tenant does not elect to terminate the Lease, and if Landlord's repairs are not substantially completed within one hundred twenty (120) calendar days following the date of the casualty, then Tenant, upon not less than thirty (30) calendar days written notice to Landlord, may terminate this Lease if Landlord has not substantially completed such repairs within the time period (which shall not be less than 30 calendar days) set forth in such notice. Substantial completion, as used herein, shall mean that the Premises are restored to the condition that they may be occupied and utilized for their intended purpose, notwithstanding that there may be additional "punch list" or other non-essential items to be completed, which neither affect not impact Tenant's use and enjoyment of the Premises. Nevertheless, Landlord shall diligently pursue the completion of all remaining work in a timely manner.

Landlord Initials _____ Tenant Initials _____

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

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

VI. ASSIGNMENT AND SUBLETTING

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

VII. TERMINATION. This Lease shall end on the Termination Date. This Lease may be terminated by Landlord prior to the Termination Date upon providing a thirty (30) day notice to Tenant and/or upon the occurrence of any default event as set forth in Section 8.

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

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

VIII. DEFAULT

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

Landlord Initials _____ Tenant Initials _____

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

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

- (a) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Premises and correct or repair any condition which shall constitute a failure on Tenant's part to keep, observe, perform, satisfy, or abide by any term, condition, covenant, agreement or obligation of this Lease or of the rules and regulations adopted by the Landlord or of any notice given Tenant by Landlord pursuant to the terms of this Lease, and Tenant shall fully reimburse and compensate Landlord on demand for all reasonable expenses.
- (b) Landlord, with or without terminating this Lease may immediately or at any time thereafter demand in writing that Tenant immediately vacate the Premises whereupon Tenant shall immediately vacate the Premises and, immediately remove therefrom all personal property belonging to Tenant, whereupon Landlord shall have the right to immediately re-enter and take possession of the Premises. Any such demand, re-entry and taking of possession of the Premises by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord. In the event the Landlord re-enters and takes possession of the Premises as provided above and the Tenant has failed upon request by Landlord to immediately remove from the Premises all property belonging to or placed upon the Premises by the Tenant, the Landlord shall have the right to have such property of the Tenant removed from the Premises and reasonably be placed within a secure storage facility for a period of time not to exceed thirty (30) days, and all costs of handling, moving and storing such property of the Tenant shall

Landlord Initials _____ Tenant Initials _____

be paid by the Tenant. Notwithstanding any of the foregoing, Landlord shall be required to comply with applicable South Carolina law regarding reentry and possession of the Premises.

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

Landlord Initials _____ Tenant Initials _____

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.

IX. SALE OF PREMISES. In the event the Landlord hereunder, or any successor owner of the Premises, shall sell or convey the Premises, all liabilities and obligations on the part of the Landlord, or such successor owner, under this Lease accruing thereafter shall remain for a minimum sixty (60) days or the Tenant may enter into a new Lease with the successor owner.

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

XI. INSURANCE LIABILITY AND INDEMNIFICATION

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

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

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

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

XII. MISCELLANEOUS PROVISIONS

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

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

Landlord Initials _____ Tenant Initials _____

Copy To: Beaufort County
Attn: Beaufort County Public Facility Director
Post Office Box 1228
Beaufort, SC 29901

AS TO TENANT: _____

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

Landlord Initials _____ Tenant Initials _____

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

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

LANDLORD:

Witness

Beaufort County Administrator

Witness

Date: _____

TENANT:

Witness

By: _____
Its: _____

Date: _____

Landlord Initials _____ Tenant Initials _____



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
An ordinance to approve a lease agreement between Beaufort County and Tim Verroi
MEETING NAME AND DATE:
Public Facilities and Safety Committee; October 23, 2023
PRESENTER INFORMATION:
Steve Parry; Deputy Airports Director 3 minutes
ITEM BACKGROUND:
Beaufort Executive Airport’s terminal maintains multiple office spaces available for lease. Mr. Tim Verroi has leased this office for several years. When Beaufort County formalized the standard lease rates for North and South of the Broad, the airport addressed the lease rate and drafted an updated lease agreement to meet County standards. The DRAFT lease and legal review - approved by Legal on Sep 22, 2023. Beaufort County Airports Board (BCAB) - recommended approval on October 19, 2023. Public Notice was published in the Sunday, October 8, 2023, edition of <i>The Beaufort Gazette</i> and <i>The Island Packet</i> .
PROJECT / ITEM NARRATIVE:
Tim Verroi is an aircraft owner and frequent user of the airport. He has expressed a desire to continue leasing the office space at Beaufort Executive Airport.
FISCAL IMPACT:
Beaufort Executive Airport will receive monthly income generated through lease revenue totaling \$145.20. The monthly base lease payments were calculated using Beaufort County’s approved, North of the broad lease rates of \$19.80 per sf. The space totals 88 sf. (88 sq ft x \$19.80/12) Annual Expected Revenue: \$1742.40 The lease rates are in accordance with current Beaufort County lease policies.
STAFF RECOMMENDATIONS TO COMMITTEE:
Airport Staff recommends approval of an ordinance to approve a lease agreement between Beaufort County and Tim Verroi.
OPTIONS FOR COMMITTEE MOTION:
Motion to approve/deny an ordinance to approve a lease agreement between Beaufort County and Tim Verroi. Move forward to Council for Approval on November 13, 2023

constructed thereon, including, without limitation, any taxes or fees, insurance and maintenance. Landlord shall have no responsibility for any such expenses unless specifically provided for herein. The Rent payable under this Lease shall be paid to Landlord without any claim on the part of Tenant for diminution, set-off or abatement and nothing shall suspend, abate or reduce any Rent to be paid hereunder.

IV. CONDITION, USE, MAINTENANCE AND REPAIRS OF PREMISES

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

4.2 *Use of Premises.* Tenant shall use the Premises for the sole purpose of operating fixed-wing scenic air tours and flight training (“Permitted Use”). Any change in the use of the Premises may only be undertaken with the written consent of the Landlord. Tenant shall not use the Premises for any illegal purpose, nor violate any statute, regulation, rule or order of any governmental body in its use thereof, nor create or allow to exist any nuisances, nor do any act in or about the Premises or bring anything upon the Premises which will increase the premium for insurance on the Premises.

4.3 *Repairs of Premises.* Tenant shall at its own expense keep the Premises in good repair. Tenant shall not perform any additional work upon the Premises without prior written consent of the Landlord. The Premises shall be maintained in a clean and orderly manner. In the event of any damage of the Premises which is the direct result of Tenant, Tenant shall, immediately upon receiving demand from Landlord, correct the damage.

4.4 *Tenant Improvements, Alterations, and Restorations.*

4.4.1 *Initial Improvements.* Promptly after Landlord delivers the Premises to Tenant, Tenant shall proceed to prepare the Premises and perform such improvements that are required to utilize the Premises for the Permitted Use, which shall include approved signage and marketing (the “Tenant’s Initial Improvements”). Prior to performing Tenant’s Initial Improvements and promptly after the Lease is executed, Tenant shall send plans and specifications to Landlord for Landlord’s approval, which approval shall not be unreasonably withheld and Tenant shall not commence any of Tenant’s Initial Improvements until Landlord has approved the plans and specifications.

4.4.2 *Additional Improvements.* Other than Tenant’s Initial Improvements, Tenant shall not make or permit to be made any structural alterations, modifications, additions, decorations or improvements to the Premises, nor shall Tenant make or permit any other work whatsoever that would directly or indirectly involve the penetration or removal (whether permanent or temporary) of, or require access through, in, under, or above any floor, wall or ceiling, or surface or covering thereof in the Premises.

4.4.3 *Cost of Improvements.* Tenant’s Initial Improvements, or any additional improvements as approved by the Landlord, shall be made at Tenant’s sole cost and expense,

Landlord Initials _____ Tenant Initials _____

including the expense of complying with all present and future legal requirements, and any other work required to be performed in other areas within or outside the Premises.

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

5.3 If Landlord elects to repair the Premises and Tenant does not elect to terminate the Lease, and if Landlord's repairs are not substantially completed within one hundred twenty (120) calendar days following the date of the casualty, then Tenant, upon not less than thirty (30) calendar days written notice to Landlord, may terminate this Lease if Landlord has not substantially completed such repairs within the time period (which shall not be less than 30 calendar days) set forth in such notice. Substantial completion, as used herein, shall mean that the Premises are restored to the condition that they may be occupied and utilized for their intended purpose, notwithstanding that there may be additional "punch list" or other non-essential items to be completed, which neither affect nor impact Tenant's use and enjoyment of the Premises. Nevertheless, Landlord shall diligently pursue the completion of all remaining work in a timely manner.

5.4 During any period of reconstruction or repair of the Premises, provided Tenant has not elected to terminate this Lease, Tenant may at its sole option continue the operation of Tenant's business in the Premises to the extent reasonably practicable from the standpoint of good business practice.

Landlord Initials _____ Tenant Initials _____

Tenant shall not interfere with the repair or restoration activities of Landlord or its contractors, and will adapt and modify its business activities as deemed necessary by Landlord to allow such repair or restoration activities to continue expeditiously.

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

VI. ASSIGNMENT AND SUBLETTING

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

VII. TERMINATION. This Lease shall end on the Termination Date. This Lease may be terminated by Landlord prior to the Termination Date upon providing a thirty (30) day notice to Tenant and/or upon the occurrence of any default event as set forth in Section 8.

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

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

VIII. DEFAULT

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

(a) The rent of any other sum of money payable under this Lease, whether to Landlord or otherwise, is not paid within ten (10) days of the due date.

Landlord Initials _____ Tenant Initials _____

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

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

- (a) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Premises and correct or repair any condition which shall constitute a failure on Tenant's part to keep, observe, perform, satisfy, or abide by any term, condition, covenant, agreement or obligation of this Lease or of the rules and regulations adopted by the Landlord or of any notice given Tenant by Landlord pursuant to the terms of this Lease, and Tenant shall fully reimburse and compensate Landlord on demand for all reasonable expenses.
- (b) Landlord, with or without terminating this Lease may immediately or at any time thereafter demand in writing that Tenant immediately vacate the Premises whereupon Tenant shall immediately vacate the Premises and, immediately remove therefrom all personal property belonging to Tenant, whereupon Landlord shall have the right to immediately re-enter and take possession of the Premises. Any such demand, re-entry and taking of possession of the Premises by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord. In the event the Landlord re-enters and takes possession of the Premises as provided above and the Tenant has failed upon request by Landlord to immediately remove from the Premises all property belonging to or placed upon the Premises by the Tenant, the Landlord shall have the right to have such property of the Tenant removed from the Premises and reasonably be placed within a secure storage facility for a period of time not to exceed thirty (30) days, and all costs of handling, moving and storing such property of the Tenant shall be paid by the Tenant. Notwithstanding any of the foregoing, Landlord shall be required to comply with applicable South Carolina law regarding reentry and possession of the Premises.

Landlord Initials _____ Tenant Initials _____

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

Landlord Initials _____ Tenant Initials _____

IX. SALE OF PREMISES. In the event the Landlord hereunder, or any successor owner of the Premises, shall sell or convey the Premises, all liabilities and obligations on the part of the Landlord, or such successor owner, under this Lease accruing thereafter shall remain for a minimum sixty (60) days or the Tenant may enter into a new Lease with the successor owner.

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

XI. INSURANCE LIABILITY AND INDEMNIFICATION

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

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

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

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

XII. MISCELLANEOUS PROVISIONS

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

AS TO LANDLORD: Beaufort County
Attn: Beaufort County Administration
Post Office Box 1228
Beaufort, SC 29901
Copy To: Beaufort County
Attn: Beaufort County Public Facility Director
Post Office Box 1228

Landlord Initials _____ Tenant Initials _____

Beaufort, SC 29901

AS TO TENANT:

- 12.2 *Entire Agreement.* This Lease constitutes as the sole and entire agreement of Landlord and Tenant and no prior or contemporaneous oral or written representations or agreements between the parties affecting the Premises shall have any legal effect.
- 12.3 *Counterparts.* This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.
- 12.4 *Severability.* If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, then such provision shall be deemed to be written, construed and enforced as so limited.
- 12.5 *Amendment.* This Agreement cannot be amended orally or by a single party. No amendment or change to this Agreement shall be valid unless in writing and signed by both Parties to this Agreement.
- 12.6 *Captions.* The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.
- 12.7 *Successors and Assigns.* The provisions of this Lease shall inure to the benefit of and be binding upon Landlord and Tenant, and their respective successors, heirs, legal representatives, and assigns.
- 12.8 *Applicable Law.* The laws of the State of South Carolina shall govern the interpretation, validity, performance and enforcement of this Lease; and, of any personal guarantees given in connection with this Lease.
- 12.9 *Authority.* Each individual and entity executing this Agreement hereby represents and warrants that he, she or it has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement to the terms hereof.
- 12.10 *Force Majeure.* Except for timely Rent payment, Landlord or Tenant shall not be in default hereunder when performance of any term or condition is prevented by a cause beyond its control.
- 12.11 *Time is of the Essence.* Time is of the essence of this Lease.
- 12.12 *Quiet Enjoyment.* Landlord hereby covenants, warrants and agrees that so long as Tenant is performing all of the covenants and agreements herein stipulated to be performed on the Tenant's part, Tenant shall at all times during the lease term have the peaceable quiet and enjoyment and possession of the Premises without any manner of hindrance from Landlord or any person or persons lawfully claiming the Premises, or any part thereof.

Landlord Initials _____ Tenant Initials _____

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

LANDLORD:

Witness

Beaufort County Administrator

Witness

Date: _____

TENANT:

Witness

By: _____
Its: _____

Date: _____

Landlord Initials _____ Tenant Initials _____

ORDINANCE 2023/_____

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT BETWEEN BEAUFORT COUNTY AND TIM VERROI

WHEREAS, the Beaufort Executive Airport (“Airport”) desires to enter into a lease agreement with Tim Verroi ("Lessee"), that shall include reasonable lease rates based on the square footage of the leased space and Beaufort County approved lease policies and rates; and

WHEREAS, the Lessee will engage in the business of personal office space and desires to lease certain space owned by the County and acquire from the County certain rights and privileges in connection with its use of Airport facilities; and

WHEREAS, the County has the right to permit the use of the Airport facilities upon the terms and conditions hereinafter set forth and has full power and authority to enter into this Agreement; and

WHEREAS, County Council finds that it is in the best interest of the citizens and residents of Beaufort County for the County Administrator to enter into a Lease Agreement with Tim Verroi.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL, duly assembled, does hereby authorize the County Administrator to enter into a Lease Agreement with Tim Verroi.

Adopted this ____ day of _____, 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Resolution to accept the recommendations from the US 278 Corridor Project Joint Independent Review performed by CBB and authorization for the Interim County Administrator to send correspondence to Town of Hilton Head requesting their municipal consent for the project
MEETING NAME AND DATE:
Public Facility and Safety Committee, October 23, 2023
PRESENTER INFORMATION:
Jared Fralix, Assistant County Administrator – Infrastructure 10 minutes
ITEM BACKGROUND:
In the spring of 2021, an independent study was authorized and initiated to review the current design and design assumptions used to develop the project. Following the independent study in July 2021, the preferred alternative was presented at a public hearing. Due to comments from citizens and from the Town, the preferred alternative was modified to reflect some of the requested changes. The modified preferred alternative was presented at a follow-up public information meeting in March of 2022. Following this presentation, additional project concerns were presented and an additional independent review was requested. To ensure that the County and Town work together to move the project forward, a MOU was drafted and approved by both parties in October 2022 that detailed the steps to move the project forward. A solicitation was drafted and advertised for an additional joint independent study to review the project. CBB, a firm from St. Louis, MO that had never previously worked in SC, was deemed the qualified proposer and awarded the project. CBB commenced their work in March 2023 under the direction of joint staff committee and completed their study and report in September 2023.
PROJECT / ITEM NARRATIVE:
CBB made a presentation of the study and the report to both the County and the Town. A presentation was made to the County Public Facilities and Safety Committee on 9/25/23 and to the Town Council meeting on 10/17/23. At this time, all ten of the commitments listed in the MOU between the County and Town have been addressed.
FISCAL IMPACT:
N/A
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends that County Council accept the recommendations to the Joint Independent Study as produced by CBB. Additionally, as all ten of the commitments of the agreed upon MOU have been addressed, the County send correspondence to the Town seeking their municipal consent to move the project forward.
OPTIONS FOR COUNCIL MOTION:
Council may choose to deny/approve/or approve with comments the recommendations of the Joint Independent Study as presented by CBB.

Additionally, Council may choose to request the municipal consent for the project from the Town at this time or choose to delay the request to the Town for a later date.

RESOLUTION NO. 2022-28

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AUTHORIZING THE TOWN MANAGER TO ENTER INTO A REVISED MEMORANDUM OF AGREEMENT WITH BEAUFORT COUNTY, SOUTH CAROLINA CONCERNING THE WILLIAM HILTON PARKWAY GATEWAY CORRIDOR PROJECT AND ADAPTIVE TRAFFIC SIGNAL IMPROVEMENTS.

WHEREAS, the U.S. Highway 278 corridor runs from I-95 to and throughout the Town of Hilton Head Island, and is both an economic generator and necessity for transportation; and

WHEREAS, the William Hilton Parkway Gateway Corridor Project (the "Project") is a Beaufort County project and is part of the programs funded by the 2018 sales tax that was authorized by the public in a referendum; and

WHEREAS, the synchronization of adaptive traffic signals on U.S. Highway 278 is essential to the public safety and traffic control; and

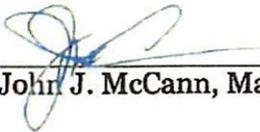
WHEREAS, the Project will have a substantial impact on the citizens and visitors of the Town of Hilton Head Island; and

WHEREAS, the Town of Hilton Head Island and Beaufort County desire to undertake improvements to U.S. Highway 278 and install adaptive traffic signals thereon; and

WHEREAS, the Town Council hereby finds that the execution of the revised Memorandum of Agreement is in the best interest of the Town of Hilton Head Island.

NOW, THEREFORE, BE IT, AND IT HEREBY IS, RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA That the Town Council hereby authorizes the Town Manager to enter into an agreement materially consistent with the revised Memorandum of Understanding from Beaufort County for the purpose of coordinating and implementing the William Hilton Parkway Gateway Corridor Project and installation of adaptive traffic signals on U.S. Highway 278.

PASSED AND APPROVED BY THE TOWN COUNCIL ON THIS 4TH DAY OF OCTOBER, 2022.

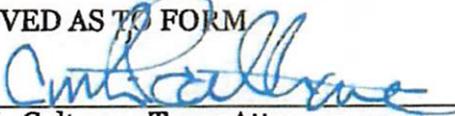


John J. McCann, Mayor

ATTEST:



Krista M. Wiedmeyer, Town Clerk

APPROVED AS TO FORM


Curtis L. Coltrane, Town Attorney

Introduced by Council Member: _____

STATE OF SOUTH CAROLINA)) COUNTY OF BEAUFORT)) TOWN OF HILTON HEAD ISLAND)	MEMORANDUM OF AGREEMENT FOR THE WILLIAM HILTON PARKWAY GATEWAY/US 278 CORRIDOR PROJECT AND ADAPTIVE SIGNAL IMPROVEMENTS
--------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------

THIS MEMORANDUM OF AGREEMENT is made and entered into this 21 day of October 2022 by and between Beaufort County, South Carolina (the "County"), and The Town of Hilton Head Island, South Carolina (the "Town").

WHEREAS, the William Hilton Parkway Gateway/US 278 Corridor Project, referred to herein as the "Project", is a Beaufort County Project and is part of the programs funded by the 2018 sales tax; and

WHEREAS, a portion of the Project is located within the corporate limits of the Town, which impacts the citizens and visitors of the Town of Hilton Head Island, will provide for safer public transportation; and

WHEREAS, the Project is currently in the preliminary design stage and is working through the Environmental Assessment process; and

WHEREAS, separate from the design consultant for the Project retained by the South Carolina Department of Transportation (the "SCDOT"), and at the request of the Town, the County hired a design engineer, HDR, to perform an Independent Review of the project. In addition to the Independent Review, the Town hired a land planning consultant, MKSK, to assist the Town Council with evaluating the current design and to provide recommendations to enhance the Project; and

WHEREAS, as part of the Environmental Assessment process a preferred alternative for the Project was identified by the SCDOT and presented at a public hearing held on July 22, 2021; and

WHEREAS, based upon comments received from the public and from the Town, the Project plans were updated, and a modified preferred alternative was presented at a public information meeting held on March 3, 2022; and

WHEREAS, there have been several comments made by residents of the Town regarding the impacts to the citizens and visitors of Hilton Head Island and have requested an additional Independent Review be conducted to evaluate community impacts to include areas that lie outside of the Project limits and provide design modification recommendations that will otherwise enhance the Project; and

WHEREAS, the County and the Town have determined that an Independent Review (the "Independent Review") must be performed by a consultant in material conformance with the Scope of Work (the "Scope of Work") set forth on Exhibit A attached hereto; and

WHEREAS, the William Hilton Parkway/US 278 Corridor, extending from Interstate 95 (I-95) to Sea Pines Circle, is of regional importance to the County and the Town to facilitate trade and commerce throughout the region; and

WHEREAS, it is recognized that it is of utmost importance to keep traffic moving as safely and efficiently as possible throughout the corridor; and

WHEREAS, there are many SCDOT-owned signals along the corridor that are managed and maintained by the County and the Town through various signal maintenance agreements with SCDOT; and

WHEREAS, the Town has funds budgeted in its Capital Improvement Plan for Fiscal Year 2023 to make improvements to the traffic signals within the corporate limits of the Town which they maintain under their signal maintenance agreement(s) with SCDOT; and

WHEREAS, the County and Town desire to make traffic signal improvements along the entire William Hilton Parkway/US 278 Corridor to increase safety and capacity through the synchronization of "Adaptive Traffic Signals."; and

WHEREAS, any and all future signal projects, including those signals within the William Hilton Parkway Gateway/US 278 Corridor Improvement Project, are to be fitted with the same technologies to ensure they are synchronized with the other signals.

NOW, THEREFORE, for and in consideration of the mutual covenants exchanged herein, the County and the Town hereby agree as follows:

1. The County and the Town agree to advance the Project in a cooperative manner for the entire duration of the Project.
2. The County and the Town mutually agree to work together in good faith to address the feasibility, and merits of recommendations approved by Town Council on October 12, 2021 (as set forth in Exhibit B) (the "Recommendations") and further agree that one bridge will be designed and constructed for the Project.
3. The County will procure an Independent Consultant (the "Independent Consultant"), (i.e. – one that does not have a previous or current contractual relationship with SCDOT, the County, or the Town) to perform an additional Independent Review of the project. This Independent Consultant will conduct an end-to-end simulation and study through and beyond the Project limits to include additional intersections materially consistent with the Scope of Work set forth in Exhibit A.
4. The County and the Town will establish a committee (the "Committee") to select the Independent Consultant through a competitive bid process. The following County representatives shall sit on the Committee: (a) the County Administrator or his designee (b) the Assistant County Administrator for Infrastructure; (c) and the County Transportation Program Manager Consultant. The following Town representatives shall sit on the Committee: (d) the Town Manager or his designee; (e) the Assistant Town Manager of Community Development; and (f) the Town Engineer.
5. All recommendations from the Independent Review for areas within the project boundary will be considered for inclusion in the project. The County and Town agree to pursue the "Finding of No Significant Impacts" (FONSI) from the Federal Highway Administration concurrent with the Independent Review. If any findings from the Independent Review affect environmental documents submitted for the FONSI, those recommendations will be considered, and the environmental documents will be updated and resubmitted as agreed upon by the County and the Town.
6. The County and the Town, as required as part of the NEPA process, will coordinate with SCDOT to perform a value engineering of the project to identify and eliminate unwanted costs, and improve function and quality, as well as to optimize initial and long-term investment, ultimately seeking the best value for the lowest cost.
7. The County and the Town mutually agree to work together, along with SCDOT and Lowcountry

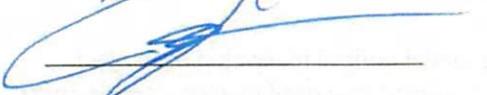
Area Transportation Study (LATS), to design, implement and maintain a connected and synchronized signal system along the entire length of the William Hilton Parkway/US 278 Corridor from I-95 to Sea Pines Circle. The synchronized system will include fiber connectivity, Adaptive Signal technologies and other tools to help maximize flow. The County and the Town mutually agree to work together to seek funds necessary to acquire and implement the proposed improvements.

- 8. Any signal improvements from the synchronization project which are not already installed within the corridor prior to the construction of the Project, will be incorporated as such.
- 9. This Agreement does not provide the Town's municipal consent. Such consent may be provided by the Town Council after the Independent Review has been evaluated by the Town and County and before the right-of-way acquisition phase of the Project begins. Municipal consent by the Town will not be unreasonably withheld.
- 10. The County and the Town agree that the Independent Review will be the last and final study needed for the Town to make a final decision related to the Project.

IN WITNESS WHEREOF, Beaufort County, South Carolina, and the Town of Hilton Head Island, South Carolina, by their authorized officers, have executed the within memorandum on this ____ day of October 2022.

WITNESSES:





TOWN OF HILTON HEAD ISLAND



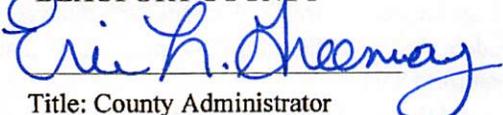
 Title: Town Manager

WITNESSES:





BEAUFORT COUNTY



 Title: County Administrator

EXHIBIT A

US 278 Corridor Project – Independent Review Scope of Services

Task 1: Project Initiation and Coordination:

- Initial HHI, Beaufort County, and Independent Consultant
- Biweekly project discussions with County and Town Staff
- Review meeting with representations of Beaufort County, Town of Hilton Head Island, SCDOT and the existing design consultants on prior work performed
- Monthly update meetings with Town Manager and County Administrator
- Review and define the study area
- Perform a site visit/field review
- Understand the Town of Hilton Head Island's concern with the proposed concept and existing model
- Identify what has already been completed for the project

Task 2: Model and Recommended Concept Review:

Review previous models and concept recommendations

- Review assumptions contained within the model – Daily Hour, Land Use, & other input variables
- Review data collection approach and study area
- Review model outputs and subsequent recommendations for intersection operations and bridge concepts

Model Review and Concept Review Memo

- Compile findings into a Summary Review Memo, identifying primary findings and recommendations for improvement

Task 3: Updating Model & Operational Updates

Model and Operational Analysis Updates

- The model updates will be based on the version of the LATS model utilized to develop the project
- Confirm that the base traffic demand model accurately takes into trips generated by visitor traffic, mass transit traffic, and traffic demand from redevelopment of existing Island parcels
- Update the model based on findings in Task 2 and coordination with the Town of Hilton Head & Beaufort County
- Expand the model and study area to include the following signalized intersections and merge points east of Spanish Wells Road
 - US 278 merge with Cross Island Pkwy
 - US 278 Bus (William Hilton Pkwy) at Gum Tree Road
 - US 278 Bus (William Hilton Pkwy) at Wilborn Road/Jarvis Park Road
 - US 278 Bus (William Hilton Pkwy) at Pembroke Drive/Museum Street
 - US 278 Bus (William Hilton Pkwy) at Indigo Run Drive/Whooping Crane Way
 - US 278 (Palmetto Bay Road) at Point Comfort Road/Arrow Road
 - Palmetto Bay Road at Target Road
 - US 278 Bus (William Hilton Pkwy) at Palmetto Bay Road (Sea Pines Circle)
- Expand the model and study area to include the following signalized intersection and merge point west of Moss Creek Drive
 - Bluffton Parkway and Buckingham Landing Road (on Mainland)
- Traffic counts for the study area intersections will be obtained from the Town of Hilton Head Island
- Any additional counts not available from the Town of Hilton Head or SCDOT shall be assumed counts that will need to be collected

- Ensure the model includes most recent traffic data that reflects the toll removal on the Cross Island Parkway
- Generate model outputs for study area with new assumptions and volumes & analyze operations in Synchro/VISSIM
- Evaluate how Adaptive Traffic Signals could impact the traffic flow and average travel times along the corridor at peak times as well as other periods. The Town and County are expected to implement Adaptive Signals on the William Hilton Parkway/US 278 Corridor from I-95 to Sea Pines Circle. Answer questions related to potential for downstream impacts
- Evaluate opportunities to achieve operational efficiency by maintaining four lanes (two lanes in each direction) between the Windmill Harbour and Squire Pope Road intersections with William Hilton Parkway. These include system improvements that result from Intelligent Traffic Systems and other operational adjustments that may provide improved efficiency in the system
- Coordinate and refine recommendations with the Town of Hilton Head Island and Beaufort County
- Participate in meetings as directed by the Town of Hilton Head Island and Beaufort County

Task 4: Proposed Intersection Improvements & Potential Future Projects

- Evaluate the safety for bicycle and pedestrians within the original Project Study Area from Moss Creek to Spanish Wells Road and make recommendations on ways to improve the safety of the proposed intersections
- Identify potential modifications to the proposed intersection designs of the preferred alternative within the original Project Study Area from Moss Creek to Spanish Wells Road that deliver the same (or better) expected operational level within the same (or smaller) footprint of the currently planned project. Include estimated increased or decreased costs for the potential modifications to the intersection designs. Potential modifications that increase the Project footprint and impacts to the human and natural environment should be excluded
- Based on the findings of Task 3 for intersections outside of the original project study area, develop alternatives to improve operations in the future
- Evaluation should include traffic improvements (LOS, delay, etc.) as well as anticipated project costs and known impacts or concerns with the alternatives
- Assume up to 3 alternatives for each impacted intersection area evaluated
- Develop a Summary of Recommendations for review by the Town of Hilton Head Island and Beaufort County that can be utilized to secure future funding for improvements beyond the Project Study Area

Task 5: Draft and Final Report

- Compile model updates, operational analysis, and findings into a report for review and discussion with Beaufort County and Town of Hilton Head Island staff
- Finalize elements into draft and final reports, including executive summaries and recommendations
- Presentation of final findings to both County Council and Town Council for endorsement/adoption by both Councils
- Submit final report electronically

EXHIBIT B

Town Approved Recommendations - Gateway Corridor Project - October 12, 2021

CORRIDOR-WIDE RECOMMENDATIONS

1. Reduce lane widths to 11' to calm traffic & reduce property impacts.
2. Eliminate raised curbs in medians wherever possible, encourage existing vegetation and natural drainage in these areas.
3. Vary median widths and meander roadway alignments where possible for traffic calming and aesthetics.
4. Take advantage of Town-owned property for sake of Parkway improvements.
5. Utilize ITS smart signal technology throughout.
6. Reduce curb cuts & provide for alternative/safer property access throughout.
7. Provide trails on both sides of Parkway where possible with sufficient separation from road and in lieu of sidewalks.
8. Create a comprehensive system of safe, comfortable, and attractive shared use paths for cyclists and pedestrians.
9. Open/encourage views to the water wherever possible, as a part of the Island's "signature".
10. Ensure integration of unique, Hilton Head-specific signage, landscape schemes, public art program, architectural vocabulary, iconic features, and accent lighting that distinguish this parkway from all others.
11. Reduce design & posted speeds throughout the corridor.
12. Evaluate the island-wide transportation system.

ZONE-SPECIFIC RECOMMENDATIONS

13. Encourage Moss Creek area improvements (*commercial redevelopment, access/roadway improvements, trail connections*).
14. Establish "Gateway Experience" threshold at west end of Mackay Creek bridges (*landscape, island "icon", art, lighting*).
15. Reduce bridge mass with two separate bridges and Shared-Use Path on south side of eastbound bridge.
16. Reduce bridge lane width to 11', reduce shoulder width on left, only one breakdown lane on right.
17. Provide 14' minimum width non-motorized lane on bridge with multiple viewing areas and protection/screening of vehicles.
18. Attention to bridge design/details as viewed from afar and on-deck (parapet, railings, structural forms).
19. Consolidate Jenkins Island access to one signalized location at C. Heinrichs/Windmill Harbor Entrance.

20. Provide traditional turn lanes and intuitive intersection configurations throughout Stoney.
21. Eliminate confusing SCOOT U-turns.
22. Eliminate left turns and traffic introduction onto Old Wild Horse.
23. Create new park south of Parkway in Stoney to authentically showcase Gullah Geechee culture/heritage.
24. Consider a new Visitors Center as a part of this park that intentionally showcases this heritage while introducing visitors to the Island's offerings.

ADDITIONAL POLICY RECOMMENDATIONS

25. Create a Stoney-authored vision plan for the next generation of that neighborhood.
26. Create and professionally staff a Development Corporation as a vehicle for Stoney Advancement.

Responses to Town of Hilton Head Island Recommendations

The preliminary responses are based on the meeting held between the Beaufort County (County Administrator Eric Greenway & Assistant County Administrator Jared Fralix), SCDOT (Secretary Christy Hall, Deputy Secretary Leland Colvin, & Program Manager Craig Winn), and the Town of Hilton Head Island (Town Manager Marc Orlando, Mayor John McCann, and Senior Advisor to the Town Manager Shawn Colin) on October 14, 2021, at the Beaufort County Administration Building. Additional responses are based on further environmental NEPA evaluations, traffic evaluations & engineering design performed since the October 14, 2021 meeting.

Corridor Wide

1. Reduce lane widths to 11' to calm traffic & reduce property impacts

Preliminary Response: Agreement on 12' lanes on the bridge and Jenkins Island but a 12' outside lane and a pair of 11' inside lanes as well as accessory lanes will be pursued through the Stoney Community from the Causeway to Spanish Wells Road.

Additional Response: During the design process a design exception and appropriate approvals for the two 11' inside lanes within the Stoney Community will need to be pursued.

2. Eliminate raised curbs in medians wherever possible to encourage existing vegetation and natural drainage in these areas

Preliminary Response: Agreement on elimination of raised curbs on the interior portion of Jenkins Island where appropriate with the understanding this will increase the clear zone needed in the median. Raised curb and gutter will be installed on the exterior edge of the roadway to reduce ROW requirements and handle the drainage needs.

Additional Response: Additional investigation and review of safety and drainage needs within the area will be required as project development continues. In project areas with a proposed 15' raised median, curbing will be provided on both the inside and outside of the roadway.

3. Vary median widths and meander roadway alignments where possible for traffic calming and aesthetics

Preliminary Response: Agreement on varying median through Jenkins Island, holding eastbound lanes in the existing alignment and moving westbound travel lanes North on Jenkins Island between Crosstree Drive and the causeway. The costs are to be estimated and if project overrun will need to be funded locally (not SCDOT or SIB funding).

Additional Response: The meandering of the roadway is estimated to increase project cost by approximately \$1.5M and was designed to avoid all critical area and freshwater wetlands. Additionally, the meandering of the roadway would not be permitted to result in wetland impacts greater than the Recommended Preferred Alternative 4A, as presented at the Public Hearing. Appendix 1 shows the proposed layout of the meandering on Jenkins Island that avoids critical area

wetlands and freshwater wetlands. The additional cost does not include any costs for the additional Town-owned ROW required to meander the roadway and the ROW is assumed to be donated. The County does not have extra funds for an additional cost, and additional local funds would need to be identified early in the design process by the Town.

4. Take advantage of Town-owned property for sake of Parkway improvements

Preliminary Response: Agreement on this item and was part of the SIB application.

Additional Response: Project is taking advantage of Town-owned property through Jenkins Island with westbound lanes alignment. Other uses of Town-owned property will be considered during design if needed to facilitate project needs.

5. Utilize ITS smart signal technology throughout

Preliminary Response: Agreement on this item. It is already part of the current project scope.

Additional Response: Please be advised that signals will continue to be maintained locally, by either the County or Town, as currently prescribed in each of our Signal Maintenance Agreements (SMA) with SCOOT

6. Reduce curb cuts and provide for alternative/safer property access throughout

Preliminary Response: Agreement on this item. Change in access drives within Stoney as proposed by MKSK is separate from the project.

Additional Response: Reduction in curb cuts is a priority for safety and access management. Before reducing curb cuts, it will need to be verified that the improvements do not cause additional impacts within the TCP and are agreeable by all property owners.

7. Provide trails on both sides of Parkway where possible with sufficient separation from the road and instead of sidewalks

Preliminary Response: No trail to be installed on the southern side of William Hilton Parkway. The existing sidewalk on the southern side is to be removed except to connect Windmill Harbor to the shared use path underpass west of the Windmill Harbor entrance.

Additional Response: No additional comments.

8. Create a comprehensive system of safe, comfortable, and attractive shared use paths for cyclists and pedestrians

Preliminary Response: Agreement on a trail on the northern side of US 278 only, with separation from the roadway. The trail will not be located in the marsh area and must tighten up alignment through the causeway section connecting Hilton Head and Jenkins Island. The trail is okay to move north for more separation from Parkway through Jenkins Island.

Additional Response: The meandering of the trail through Jenkins Island must avoid the wetlands and environmental features. The corridor will also be evaluated for other opportunities to utilize town-

owned land to meander the shared use path away from the roadway and to protect tree canopies when practical. Additional expenses to meander the trail will need to be covered by local funds (Not SCOOT or SIB funding)

9. Open/encourage views to the water wherever possible, as part of the Island's "signature"

Preliminary Response: Agreement that this is a local element with selective treatment rather than any clearing and grubbing along the water edge.

Additional Response: This will not be included as part of the project as it has the potential to increase environmental impacts outside of the proposed construction limits.

10. Ensure integration of unique, Hilton Head-specific signage, landscape schemes, public art program, architectural vocabulary, iconic features, and accent lighting that distinguish this parkway from all others

Preliminary Response: Agreement that this element should be Town driven through its CIP Program.

Additional Response: The EA document includes signage within the Stoney Community as part of the environmental commitments. This is to include two signs, banner signage on SUP lighting, and landscaping. The final details of each of these features will be coordinated with the Stoney Community and local governments. (Eligible for project funding within the Stoney Community)

11. Reduce design & posted speeds throughout the corridor.

Preliminary Response: The entire project will include a 45mph design speed and consideration given for 40mph posted speed for the William Hilton Parkway from the causeway connecting Hilton Head to Jenkins Island to Sea Pines Circle (which includes the Stoney segment)

Additional Response: The posted speed will need to be discussed with the SCOOT District Traffic Engineer and a formal request will need to be submitted by the Town requesting a Speed Study through the District office for the areas of concern between Stoney and Sea Pines Circle. The project team will assist in any communication and coordination with the SCOOT District office.

12. Evaluate the island-wide transportation system.

Preliminary Response: Agreement this is an effort that will be handled locally

Additional Response: No additional comments.

Zone specific recommendations**13. Encourage/support Moss Creek area improvements (commercial redevelopment, access/roadway improvements, trail connections)**

Preliminary Response: Agreement for long-term but not included in this project scope and is not eligible for State Infrastructure Bank Funding.

Additional Response: County to support private commercial redevelopment in Moss Creek area. Any driveways and curb-cuts within project limits will be improved as part of the project. The trail along US 278 will connect to the trails along Bluffton Parkway via pedestrian improvements along Buckingham Plantation Drive.

14. Establish "Gateway Experience" threshold at the west end of Mackay Creek bridges (landscape, island "icon", art, lighting)

Preliminary Response: Okay through coordination of County & Town

Additional Response: Not eligible for SCOOT or SIB Funding

15. Reduce bridge mass with two separate bridges and a Shared-Use path on side of the eastbound bridge

Preliminary Response: SCDOT is neutral on this item. The county administrator does not think benefits will justify additional costs. SCDOT states it's likely a 10-15% increase in the cost of the bridge component resulting in a \$30M to \$40M dollar increase. These additional costs are to be funded with local funds, not SCDOT or SIB. This item is to be evaluated by KCI (County) and HDR (Town) to determine the differential in costs between 1, six-lane bridge versus 2, 3 lane bridges. Additional impacts to the environment and Pinckney Island to be considered.

Additional Response: The construction of two separate bridge structures will increase the actual bridge width and increase the impacts to Pinckney Island due to the need for a separation distance between the two structures. The dual bridge option increases the estimated project cost by \$27.3 million. Additionally, two separate bridge structures will significantly increase the construction time potentially extending the completion date and jeopardizing SIB funding. The County does not support this request.

16. Reduce bridge lane width to 11', verify the need for two breakdown lanes per bridge

Preliminary Response: The bridge will have 12' lanes and no reduction of shoulder/breakdown widths. Each direction to include 2-10' shoulders as agreed to by all parties.

Additional Response: The 12' lanes and 10' shoulders are FHWA controlling criteria and provide a safety benefit to the project. These criteria are based on the roadway classification. Additionally, the shoulders provide improved access for Emergency Response on the bridges and to Jenkins Island.

17. Provide 14' minimum width non-motorized lane on the bridge with multiple viewing areas and protection/screening of vehicles

Preliminary Response: Agreement on the 12' shared-use pathway along the southern side of the bridge with 2 bulb-outs, one over each creek. Each bulb is out to be approximately 50' long. The bulb out elements are to be funded with local money as they are considered non-essential for SIB funding

Additional Response: The final configuration of the bulb-outs will be determined during the bridge design phase but are currently estimated to be 20'x50' with an additional cost of \$125k to \$150k per bulb out. However, the cost estimate does not include the additional cost for protection/screening. The County supports the concept of the viewing areas/screening if additional local funds can be identified early in the design process by the Town, but the County does not have the extra funds to support the addition.

18. Attention to bridge design/details as viewed from afar and on-deck (parapet, railings, structural forms)

Preliminary Response: Agreement on this item with continued coordination through project design. Attention to be focused on the above deck treatment of the bridge.

Additional Response: This has potential schedule implications, but a decision would need to be made early in the design development to ensure timely completion of the bridge design. The County does not have extra funds but supports additional aesthetic details but is good with the concept if additional local funds or grants can be identified and made available.

19. Consolidate Jenkins Island access to one location at C. Heinrichs Circle/Windmill Harbor Entrance

Preliminary Response: Agreement to consolidate all turning movements on Jenkins Island to this single intersection has already been implemented as part of the refinements after the public hearing.

Additional Response: No additional response.

20. Provide traditional turn lanes and intuitive intersection configurations throughout Stoney

21. Eliminate confusing SCDOT U-turns

22. Eliminate left turns and traffic introduction onto Old Wild Horse Road

Preliminary Response: This response applies to 20-22. There is an internal agreement to provide lefts at the Stoney intersections and not to proceed with the U-turn at the Old Wild horse Road intersection. SCOOT, Beaufort County, and the Town of Hilton Head agree to evaluate options to understand the performance and impacts resulting from the preferred alternative and the local alternatives. A balance of performance, impact of land disruption, and local desires and input will drive the final request to FHWA.

Additional Response: Additional survey work and engineering design was required to address this request. A traffic technical memo was created for the section of US 278 between Squire Pope Road and Spanish Wells Road to evaluate additional intersection configurations (Appendix 2). Two additional intersections were evaluated that eliminated the signal and U-turns at Old Wild Horse Road and reintroduced the left turns at Squire Pope Road & Spanish Wells Road. Both options introduced dual left-hand turn lanes from eastbound US 278 onto northbound Squire Pope Road, dual lefts from Spanish Wells Road northbound onto US 278 westbound, and the combination of the Squire Pope Road southbound through movement and left-turn movement to protect the tree canopy on Squire Pope Road. Option 1 includes dual rights from SB

Squire Pope Road onto WB US 278 operating under a stop condition while Option 2 includes one free flow right from SB Squire Pope Road to WB US 278 with an acceleration lane on 278. While the traffic performance of each of the options causes decreased level of service at the intersections, additional travel time and delays in the peak direction, and additional delays on the side streets, the performance does meet the minimum standard of a level of service D. There is minimal discernment obtained between the performance of Option 1 and Option 2. The next step was to compare the options to original TCP impacted areas of 4.77 acres as shown in Appendix 3. Each of the alternatives, including the preferred alternative through refinements, shows a reduction in the TCP impacts. Once all factors are considered including TCP impacts, local governmental input, and public comments from the Public Hearing Option 1 balances the need for traffic performance for the mainline and side roads, and the TCP impacts throughout Stoney. Option 1 reduces the frontage impacts along US 278 within Stoney from the causeway to Squire Pope Road. The selection of Option 1 will require the trail to meander within the Town of Hilton Tract on the northeast corner of Squire Pope Road and US 278 to protect the tree canopy along Squire Pope Road as requested by the State Historical Preservation Office (SHPO).

23. Create a new park south of Parkway in Stoney to authentically showcase Gullah Geechee culture/heritage

24. Consider a new Visitor Center as part of this park that intentionally showcases this heritage while introducing visitors to the Island's offerings

Preliminary Response: This applies to 23 and 24. This must take place (at least initially) on Town/County-owned property within Stoney. NO additional property impacts, takes, or displacements should be represented as part of this element. TCP elements identified in the EA should be integrated and enhanced at this location.

Additional Response: The new park and pavilion are part of the environmental commitments for the project. The location of the improvements and details will need to be coordinated with the Stoney Community and the local entities. Should the Town desire to design and construct a visitor center, it could be constructed separately but concurrent with the project. The improvements outlined in the EA document as commitments for the Stoney Community are funded however any additional design elements or expansion would need to be funded locally and not utilize SCDOT or SIB funding.

25. Create a Stoney-authored vision plan for the next generation of that neighborhood

Preliminary Response: Agreement that this should be a locally handled effort.

Additional Response: As part of the environmental commitments, the County will develop and host an online, interactive map of the history of the Stoney community to share important historical information about the community.

26. Create and professional staff a Development Corporation as a vehicle for Stoney Advancement.

Preliminary Response: Agreement that this should be a locally handled effort.

Additional Response: The County supports the advancement of citizens within the Stoney Community and other Gullah communities throughout the county and is open to further discussions to determine the most appropriate vehicle to support this mission.

RESOLUTION 2023/

A RESOLUTION TO ACCEPT THE RECOMMENDATIONS FROM THE US 278 CORRIDOR PROJECT JOINT INDEPENDENT STUDY AS PERFORMED BY CBB AND AUTHORIZATION FOR THE INTERIM COUNTY ADMINISTRATOR TO SEND CORRESPONDENCE TO TOWN OF HILTON HEAD REQUESTING THEIR MUNICIPAL CONSENT FOR THE PROJECT

WHEREAS an independent study of the to-date engineered plans for the project was commissioned and completed in April 2021; and

WHEREAS on July 22, 2021, a public hearing for the project was held and the preferred alternative was presented; and

WHEREAS based on comments received from the public as part of the public hearing and specific comments from the Town as prepared by their consultant MKSK, changes were made to the project plans and a modified, preferred alternative was presented at follow-up public information meeting held on March 3, 2022; and

WHEREAS following the follow-up public information meeting in March of 2022, additional project concerns were raised and by the Town requested that an additional joint, independent study be commissioned to review the design of the project thus far; and

WHEREAS in addition to requesting another independent study, a MOU was drafted and agreed upon on October 21, 2022, between the County and the Town that addressed 10 specific action items that the two entities would take to move the project forward; and

WHEREAS the joint independent study was advertised at the end of 2022 and commissioned in March of 2023; and

WHEREAS under the direction of a joint staff committee, the consultant, CBB, completed the study in September 2023; and

WHEREAS CBB made a presentation of the study and report to the County Public Facilities and Safety Committee on September 25th, 2023, and to Town Council on October 17th, 2023; and

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

1. County Council adopts the recommendations of the Joint Independent Study for the US 278 Corridor Project as prepared and presented by CBB dated September 2023.
2. Having addressed all 10 items of the above-referenced MOU between the County and Town for the project, the Interim County Administrator is authorized and directed to send correspondence to the Town of Hilton Head seeking their municipal consent for the project.

Adopted this 23RD day of October 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah Brock, Clerk to Council

RESOLUTION 2023 __

**A RESOLUTION DECLARING THE RESULTS OF BOND REFERENDA
CONDUCTED IN THE FRIPP ISLAND PUBLIC SERVICE DISTRICT,
SOUTH CAROLINA ON NOVEMBER 7, 2023.**

NOW THEREFORE, BE IT RESOLVED, by the County Council of Beaufort County (the “*County Council*”), the governing body of Beaufort County, South Carolina (the “*County*”), in a meeting duly assembled, as follows:

Section 1 Findings. The County Council makes the following findings of fact in connection with the adoption of this resolution (this “*Resolution*”):

(A) Pursuant to a resolution adopted by the County Council dated August 14, 2023, the County Council ordered that bond referenda be held in the Fripp Island Public Service District (the “*District*”) on the question of the issuance of not exceeding \$5,250,000 of general obligation bonds of the District.

(B) The Board of Voter Registration and Elections of Beaufort County (the “*Election Board*”) conducted three bond referenda in the District on November 7, 2023 (the “*Referenda*”) where the following three questions (the “*Questions*”) were submitted to the qualified voters of the District:

Question #1

Shall the Fripp Island Public Service District, located in Beaufort County, South Carolina (the “District”), be authorized to issue and sell, either as a single issue or as several separate issues, general obligation bonds of the District in an aggregate principal amount of not exceeding \$1,320,000 to defray the costs of acquiring, designing, constructing, renovating, and equipping fire service facilities, apparatus, equipment, and vehicles, to include, without limitation, station improvements, beach rescue equipment, squad trucks, and aerial apparatus; capitalized interest during construction; and the costs of issuance of such general obligation bonds?

- Yes, in favor of the question
- No, opposed to the question

If you are in favor of the question, fill in the oval before the words “Yes, in favor of the question”; if you are opposed to the question, fill in the oval before the words “No, opposed to the question.”

Question #2

Shall the Fripp Island Public Service District, located in Beaufort County, South Carolina (the “District”), be authorized to issue and sell, either as a single issue or as several separate issues, general obligation bonds of the District in an aggregate principal amount of not exceeding \$870,000 to defray the costs of repairing, reconstructing, and mitigating certain District revetments and related infrastructure; capitalized interest during construction; and the costs of issuance of such general obligation bonds?

- Yes, in favor of the question
- No, opposed to the question

If you are in favor of the question, fill in the oval before the words “Yes, in favor of the question”; if you are opposed to the question, fill in the oval before the words “No, opposed to the question.”

Question #3

Shall the Fripp Island Public Service District, located in Beaufort County, South Carolina (the “District”), be authorized to issue and sell, either as a single issue or as several separate issues, general obligation bonds of the District in an aggregate principal amount of not exceeding \$3,060,000 to defray the costs of repairing, reconstructing, and improving the Fripp Inlet Bridge and related infrastructure, including, without limitation, bent retrofits and abutment protection; capitalized interest during construction; and the costs of issuance of such general obligation bonds?

- Yes, in favor of the question
- No, opposed to the question

If you are in favor of the question, fill in the oval before the words “Yes, in favor of the question”; if you are opposed to the question, fill in the oval before the words “No, opposed to the question.”

(C) The Election Board certified the results of the Referenda on November 9, 2023 and has provided the official results to the County Council, which return establishes that the Referenda were in favor of the Questions.

Section 2 Declaration. The County Council hereby declares that the result of the Referenda was in favor of each of the Questions. A copy of the official returns, as provided by the Election Commission, is attached hereto as Exhibit A.

DONE AT BEAUFORT, SOUTH CAROLINA, this 13th day of November 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

(SEAL)

Joe Passiment, Chairman

Attest:

Sarah W. Brock, Clerk
County Council of Beaufort County

EXHIBIT A

STATE OF SOUTH CAROLINA

BEAUFORT COUNTY BOARD OF CANVASSERS

STATEMENTS AND RETURNS OF VOTES

FOR

FRIPP ISLAND PUBLIC SERVICE DISTRICT (PSD)

BOND REFERENDUM SPECIAL ELECTION

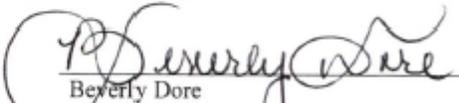
NOVEMBER 7, 2023

We, the Board of Voter Registration and Elections of Beaufort County Board of Canvassers do hereby certify that the results of the Fripp Island Public Service District (PSD) Bond Referendum Special Election, held on November 7, 2023, in Beaufort County are correct in all respects.

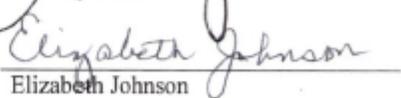

 Alyne Mitchell, Chairman

 Craig Pelley, Vice-Chairman


 James Backer


 Beverly Dore


 Herbert Ford


 Elizabeth Johnson


 Donald Lucas


 Matthew Sweeney


 James Wedgeworth

Dated this 9th day of November 2023.

Election Results Report
General Election
November 7, 2023

OFFICIAL RESULTS
Beaufort County, SC

Fripp Island Bond Referendum 1

Vote For 1

	TOTAL	VOTE %
Yes	203	89.04%
No	25	10.96%
Total Votes Cast	228	100.00%

Fripp Island Bond Referendum 2

Vote For 1

	TOTAL	VOTE %
Yes	214	94.27%
No	13	5.73%
Total Votes Cast	227	100.00%

Fripp Island Bond Referendum 3

Vote For 1

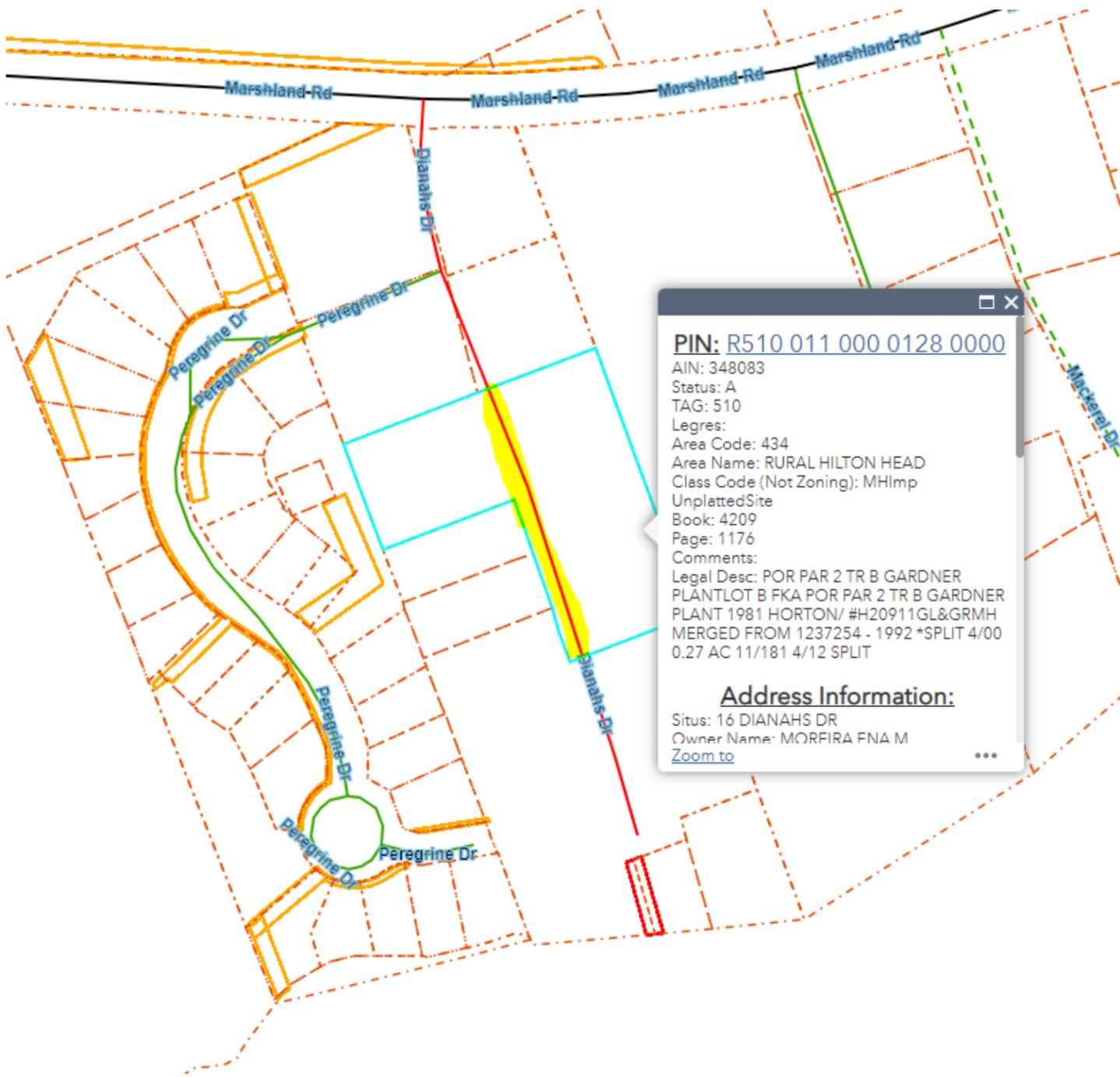
	TOTAL	VOTE %
Yes	218	96.46%
No	8	3.54%
Total Votes Cast	226	100.00%



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
RECOMMEND APPROVAL OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO ACCEPT RIGHT OF WAY ON DIANAH'S DRIVE
MEETING NAME AND DATE:
Public Facilities & Safety Committee Meeting September 25,2023
PRESENTER INFORMATION:
Jared Fralix, P.E., Assistant County Administrator, Infrastructure Eric Claussen, Director of Engineering (5 Minutes)
ITEM BACKGROUND:
The County paved Dianah's Drive in 2006 as part of Contract 24. Parcel R510 011 000 0128 0000 had a platted 30' wide section of the road on which the County claimed a prescriptive easement based on recorded plats. The County acquired a 50' ROW from abutting property owners along Dianah's Drive but did not request a formal conveyance of ROW from the owner of parcel R510 011 000 0128 0000. Now the owner of parcel R510 011 000 0128 0000 is working with the Town of Hilton Head on development associated with parcel R510 011 000 0128 0000.
PROJECT / ITEM NARRATIVE:
The property owner of parcel R510 011 000 0128 0000 would like to deed their interest in a 30' ROW for the section of the road that traverses their parcel. They are working with the Town of Hilton Head Island planning department and the Town will approve their design plans if the County accepts the 30' ROW for this section of Dianah's Drive. County Engineers have performed a site visit and have approved the requested 30' ROW which will formalize the County's ROW interest in Dianah's Drive.
FISCAL IMPACT:
None
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends acceptance of 30' ROW from owner of parcel R510 011 000 0128 0000
OPTIONS FOR COUNCIL MOTION:
Motion to approve/deny an ordinance authorizing the county administrator to execute any and all documents necessary to accept right of way on Dianah's drive. A Majority Vote for acceptance by Committee would move item to County Council for three readings and a public hearing to approve the ordinance.

Dianah's Drive Location Map



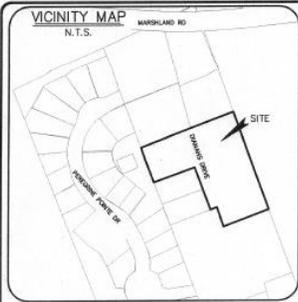


Exhibit "A"

SOME OR ALL AREAS ON THIS PLAT ARE FLOOD HAZARD AREAS AND HAVE BEEN IDENTIFIED AS HAVING AT LEAST A ONE PERCENT CHANCE OF BEING FLOODED IN ANY GIVEN YEAR BY RISING TIDAL WATERS ASSOCIATED WITH POSSIBLE HURRICANES. LOCAL REGULATIONS REQUIRE THAT CERTAIN FLOOD HAZARD PROTECTIVE MEASURES BE INCORPORATED IN THE DESIGN AND CONSTRUCTION OF STRUCTURES IN THESE DESIGNATED AREAS. REFERENCE SHALL BE MADE TO THE DEVELOPMENT COVENANTS AND RESTRICTIONS OF THIS DEVELOPMENT AND REQUIREMENTS OF THE TOWN BUILDING OFFICIAL. IN ADDITION, FEDERAL LAW REQUIRES MANDATORY PURCHASE OF FLOOD INSURANCE AS A PREREQUISITE TO FEDERALLY INSURED MORTGAGE FINANCING IN THESE DESIGNATED FLOOD HAZARD AREAS.

R510 011 000 022C 0000
 ROLLERS TRAILER PARK LLC
 3699 INVERNESS WAY
 MARTINEZ GA 30907



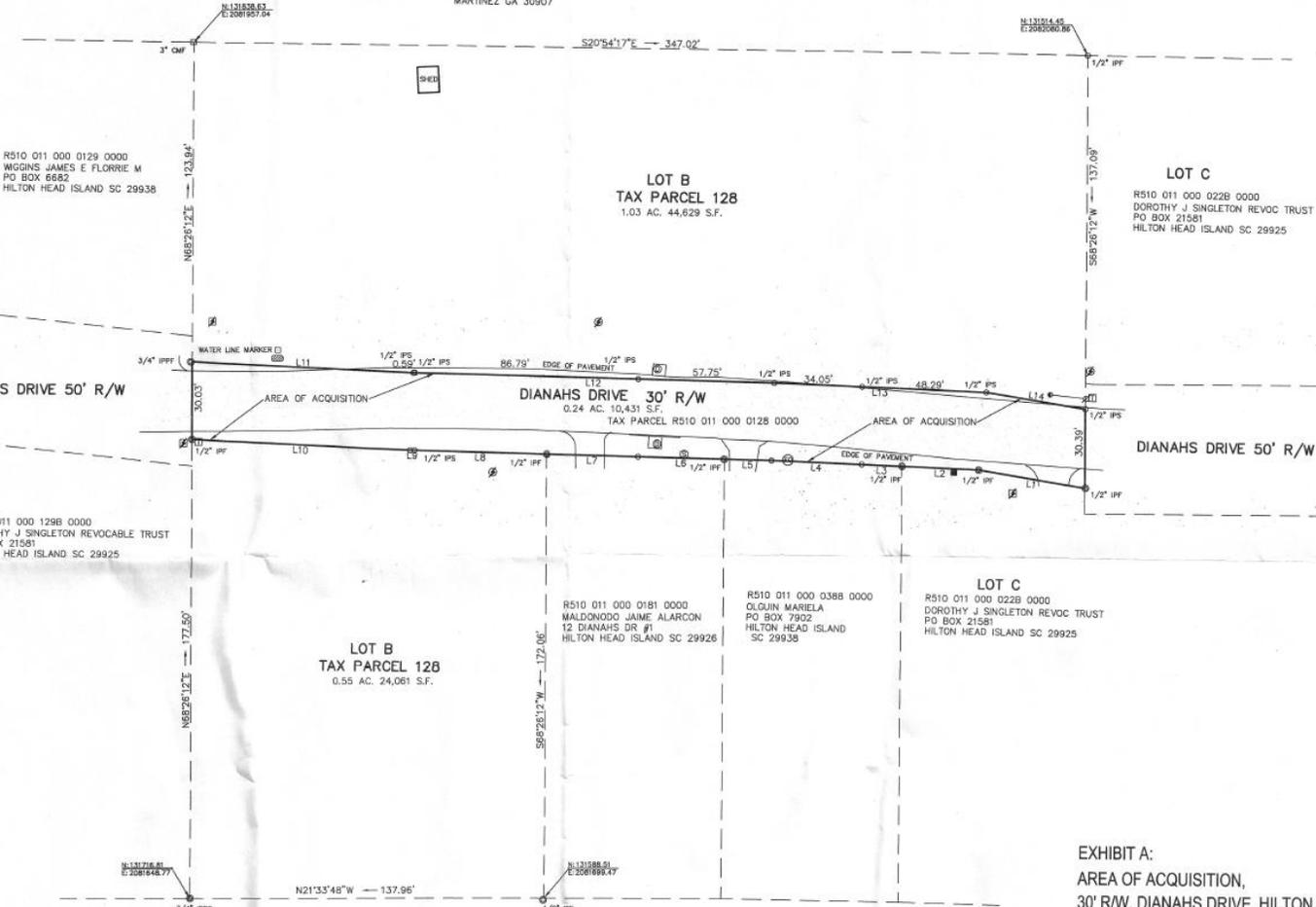
LINE	LENGTH	BEARING
L1	42.05'	N12°21'31"W
L2	29.59'	N19°20'10"W
L3	15.70'	N19°20'10"W
L4	35.02'	N19°20'10"W
L5	18.31'	N20°06'46"W
L6	33.47'	N20°06'46"W
L7	35.53'	N20°06'46"W
L8	51.28'	N20°06'46"W
L9	1.69'	N20°06'46"W
L10	85.13'	N18°48'18"W
L11	86.23'	N18°48'18"W
L12	140.13'	N20°06'46"W
L13	82.34'	N19°20'10"W
L14	39.01'	N12°21'31"W

AREA TABLE	
TOTAL AREA	1.82 AC. 79,120 S.F.
ACQUISITION AREA	0.24 AC. 10,431 S.F.
REMAINDER	1.58 AC. 68,690 S.F.

- LEGEND & SYMBOLS:**
- 3" CMF □ 3" CONCRETE MONUMENT FOUND
 - 3/4" IPFF ○ 3/4" IRON PIPE FOUND
 - 1/2" IPF ○ 1/2" IRON PIN FOUND
 - 1/2" IPS ○ 1/2" IRON PIN SET
 - ⊕ ELECTRIC TRANSFORMER
 - ☎ TELEPHONE SERVICE
 - Ⓜ TELEVISION SERVICE
 - ⚡ UTILITY POLE
 - GUY
 - ⊕ WATER METER
 - ⊕ ELECTRIC SERVICE
 - ⊕ SANITARY MANHOLE
 - ⊕ STORM MANHOLE
 - ⊕ SFWPR LATERAL
 - ⊕ FIBER OPTIC

REFERENCE PLAT
 1) A RECOMBINATION PLAT OF LOTS B & C, DIANAHS DRIVE, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. DRAWN: 10/06/10
 RECORDED IN DEED BOOK 3087, PAGE 317, DATED 9/28/11
 ROD: BEAUFORT COUNTY, SC
 BY: MACK W. THOMAS III S.C.R.L.C. # 14531

PROPERTY AREA = 1.82 AC. 79,120 S.F.
ADDRESS: 16 DIANAHS DRIVE
DISTRICT: 510, MAP: 11, PARCEL: 128
 THIS PROPERTY LIES IN F.E.M.A. ZONE X & X SHADED
 BASE FLOOD ELEVATION = NO MINIMUM ELEVATION
 COMMUNITY NO. 450250, PANEL: 0453G, DATED: 3/23/2021



- NOTES:**
- 1) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN.
 - 2) SUBJECT PROPERTY DOES NOT APPEAR TO BE AFFECTED BY THE BEACHFRONT SETBACK REQUIREMENTS OF THE S.C. BEACH PROTECTION ACT OF JULY 1, 1988.
 - 3) HORIZONTAL DATUM IS SOUTH CAROLINA STATE PLANE NAD 83.
 - 4) BUILDING SETBACKS, WHETHER SHOWN OR NOT, SHOULD BE VERIFIED BY THE LOCAL BUILDING AUTHORITY OR ARCHITECTURAL REVIEW BOARD.
 - 5) THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A COMPLETE TITLE SEARCH AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
 - 6) THIS SURVEY DOES NOT CERTIFY TO THE EXISTENCE OR ABSENCE OF FRESHWATER WETLANDS.
 - 7) THE ONLY ACTIVITIES PERMITTED IN THE EXTERIOR SUBDIVISION BUFFER AS LABELED ON THIS PLAN SHALL BE THOSE LISTED IN PERMITTED ACTIVITY IN OTHER BUFFER AREA AS PER THE LMO.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.



EXHIBIT A:
 AREA OF ACQUISITION,
 30' R/W, DIANAHS DRIVE, HILTON HEAD ISLAND,
 BEAUFORT COUNTY, SOUTH CAROLINA
 PREPARED FOR: ENA MOREIRA &
 BEAUFORT COUNTY

DATE: 6/21/2023 SCALE: 1" = 30'



d.b.a. Sea Island Land Survey, Inc.
 10 Oak Park Drive, Unit C1,
 Hilton Head Island,
 SC 29926
 FILE No. : 07322.4
 COPYRIGHT © BY NANDINA, INC.

Tel (843) 681-3248
 Fax (843) 689-3871
 E-mail: admin@nandinainc.com
 DWG No. : 5-07322.4 RIGHT OF WAY
 CAD: BA, PLOD: GJ, AW

ORDINANCE 2023/_____

AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO ACCEPT RIGHT OF WAY ON DIANAH'S DRIVE

WHEREAS, Beaufort County (“County”) paved Dianah’s Drive in 2006 as part of Contract 24. The County does not hold title to any part of a parcel designated as Parcel R510 011 000 0128 0000 but it maintains (and in 2006, paved) a 30’ wide section of the parcel pursuant to a claim of a prescriptive easement; and

WHEREAS, the aforementioned property owner is currently working with the Town of Hilton Head Island (“Town”) on design plans . The County is told that the Town will approve the property owner’s proposed design plans if the County accepts conveyance of a 30’ ROW. The property owner now desires to convey their interest in a 30’ wide ROW to Beaufort County as shown on attached Exhibit “A” and the County wishes to accept it; and

WHEREAS, it is in the best interest of the Dianah’s Drive community and the County to accept the property from the property owner to perfect the right of way.

NOW, THEREFORE, BE IT RESOLVED that Beaufort County Council hereby authorizes the Interim County Administrator to execute any and all documents necessary to accept conveyance of a 30’ wide ROW on the above referenced parcel on Dianah’s Drive.

ADOPTED this _____ day of _____, 20____.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock,
Clerk to Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
An ordinance to approve a lease agreement between Beaufort County and Edison Foard, Inc., at 30 Hunter Rd., Hilton Head Island.
MEETING NAME AND DATE:
Public Facilities and Safety Committee; September 25, 2023
PRESENTER INFORMATION:
Jon Rembold; Airports Director 3 minutes
ITEM BACKGROUND:
Edison Foard is the contractor that was selected to perform the Phase I Terminal Improvements Project. Their team and the Airport team have been in communication regarding office space for use during the construction project. The space at 30 Hunter Rd. appears to meet their needs. A DRAFT lease was generated and is included in this package. It was reviewed and approved by Legal Sept 5, 2023 . The legal review is also included in this package. The Airports Board will review the resolution at its monthly meeting scheduled for September 21, 2023.
PROJECT / ITEM NARRATIVE:
Edison Foard, the contractor for Phase I of the Terminal Improvements Project will lease office and warehouse space at 30 Hunter Road, Hilton Head Island, SC 29926. The space will serve as their base of operations during the construction project. The lease was drafted in accordance with the County's lease policy adopted in 2023.
FISCAL IMPACT:
Hilton Head Island Airport will receive income generated through lease revenue --Tenant shall pay \$1,390.00 for office space (814 square feet x \$20.50/12) and \$1,698 for warehouse space (1,406 square feet x \$14.50/12) in monthly base rental payments for premises located at 30 Hunter Rd. These lease rates are in accordance with current Beaufort County lease policies.
STAFF RECOMMENDATIONS TO COMMITTEE:
Staff recommends approval of an ordinance to approve the lease agreement between Beaufort County and Edison Foard, Inc.
OPTIONS FOR COMMITTEE MOTION:
Motion to approve/deny an ordinance to approve a lease agreement between Beaufort County and Edison Foard, Inc. Move forward to Council for Approval on October 9, 2023

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) REAL PROPERTY
 LEASE AGREEMENT

THIS REAL PROPERTY LEASE AGREEMENT is made and entered into this _____ day of _____, 2023 (“Lease”), by and between **Beaufort County**, a political subdivision of the State of South Carolina, (“Landlord”) and **Edison Foard, Inc.** (“Tenant”), collectively referred to as the “Parties”.

NOW, THEREFORE, Landlord, for and in consideration of the rents paid and to be paid, and the covenants, conditions, and stipulations to be kept and performed by Tenant, agrees to lease the Premises described herein below.

I. DESCRIPTION OF LEASED PREMISES. The premises to be conveyed is located at **30 Hunter Road, Building 2 Suite C, Hilton Head Island, SC 29926** consisting of 814 sq ft of office space and 1,406 sq ft of warehouse space; hereinafter referred to as “Premises”.

II. TERM

2.1 *Term.* The Lease Term shall be for a term of one year (“Tenancy”) commencing on the date of execution by the County Administrator (“Commencement Date”) and terminating at 11:59 p.m. on **June 30, 2024** (“Termination Date”).

2.2 *Renewal.* This Lease may be renewed upon the mutual consent of the Parties and agreed upon in writing. Any Renewal Term shall include the same terms as this Lease and be for a period up to **three (3)** one-year periods, unless thirty (30) days' prior written notice of intent not to renew is given by either party. The terms set forth in this Paragraph shall collectively be referred to hereafter as a “Renewal Term”.

III. RENTAL PAYMENT

3.1 *Payment of Rent.* Tenant shall pay to Landlord **Three Thousand Eighty Eight Dollars (\$3,088.00)** in monthly rental payments (“Rent”) during the Lease Term, which is apportioned as follows: **Office Rent \$1,390.00 per month and Warehouse Space \$1,698.00.** If occupancy begins and/or ends on any day other than the first day of a month, Rent shall be prorated for the month of commencement and/or month of termination and monthly rent collected in advance thereafter.

The first Rent payment shall be made on or before the Commencement Date. Tenant shall pay all rents due and owing, without deduction or set off, to Landlord at the address set forth in Section 9. All Rent payments shall be made in the form of check or direct deposit.

3.2 *Renewal Rate.* The Rent shall increase by three percent (3%) the first month of any Renewal Term. If the Renewal Term is effective after the 5th of the month, the Rent shall be prorated appropriately.

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

3.4 *Triple Net Lease.* The Parties agree this is a “triple net lease” and, except as otherwise provided herein, Tenant is responsible for all costs related to the Premises, together with all Improvements constructed thereon, including, without limitation, any taxes or fees, insurance and maintenance.

Landlord Initials _____ Tenant Initials _____

Landlord shall have no responsibility for any such expenses unless specifically provided for herein. The Rent payable under this Lease shall be paid to Landlord without any claim on the part of Tenant for diminution, set-off or abatement and nothing shall suspend, abate or reduce any Rent to be paid hereunder.

3.5 *Security Deposit.* The Landlord requires a Security Deposit equal to one (1) month’s Rent which is equal to **Three Thousand Eighty Eight Dollars (\$3,088.00)**. Landlord has the right to use said Security Deposit for any and all unpaid utilities or any damages to the Premise. If the Security Deposit is used for any reasons stated herein, the Landlord must provide the remaining Security Deposit within ninety (90) days of the date in which Tenant vacates the Premise.

IV. UTILITIES. Tenant shall be responsible for paying one hundred percent (100%) of all utility expenses associated with the Premises during the Initial Term and any Renewal Term. Tenant warrants and agrees to establish accounts in its name with the providing/billing entity or authority and pay for all water, gas, power, electric current, garbage collection and removal, sewer charges, and all other utilities and utility charges and fees charged to the Premises during the term of this Lease and all extensions hereof. Tenant agrees to maintain all utilities at all times during its tenancy, regardless of whether or not Tenant is physically occupying the Premise.

V. CONDITION, USE, MAINTENANCE AND REPAIRS OF PREMISES

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

5.2 *Use of Premises.* Tenant shall use the Premises for the sole purpose of **office and warehouse space rental** (“Permitted Use”). Any change in the use of the Premises may only be undertaken with the written consent of the Landlord. Tenant shall not use the Premises for any illegal purpose, nor violate any statute, regulation, rule or order of any governmental body in its use thereof, nor create or allow to exist any nuisances, nor do any act in or about the Premises or bring anything upon the Premises which will increase the premium for insurance on the Premises.

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

5.4 *Repairs of Premises.* Tenant shall at its own expense keep the Premises in good repair. Tenant shall not perform any additional work upon the Premises without prior written consent of the Landlord. The Premises shall be maintained in a clean and orderly manner. In the event of any damage of the Premises which is the direct result of Tenant, Tenant shall, immediately upon receiving demand from Landlord, correct the damage.

5.5 *Tenant Improvements, Alterations, and Restorations.*

Landlord Initials _____ Tenant Initials _____

5.5.1 *Initial Improvements.* Promptly after Landlord delivers the Premises to Tenant, Tenant shall proceed to prepare the Premises and perform such improvements that are required to utilize the Premises for the Permitted Use, which shall include modifying the interior layout to allow for car rental services office space (the “Tenant’s Initial Improvements”). Prior to performing Tenant’s Initial Improvements and promptly after the Lease is executed, Tenant shall send plans and specifications to Landlord for Landlord’s approval, which approval shall not be unreasonably withheld and Tenant shall not commence any of Tenant’s Initial Improvements until Landlord has approved the plans and specifications.

5.5.2 *Additional Improvements.* Other than Tenant’s Initial Improvements, Tenant shall not make or permit to be made any structural alterations, modifications, additions, decorations or improvements to the Premises, nor shall Tenant make or permit any other work whatsoever that would directly or indirectly involve the penetration or removal (whether permanent or temporary) of, or require access through, in, under, or above any floor, wall or ceiling, or surface or covering thereof in the Premises.

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

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

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

VI. DESTRUCTION OR DAMAGE

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

6.2 If the Premises shall be damaged or destroyed to the extent of fifty percent (50%) or more of the insurable value thereof, or if such casualty shall not have been insured against by Landlord's standard fire and casualty policies, then Landlord or Tenant may terminate this Lease or elect to repair such damage or rebuild the Premises. Within thirty (30) calendar days after any such casualty, Landlord shall notify Tenant whether Landlord intends to repair or rebuild the Premises, and Tenant shall notify Landlord whether Tenant intends to terminate this Lease. If Landlord elects to repair or rebuild the Premises, Landlord shall perform such repair or rebuilding as provided in this Agreement. If Landlord elects not to repair or rebuild, the Lease shall terminate without further

Landlord Initials _____ Tenant Initials _____

notice and all further obligations of both parties hereunder shall cease (other than those which shall theretofore have accrued), effective as of the date on which Tenant ceases doing business on the Premises.

- 6.3 If Landlord elects to repair the Premises and Tenant does not elect to terminate the Lease, and if Landlord's repairs are not substantially completed within one hundred twenty (120) calendar days following the date of the casualty, then Tenant, upon not less than thirty (30) calendar days written notice to Landlord, may terminate this Lease if Landlord has not substantially completed such repairs within the time period (which shall not be less than 30 calendar days) set forth in such notice. Substantial completion, as used herein, shall mean that the Premises are restored to the condition that they may be occupied and utilized for their intended purpose, notwithstanding that there may be additional "punch list" or other non-essential items to be completed, which neither affect nor impact Tenant's use and enjoyment of the Premises. Nevertheless, Landlord shall diligently pursue the completion of all remaining work in a timely manner.
- 6.4 During any period of reconstruction or repair of the Premises, provided Tenant has not elected to terminate this Lease, Tenant may at its sole option continue the operation of Tenant's business in the Premises to the extent reasonably practicable from the standpoint of good business practice. Tenant shall not interfere with the repair or restoration activities of Landlord or its contractors, and will adapt and modify its business activities as deemed necessary by Landlord to allow such repair or restoration activities to continue expeditiously.
- 6.5 During any period in which, by reason of any damage or destruction not resulting from the negligence of Tenant, Tenant's employees, agents, or invitees, Tenant is unable to occupy all or a portion of the Premises, Tenant's rent shall be appropriately abated for that part of the Premises rendered unusable for the conduct of Tenant's business. Such abatement shall continue for the period commencing with such destruction or damage and ending with the substantial completion by Landlord of Landlord's repairs and/or rebuilding of the Premises, as described in this Lease.

VII. ASSIGNMENT AND SUBLETTING

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

VIII. TERMINATION. This Lease shall end on the Termination Date. This Lease may be terminated by Landlord prior to the Termination Date upon providing a thirty (30) day notice to Tenant and/or upon the occurrence of any default event as set forth in Section 8.

- 8.1 *Surrender of Property.* At the termination of this Lease, Tenant agrees to quit and deliver the Premises peaceably and quietly to Landlord, or its attorney, or other duly authorized agent, at the expiration or other termination of this Lease. The Tenant shall surrender the Premises in as good

Landlord Initials _____ Tenant Initials _____

state and condition as delivered to Tenant at the commencement of this Lease, reasonable use and wear thereof expected.

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

IX. DEFAULT

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

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

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

- (a) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Premises and correct or repair any condition which shall constitute a failure on Tenant’s part to keep, observe, perform, satisfy, or abide by any term, condition, covenant, agreement or obligation of this Lease or of the rules and regulations adopted by the Landlord or of any notice given Tenant by Landlord pursuant to the terms of this Lease, and Tenant shall fully reimburse and compensate Landlord on demand for all reasonable expenses.

Landlord Initials _____ Tenant Initials _____

(b) Landlord, with or without terminating this Lease may immediately or at any time thereafter demand in writing that Tenant immediately vacate the Premises whereupon Tenant shall immediately vacate the Premises and, immediately remove therefrom all personal property belonging to Tenant, whereupon Landlord shall have the right to immediately re-enter and take possession of the Premises. Any such demand, re-entry and taking of possession of the Premises by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord. In the event the Landlord re-enters and takes possession of the Premises as provided above and the Tenant has failed upon request by Landlord to immediately remove from the Premises all property belonging to or placed upon the Premises by the Tenant, the Landlord shall have the right to have such property of the Tenant removed from the Premises and reasonably be placed within a secure storage facility for a period of time not to exceed thirty (30) days, and all costs of handling, moving and storing such property of the Tenant shall be paid by the Tenant. Notwithstanding any of the foregoing, Landlord shall be required to comply with applicable South Carolina law regarding reentry and possession of the Premises.

(c) Landlord may immediately or at any time thereafter terminate this Lease, and this Lease shall be deemed to have been terminated upon receipt by Tenant of written notice of such termination; upon such termination Landlord shall recover from Tenant all damages Landlord may suffer by reason of such termination including, without limitation, all arrearages in rentals, costs, charges, additional rentals, and reimbursements, the cost (including court costs and attorneys' fees) of recovering possession of the Premises, and, in addition thereto, Landlord at its election shall have and recover from Tenant either: (1) an amount equal to the excess, if any, of the total amount of all rents and other charges to be paid by Tenant for the remainder of the term of this Lease over the then reasonable rental value of the Premises for the remainder of the Term of this Lease, or (2) the rents and other charges which Landlord would be entitled to receive from Tenant if the Lease were not terminated. Such election shall be made by Landlord by serving written notice upon Tenant of its choice of the alternatives within thirty (30) days of the notice of termination. Notwithstanding anything hereunder to the contrary, Landlord must use its reasonable best efforts to re-let the Premises and abate Landlord's damages.

9.3 *No Waiver.* No course of dealing between Landlord and Tenant or any failure or delay on the part of Landlord in exercising any rights of Landlord under any provisions of this Lease shall operate as a waiver of any rights of Landlord, nor shall any waiver of a default on one occasion operate as a waiver of any subsequent default or any other default. No express waiver shall affect any condition, covenant, rule or regulation other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

9.4 *No Election of Remedies.* The exercise by Landlord of any right or remedy shall not prevent the subsequent exercise by Landlord of other rights and remedies. All remedies provided for in this Lease are cumulative and may, at the election of Landlord, be exercised alternatively, successively, or in any other manner, and all remedies provided for in this Lease are in addition to any other rights provided for or allowed by law or in equity.

9.5 *Insolvency or Bankruptcy.* The appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment by Tenant for the benefit of creditors, or any action taken or suffered by Tenant, or any action against Tenant, under any insolvency, bankruptcy, or reorganization, shall at Landlord's option constitute an event of default under this Lease. Upon the

Landlord Initials _____ Tenant Initials _____

happening of any such event of default or at any time thereafter, this Lease shall terminate five (5) days after written notice of termination from Landlord to Tenant. In no event shall this Lease be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency, or reorganization proceedings.

9.6 *Abandonment.* Tenant shall not be considered to have abandoned or vacated the Premises as long as Tenant continues to pay rent and fulfill all other obligations of this Lease, regardless of whether Tenant is actually continuously occupying the space or not, unless Tenant gives notice of termination if and as allowed by this Lease. If Landlord's right of entry is exercised following abandonment of the Leased Premises by Tenant, then Landlord may consider any personal property belonging to Tenant and left on the Leased Premises to have been abandoned, in which case Landlord may dispose of all such personal property in any manner Landlord shall deem proper and is hereby relieved of all liability for doing so.

X. SALE OF PREMISES. In the event the Landlord hereunder, or any successor owner of the Premises, shall sell or convey the Premises, all liabilities and obligations on the part of the Landlord, or such successor owner, under this Lease accruing thereafter shall remain for a minimum sixty (60) days or the Tenant may enter into a new Lease with the successor owner.

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

XII. INSURANCE LIABILITY AND INDEMNIFICATION

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

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

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

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

Landlord Initials _____ Tenant Initials _____

XIII. MISCELLANEOUS PROVISIONS

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

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

Copy To:
Airport
Airport Director, Hilton Head Island Airport
120 Beach City Rd
Hilton Head Island, SC 29926

AS TO TENANT:

With a Copy to:

Edison Foard, Inc.
3900 Rose Lake Drive
Charlotte, NC 28217

13.2 *Entire Agreement.* This Lease constitutes as the sole and entire agreement of Landlord and Tenant and no prior or contemporaneous oral or written representations or agreements between the parties affecting the Premises shall have any legal effect.

13.3 *Counterparts.* This Agreement may be executed in counterparts. Each of the counterparts shall be deemed an original instrument, but all of the counterparts shall constitute one and the same instrument.

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

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

13.6 *Captions.* The captions used in this Lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

13.7 *Successors and Assigns.* The provisions of this Lease shall inure to the benefit of and be binding upon Landlord and Tenant, and their respective successors, heirs, legal representatives, and assigns.

Landlord Initials _____ Tenant Initials _____

- 13.8 *Applicable Law.* The laws of the State of South Carolina shall govern the interpretation, validity, performance and enforcement of this Lease; and, of any personal guarantees given in connection with this Lease.
- 13.9 *Authority.* Each individual and entity executing this Agreement hereby represents and warrants that he, she or it has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement to the terms hereof.
- 13.10 *Force Majeure.* Except for timely Rent payment, Landlord or Tenant shall not be in default hereunder when performance of any term or condition is prevented by a cause beyond its control.
- 13.11 *Time is of the Essence.* Time is of the essence of this Lease.
- 13.12 *Quiet Enjoyment.* Landlord hereby covenants, warrants and agrees that so long as Tenant is performing all of the covenants and agreements herein stipulated to be performed on the Tenant's part, Tenant shall at all times during the lease term have the peaceable quiet and enjoyment and possession of the Premises without any manner of hindrance from Landlord or any person or persons lawfully claiming the Premises, or any part thereof.

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

LANDLORD:

Witness

Beaufort County Administrator

Witness

Date: _____

TENANT:

Witness

By: _____
Its: _____

Witness

Date: _____

Landlord Initials _____ Tenant Initials _____

PLEASE MAKE SURE YOU ARE USING INTERNET EXPLORER AS YOUR BROWSER

If you have already submitted this information via the Purchasing Contract Review Form, please do NOT submit it here via t

Legal Review Process Instructions



OFFICE OF THE COUNTY ATTORNEY

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

LEGAL REVIEW REQUEST FORM

Form Number: 2023 - 1406L

Originally submitted on: 9/5/2023 11:31:09 AM

Select Type:

Document Title: 30 Hunter Road Bld 2 Suite C: office&warehouse space lease with Edison Foard

Department:

Requester's Name: Marlene Myers

Ph: 843.255.2944

Em: tracy.myers@bcgov.net

Date Needed by: 9/6/2023

Is this item being presented to Council or Committee? Yes No
(If Yes, please provide meeting date)

Description of Document or Any Concerns:

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

Description of the Reimbursement or Compensation:

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

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

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

ORDINANCE 2023/_____

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT BETWEEN BEAUFORT COUNTY AND EDISON FOARD, INC

WHEREAS, the Hilton Head Island Airport (“Airport”) is in the process of expanding the terminal in order to provide better service to both residents and tourists (“Terminal Improvements Project”); and

WHEREAS, Edison Foard, Inc. is the contractor that will execute the Terminal Improvements Project; and

WHEREAS, the Airport desires to enter into a lease agreement with Edison Foard, Inc. ("Lessee"), that shall include a reasonable lease rate based on square footage of the leased space; and

WHEREAS, the Lessee will use off-site office and storage space at 30 Hunter Road, Hilton Head Island, SC 29926, as its base of operations during the Terminal Improvements Project, and desires to use certain areas and facilities owned by the County and acquire from County certain rights and privileges in connection with its use of Airport; and

WHEREAS, the County has the right to permit use of the Airport upon the terms and conditions hereinafter set forth and has full power and authority to enter into this Agreement.

WHEREAS, County Council finds that it is in the best interest of the citizens and residents of Beaufort County for the County Administrator to enter into a Lease Agreement with Edison Foard, Inc.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL, duly assembled, does hereby authorize the County Administrator to enter into a Lease Agreement with Edison Foard, Inc.

Adopted this ____ day of _____, 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
An ordinance to approve a lease agreement between Beaufort County and High Tide Aviation Scenic Tours
MEETING NAME AND DATE:
Public Facilities and Safety Committee; September 25, 2023
PRESENTER INFORMATION:
Jon Rembold; Airports Director 3 minutes
ITEM BACKGROUND:
High Tide Aviation approached Airport staff earlier this summer about expanding their business to Beaufort Executive Airport. They currently operate in coastal NC and coastal GA. They expressed an interest in leasing space for their operation at the airport. A DRAFT lease was generated and is included in this package. It was reviewed and approved by Legal Sept 8, 2023. The Airports Board reviewed and recommended approval of the agreement at its monthly meeting held July 20, 2023.
PROJECT / ITEM NARRATIVE:
High Tide Aviation has been in business since 2013 and would like to be the premier provider for Beaufort Executive Airport's scenic air tour offerings. Their fleet is made up of Cessna 172s and experienced pilots. High Tide Aviation offers packages designed for different preferences and budgets, and they take every precaution to ensure the safety and enjoyment of passengers. This is an opportunity to expand the opportunities for the general public to enjoy the airport's offerings.
FISCAL IMPACT:
Beaufort Executive Airport will receive income generated through fuel sales, the airport's standard 3% operating agreement, and lease revenue --Tenant shall pay \$231.00 (140 square feet x \$19.80/12) in monthly base rental payments for premises located at the Beaufort Executive Airport terminal. These lease rates are in accordance with current Beaufort County lease policies.
STAFF RECOMMENDATIONS TO COMMITTEE:
Staff recommends approval of an ordinance to approve the lease agreement between Beaufort County and High Tide Aviation Scenic Tours.
OPTIONS FOR COMMITTEE MOTION:
Motion to approve/deny an ordinance to approve a lease between Beaufort County and High Tide Aviation Scenic Tours Move forward to Council for Approval on October 9, 2023

3.4 *Triple Net Lease.* The Parties agree this is a “triple net lease” and, except as otherwise provided herein, Tenant is responsible for all costs related to the Premises, together with all Improvements constructed thereon, including, without limitation, any taxes or fees, insurance and maintenance. Landlord shall have no responsibility for any such expenses unless specifically provided for herein. The Rent payable under this Lease shall be paid to Landlord without any claim on the part of Tenant for diminution, set-off or abatement and nothing shall suspend, abate or reduce any Rent to be paid hereunder.

IV. CONDITION, USE, MAINTENANCE AND REPAIRS OF PREMISES

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

4.2 *Use of Premises.* Tenant shall use the Premises for the sole purpose of operating fixed-wing scenic air tours and flight training (“Permitted Use”). Any change in the use of the Premises may only be undertaken with the written consent of the Landlord. Tenant shall not use the Premises for any illegal purpose, nor violate any statute, regulation, rule or order of any governmental body in its use thereof, nor create or allow to exist any nuisances, nor do any act in or about the Premises or bring anything upon the Premises which will increase the premium for insurance on the Premises.

4.3 *Repairs of Premises.* Tenant shall at its own expense keep the Premises in good repair. Tenant shall not perform any additional work upon the Premises without prior written consent of the Landlord. The Premises shall be maintained in a clean and orderly manner. In the event of any damage of the Premises which is the direct result of Tenant, Tenant shall, immediately upon receiving demand from Landlord, correct the damage.

4.4 *Tenant Improvements, Alterations, and Restorations.*

4.4.1 *Initial Improvements.* Promptly after Landlord delivers the Premises to Tenant, Tenant shall proceed to prepare the Premises and perform such improvements that are required to utilize the Premises for the Permitted Use, which shall include approved signage and marketing (the “Tenant’s Initial Improvements”). Prior to performing Tenant’s Initial Improvements and promptly after the Lease is executed, Tenant shall send plans and specifications to Landlord for Landlord’s approval, which approval shall not be unreasonably withheld and Tenant shall not commence any of Tenant’s Initial Improvements until Landlord has approved the plans and specifications.

4.4.2 *Additional Improvements.* Other than Tenant’s Initial Improvements, Tenant shall not make or permit to be made any structural alterations, modifications, additions, decorations or improvements to the Premises, nor shall Tenant make or permit any other work whatsoever that would directly or indirectly involve the penetration or removal (whether permanent or temporary) of, or require access through, in, under, or above any floor, wall or ceiling, or surface or covering thereof in the Premises.

Landlord Initials _____ Tenant Initials _____

4.4.3 *Cost of Improvements.* Tenant's Initial Improvements, or any additional improvements as approved by the Landlord, shall be made at Tenant's sole cost and expense, including the expense of complying with all present and future legal requirements, and any other work required to be performed in other areas within or outside the Premises.

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

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

V. DESTRUCTION OR DAMAGE

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

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

5.3 If Landlord elects to repair the Premises and Tenant does not elect to terminate the Lease, and if Landlord's repairs are not substantially completed within one hundred twenty (120) calendar days following the date of the casualty, then Tenant, upon not less than thirty (30) calendar days written notice to Landlord, may terminate this Lease if Landlord has not substantially completed such repairs within the time period (which shall not be less than 30 calendar days) set forth in such notice. Substantial completion, as used herein, shall mean that the Premises are restored to the condition that they may be occupied and utilized for their intended purpose, notwithstanding that there may be additional "punch list" or other non-essential items to be completed, which neither affect nor impact Tenant's use and enjoyment of the Premises. Nevertheless, Landlord shall diligently pursue the completion of all remaining work in a timely manner.

Landlord Initials _____ Tenant Initials _____

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

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

VI. ASSIGNMENT AND SUBLETTING

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

VII. TERMINATION. This Lease shall end on the Termination Date. This Lease may be terminated by Landlord prior to the Termination Date upon providing a thirty (30) day notice to Tenant and/or upon the occurrence of any default event as set forth in Section 8.

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

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

VIII. DEFAULT

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

Landlord Initials _____ Tenant Initials _____

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

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

- (a) Landlord, with or without terminating this Lease, may immediately or at any time thereafter re-enter the Premises and correct or repair any condition which shall constitute a failure on Tenant's part to keep, observe, perform, satisfy, or abide by any term, condition, covenant, agreement or obligation of this Lease or of the rules and regulations adopted by the Landlord or of any notice given Tenant by Landlord pursuant to the terms of this Lease, and Tenant shall fully reimburse and compensate Landlord on demand for all reasonable expenses.
- (b) Landlord, with or without terminating this Lease may immediately or at any time thereafter demand in writing that Tenant immediately vacate the Premises whereupon Tenant shall immediately vacate the Premises and, immediately remove therefrom all personal property belonging to Tenant, whereupon Landlord shall have the right to immediately re-enter and take possession of the Premises. Any such demand, re-entry and taking of possession of the Premises by Landlord shall not of itself constitute an acceptance by Landlord of a surrender of this Lease or of the Premises by Tenant and shall not of itself constitute a termination of this Lease by Landlord. In the event the Landlord re-enters and takes possession of the Premises as provided above and the Tenant has failed upon request by Landlord to immediately remove from the Premises all property belonging to or placed upon the Premises by the Tenant, the Landlord shall have the right to have such property of the Tenant removed from the Premises and reasonably be placed within a secure storage facility for a period of time not to exceed thirty (30) days, and all costs of handling, moving and storing such property of the Tenant shall

Landlord Initials _____ Tenant Initials _____

be paid by the Tenant. Notwithstanding any of the foregoing, Landlord shall be required to comply with applicable South Carolina law regarding reentry and possession of the Premises.

(c) Landlord may immediately or at any time thereafter terminate this Lease, and this Lease shall be deemed to have been terminated upon receipt by Tenant of written notice of such termination; upon such termination Landlord shall recover from Tenant all damages Landlord may suffer by reason of such termination including, without limitation, all arrearages in rentals, costs, charges, additional rentals, and reimbursements, the cost (including court costs and attorneys' fees) of recovering possession of the Premises, and, in addition thereto, Landlord at its election shall have and recover from Tenant either: (1) an amount equal to the excess, if any, of the total amount of all rents and other charges to be paid by Tenant for the remainder of the term of this Lease over the then reasonable rental value of the Premises for the remainder of the Term of this Lease, or (2) the rents and other charges which Landlord would be entitled to receive from Tenant if the Lease were not terminated. Such election shall be made by Landlord by serving written notice upon Tenant of its choice of the alternatives within thirty (30) days of the notice of termination. Notwithstanding anything hereunder to the contrary, Landlord must use its reasonable best efforts to re-let the Premises and abate Landlord's damages.

8.3 *No Waiver.* No course of dealing between Landlord and Tenant or any failure or delay on the part of Landlord in exercising any rights of Landlord under any provisions of this Lease shall operate as a waiver of any rights of Landlord, nor shall any waiver of a default on one occasion operate as a waiver of any subsequent default or any other default. No express waiver shall affect any condition, covenant, rule or regulation other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

8.4 *No Election of Remedies.* The exercise by Landlord of any right or remedy shall not prevent the subsequent exercise by Landlord of other rights and remedies. All remedies provided for in this Lease are cumulative and may, at the election of Landlord, be exercised alternatively, successively, or in any other manner, and all remedies provided for in this Lease are in addition to any other rights provided for or allowed by law or in equity.

8.5 *Insolvency or Bankruptcy.* The appointment of a receiver to take possession of all or substantially all of the assets of Tenant, or an assignment by Tenant for the benefit of creditors, or any action taken or suffered by Tenant, or any action against Tenant, under any insolvency, bankruptcy, or reorganization, shall at Landlord's option constitute an event of default under this Lease. Upon the happening of any such event of default or at any time thereafter, this Lease shall terminate five (5) days after written notice of termination from Landlord to Tenant. In no event shall this Lease be assigned or assignable by operation of law or by voluntary or involuntary bankruptcy proceedings or otherwise and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency, or reorganization proceedings.

8.6 *Abandonment.* Tenant shall not be considered to have abandoned or vacated the Premises as long as Tenant continues to pay rent and fulfill all other obligations of this Lease, regardless of whether Tenant is actually continuously occupying the space or not, unless Tenant gives notice of termination if and as allowed by this Lease. If Landlord's right of entry is exercised following abandonment of the Leased Premises by Tenant, then Landlord may consider any personal property belonging to Tenant and left on the Leased Premises to have been abandoned, in which case

Landlord Initials _____ Tenant Initials _____

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.

IX. SALE OF PREMISES. In the event the Landlord hereunder, or any successor owner of the Premises, shall sell or convey the Premises, all liabilities and obligations on the part of the Landlord, or such successor owner, under this Lease accruing thereafter shall remain for a minimum sixty (60) days or the Tenant may enter into a new Lease with the successor owner.

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

XI. INSURANCE LIABILITY AND INDEMNIFICATION

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

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

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

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

XII. MISCELLANEOUS PROVISIONS

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

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

Landlord Initials _____ Tenant Initials _____

Copy To: Beaufort County
Attn: Beaufort County Public Facility Director
Post Office Box 1228
Beaufort, SC 29901

AS TO TENANT: _____

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

Landlord Initials _____ Tenant Initials _____

part, Tenant shall at all times during the lease term have the peaceable quiet and enjoyment and possession of the Premises without any manner of hindrance from Landlord or any person or persons lawfully claiming the Premises, or any part thereof.

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

LANDLORD:

Witness

Beaufort County Administrator

Witness

Date: _____

TENANT:

Witness

By: _____
Its: _____

Date: _____

Landlord Initials _____ Tenant Initials _____

PLEASE MAKE SURE YOU ARE USING INTERNET EXPLORER AS YOUR BROWSER

If you have already submitted this information via the Purchasing Contract Review Form, please do NOT submit it here via t

Legal Review Process Instructions



OFFICE OF THE COUNTY ATTORNEY

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

LEGAL REVIEW REQUEST FORM

Form Number: 2023 - 1408L

Originally submitted on: 9/7/2023 11:12:48 AM

Select Type:

Document Title: Lease (office space) at Beaufort Executive Airport: High Tide Aviation

Department: Requester's Name: Marlene Myers

Ph: 843.255.2944 Em: tracy.myers@bcgov.net

Date Needed by: 9/7/2023

Is this item being presented to Council or Committee? Yes No Meeting date: 9/11/2023
(If Yes, please provide meeting date)

Description of Document or Any Concerns:

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

Description of the Reimbursement or Compensation:

Office Space @ \$19.80 per sq ft (140) = \$231.00 per month
North of Broad Rate

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

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

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

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

Attachments:

 High Tide Aviation Office Lease 090723.docx 44.96 KB	 Lease Rate Breakdown 2023.pdf 144.69 KB	 No file attached
2023-09-07T11:21:47	2023-09-07T11:25:56	

LEGAL DEPARTMENT USE ONLY- INITIAL REVIEW

Attachments:

 No file attached	 No file attached	 No file attached
------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------

- Approved
- On Hold
- Disapproved
- Additional Documents Requested

Does this request need to go to Finance?

- Yes, send to Finance
- No, do not send to Finance
- Send to Contract Specialist

Comments:

Approved to go to Council for public hearing and decision to approve or deny. BH

Item 3.

9:14:40 AM
Legal Staff

9/8/2023

Date / Time

ORDINANCE 2023/_____

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT BETWEEN BEAUFORT COUNTY AND HIGH TIDE AVIATION, LLC

WHEREAS, the Beaufort Executive Airport (“Airport”) desires to enter into a lease agreement with High Tide Aviation, LLC ("Lessee"), that shall include a reasonable ground lease rate based on square footage of the area leased; and

WHEREAS, the Lessee will engage in the business of offering scenic flight tours, and desires to lease certain area owned by the County and acquire from County certain rights and privileges in connection with its use of Airport grounds; and

WHEREAS, the County has the right to permit use of the Airport grounds upon the terms and conditions hereinafter set forth and has full power and authority to enter into this Agreement; and

WHEREAS, County Council finds that it is in the best interest of the citizens and residents of Beaufort County for the County Administrator to enter into a Lease Agreement with High Tide Aviation, LLC.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL, duly assembled, does hereby authorize the County Administrator to enter into a Lease Agreement with High Tide Aviation, LLC.

Adopted this ____ day of _____, 2023.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

Item 4.

ITEM TITLE:
Recommendation of award IFB# 092823 – Alljoy Boat Landing Repairs (R.L. Morrison & Sons, Inc.) (\$534,730.00)
MEETING NAME AND DATE:
Public Facilities Committee Meeting – October 23, 2023
PRESENTER INFORMATION:
Jared Fralix, P.E., Assistant County Administrator, Infrastructure Neil J. Desai, P.E., Public Works Director (5 Minutes)
ITEM BACKGROUND:
In the spring of 2022, it was observed during a routine Public Works inspection that an existing piling was damaged and slightly bent. The Public Works Dept. continued to monitor the dock to ensure it was safe to use. In the fall of 2022, funding was available through A/H Tax grants. Marine engineer was secured for the creation of plans and specifications for bidding purposes. The bid was advertised in the summer of 2023 with a bid opening in September.
PROJECT / ITEM NARRATIVE:
Per IBF# 092823 – The contractor will install a new 188 foot “L” sectional dock consisting of nine 8 foot by 20 foot floating dock sections, which be manufactured out of aluminum, floating dock section which shall have treated wooden siding and bumper rails, and pilings to be constructed of concerted and fitted with plastic cone caps.
FISCAL IMPACT:
The project cost is funded by an Accommodations and Hospitality Tax Grant (A&H) (20020021-54124) in the amount of \$534,730.00. The A&H Tax funding source has a balance of (\$1,092,017.00).
STAFF RECOMMENDATIONS TO COUNCIL:
Public Works Director recommends the award of IFB# 092823 - Alljoy Boat Landing Repairs to R.L. Morrison & Sons, Inc.
OPTIONS FOR COUNCIL MOTION:
Motion to either accept/deny the recommendation of award for Alljoy Boat Landing Repairs. <i>Next Steps – Execute contract with R.L. Morrison & Sons, Inc.</i>

PRELIMINARY BID TABULATION
PURCHASING DEPARTMENT

Item 4.



Project Name:	Alljoy Boat Landing Repair
Project Number:	IFB 092823
Project Budget:	
Bid Opening Date:	28-Sep-23
Time:	3:00:00 PM
Location:	Beaufort County
Bid Administrator:	Dave Thomas
Bid Recorder:	Victoria Moyer

The following bids were received for the above referenced project:

BIDDER	BID FORM	ALL ADDENDA	Bid Bond	SCH OF VALUES	SMBE Docs	Sub Listing	Grand Total Price
L-J Inc.	X	X	X	No	X	No	\$ 562,107.00
RL Morrison & Sons Inc.	X	X	X	X	Self Performing	Self Performing	\$ 534,730.00

Contractor Not Self Performing. Did not show Good Faith Effort

Beaufort County posts PRELIMINARY bid tabulation information within 2 business days of the advertised bid opening. Information on the PRELIMINARY bid tabulation is posted as it was read during the bid opening. Beaufort County makes no guarantees as to the accuracy of any information on the PRELIMINARY tabulation. The bid results indicated here do not necessarily represent the final compliance review by Beaufort County and are subject to change. After the review, the final award will be made by Beaufort County Council and a certified bid tab will be posted online.

David L. Thomas
Bid Administrator Signature

Victoria Moyer
Bid Recorder



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Recommend Approval of Contract Award to O’Quinn Marine Construction for RFP #090723 Whitehall Phase 2 Design-Build Construction Services (\$250,000)
MEETING NAME AND DATE:
Public Facilities and Safety Committee – October 23, 2023
PRESENTER INFORMATION:
Eric Larson, PE, Director, Capital Projects (5 mins)
ITEM BACKGROUND:
Beaufort County requested proposals for Whitehall Phase 2 on 9/7/23. A mandatory on-site pre-proposal meeting was held and was attended by four contractors. One proposal was received from O’Quinn Marine Construction with a cost of \$250,000.00. Staff has reviewed the detailed proposal submittal and found the prices to be fair and reasonable.
PROJECT / ITEM NARRATIVE:
Phase 2 of the Whitehall Park project includes design and construction of a kayak dock and pier, bulkhead repair, and misc. site work. The total funds requested are the proposal amount of \$250,000. This is a design build project with a guaranteed maximum price. Purchasing has not submitted a draft contract to Legal. This will occur after contract award.
FISCAL IMPACT:
Funding comes from passive park budget, 45020011-54417. Current account balance is \$937,336.60.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of contract to O’Quinn Marine Construction for award of RFP #090723 in the amount of \$250,000.
OPTIONS FOR COUNCIL MOTION:
Motion to approve/deny recommendation of award to O’Quinn Marine Construction for RFP #090723 Whitehall Phase 2 Design-Build Construction Services. <i>Next Step: Move forward to County Council to award to O’Quinn Marine Construction for RFP #090723 Whitehall Phase 2 Design-Build Construction Services.</i>

WHITEHALL PARK PHASE 2 Design/Build
RFP# 090723

Cost Break Down

Description of Work

Cost

1	Survey work by Davis & Floyd	
	A. Permitting survey-tree and topography, critical line at 2 locations	\$ 11,000.00
	B. Construction staking and as-built	\$ 1,500.00
	C. Bathometric survey if required by OCRM or USACOE	\$ 3,000.00
2	Engineering work by McSweeney Engineers	
	A. Joint state and federal permit application	\$ 12,000.00
	B. Structural design of dock and bulkhead	\$ 3,400.00
	C. Revisions of work through details of design with Beaufort County Staff	\$ 1,500.00
	D. Site visits During construction - Inspection report	\$ 1,500.00
3	Construction work by O'Quinn Marine Construction Inc.	
	A. Removal and disposal of asphalt, concrete, rocks and anything protruding from the ground	\$ 20,475.00
	B. Furnish and spread top soil in disturbed areas	\$ 3,000.00
	C. Hydro seed all disturbed areas	\$ 1,850.00
	D. Spread mulch in areas under trees that have no grass	\$ 1,000.00
	E. Construct 60 linear feet of wooden bulkhead	\$ 45,000.00
	F. Furnish and install 60 tons of rip rap	\$ 24,000.00
	G. Removal and disposal of existing dock piles	\$ 1,800.00
	H. Stairway access to marsh	\$ 2,500.00
	I. Removal and disposal of existing dock piles	\$ 1,500.00
	J. 6'x85' walkway leading to a 10'x24' pierhead, 30"x26' aluminum ramp attached to an 8'x24' floating dock	\$ 90,475.00
	K. EZ Dock kayak launch each installed	\$ 4,500.00
	L. Mobilization and bonding	\$ 20,000.00

TOTAL PROJECT COST

\$250,000.00

O'Quinn Marine Construction Inc.
95 Sheppard Road
Beaufort.SC 29907
843-522-3313
quinnmarine@mac.com

Whitehall Park Phase 2 Design/Build
RFP#090723

EXECUTIVE SUMMARY

We understand from the bid documents and from our onsite meeting with Beaufort County staff the following objectives are to be met.

1. A dock that allows safe access and is handicap accessible for visitors to enjoy the creek and marshes.
2. Provide a place for kayakers to paddle to, exit their kayaks safely so they can walk and enjoy the park.
3. Dock to be durable and low maintenance.
4. Bulkhead with an approximate length of 60 linear feet at the end of the causeway that will keep the erosion under control.
5. Steps down to the marsh edge from the end of the path from bulkhead.
6. Remove all asphalt, concrete, rocks and anything protruding out of the ground that is a safety issue. Dispose of at a proper facility.
7. Provide top soil in all disturbed area. Level and rake. Seed all bare areas.

CLOSING COMMENTS

It's O'Quinn Marine's intention to compliment the existing boardwalk with the construction of the dock. We will use all similar materials and design concepts. All stainless-steel fasteners, composite decking and cable rails. We will incorporate handicap components into the dock.

O'Quinn Marine Construction Inc.
95 Sheppard Road
Beaufort, SC 29907
843-522-3313
Oquinnmarine@mac.com

Whitehall Park Phase 2 Design/Build
RFP#090723

WORK PLAN AND SCHEDULING

After Notice to Proceed is issued we will begin the following work.

1. Meet with staff of Beaufort County and the team consisting of Duncan O'Quinn, Steve Andrews and Bill Barna to discuss all idea's again and to proceed with the agreed upon plan.
2. Survey work to begin no later than two (2) weeks after meeting.
3. Survey field work and computer/office work to completed and sent to engineers. Estimate four (4) weeks.
4. Engineer to prepare OCRM, USACOE permit packages and submit. Estimate 3-4 weeks.
5. During the Permitting Public Notice period the following will be performed. Engineered drawings for dock, bulkhead and step. Plans to be sent to Beaufort County staff for discussion and final approvals. Estimate 16-20 weeks.
- 5A. During the permitting period O'Quinn Marine could be removing asphalt, rock and debris. Place top soil and seed areas.
6. Bulkhead construction six (6) weeks.
Dock construction six (6) weeks.

Estimated total time from Notice to Proceed to substantial completion forty-two (42) weeks or 9 months 8 days.

O'Quinn Marine Construction Inc.
95 Sheppard Rd
Beaufort, SC 29907
843-522-3313
oquinmarine@mac.com

R. Duncan O'Quinn III is our owner and Project Manager. He has a lifetime of experience in the marine construction field. He is a licensed Marine Contractor and a licensed United States Coast Guard Captain.

Alex Lawrence is our Superintendent and a graduate of the University of Georgia. Alex has been with O'Quinn Marine Construction for 14 years and oversees all field employees. He has many years of experience in the marine construction and land infrastructure industries.

In addition to a Project Manager and Field Supervisor, O'Quinn Marine Construction has a full staff of field employees with between 1 and 17 years of employment, and 2 clerical staff. We self-perform 99% of our work and have a compliment of equipment to perform any type of land or water-based job.

O'Quinn Marine Construction Inc. has been in the marine construction industry for over 40 years and have earned an excellent reputation from our many clients. We believe that with our many years of experience, we are qualified to provide all the necessary elements that are required for the Whitehall Park Phase 2 Design/Build RFP# 090723 project for Beaufort County.

Duncan O'Quinn, Steve Andrews and Bill Barna have many years of local experience in the field of construction, engineering and design in Beaufort County. We are certain that this team will provide a very thorough bid and design to build a quality structure that will provide many years of use for the people of Beaufort County.

O'Quinn Marine Construction is fully insured, bonded, licensed in Beaufort County and is a licensed South Carolina unlimited General Contractor. O'Quinn Marine is not currently nor anytime within the last five (5) years been involved in any legal proceedings



September 22, 2023

Mr. Duncan O'Quinn
O'Quinn Marine Construction Company
Beaufort, SC

Dear Mr. O'Quinn,

McSweeney Engineers, LLC is a Lowcountry-based multi-disciplined engineering firm established in 2011. McSweeney Engineers offers organizational simplicity and unparalleled personal service to our clients with low-overhead, reasonable cost and high value. McSweeney Engineers provides this level of service throughout all projects and it is our goal to continue to provide quality engineering and construction management services to Beaufort County. McSweeney Engineers is currently registered as a vendor with Beaufort County and is the *only firm listed on the Beaufort County A&E Registry that is certified for: Civil Engineering, Marine/Waterfront Engineering, Structural Engineering and Wetland Permitting*. Experience in all of these disciplines is necessary to meet the requirements of this RFQ.

McSweeney Engineers is a leader in waterfront structural engineering and permitting. We have a proven track record of providing structural inspections, load ratings, evaluations, and designs of marine structures for local, state, and federal agencies. As such we are highly qualified and fully equipped to provide Beaufort County with complete, through and comprehensive services as indicated in this RFQ.

Waterfront Structural Engineering and Permitting are core services for McSweeney Engineers. Since our inception, we have continuously dedicated time and financial resources to expand our capabilities, train our personnel and maintain the highest standards. Our safety record is monitored by a third-party verification service (ISNetworld) where we maintain an "A" Rating. Since 2015, we have provided a wide array of engineering and construction support services related to the maintenance and inspection of the existing Broad River Fishing Pier. Our previous experience at Broad River Fishing Pier, in conjunction with other projects located in Beaufort County, clearly indicates our ability to meet the Scope of Services. For these reasons, we believe that our services and capabilities are particularly well suited to this project.

DAVIS & FLOYD

SINCE 1954

September 21, 2023

Emailed this day: Duncan OQuinn oquinnmarine@mac.com

Mr. Duncan O'Quinn, Owner
O'Quinn Marine Construction, Inc
95 Sheppard Road
Lady's Island, SC 29907

Re: Certification Letter
Whitehall Park Phase 2, Beaufort County RFP 090723

Dear Mr. O'Quinn:

Davis & Floyd is a licensed engineering and surveying firm in the state of South Carolina. The staff includes professional engineers and surveyors licensed in the state of South Carolina to provide engineering and surveying services as required to deliver the Design-Build services described in the Beaufort County RFP 090723 – Whitehall Park Phase 2.

Davis & Floyd insurance coverage meets the minimum requirements specified in the RFP for Worker's Compensation, Commercial General Liability, Comprehensive Automobile Liability, and Professional Liability (Errors & Omissions).

Very truly yours,

DAVIS & FLOYD



Steven Andrews

Vice President

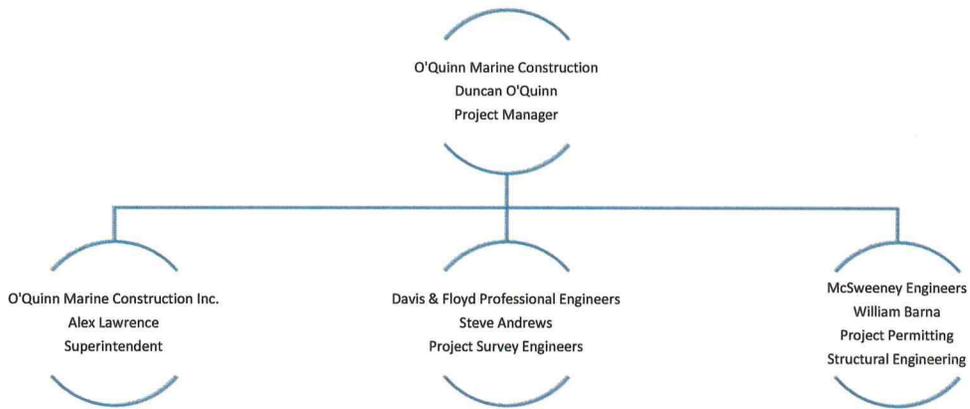


EXHIBIT A**Certification regarding Debarment, Suspension, Ineligibility, and Voluntary exclusion**

The contractor certifies, by submission of this qualification statement or acceptance of a contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any State, Federal department, or agency.

It further agrees by submitting this qualification statement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to this solicitation/bid.

State whether your company has been involved in any litigation within the past five (5) years, arising out of your performance.

Circle Yes or No.

if you answer yes, explain fully if it has been involved in any litigation involving performance.

EXHIBIT B

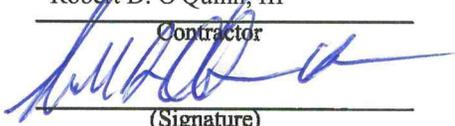
CERTIFICATION BY CONTRACTOR

Regarding

NON-SEGREGATED FACILITIES

The Bidder certifies that he does not, and will not, provide and maintain segregated facilities for his employees at his establishments and, further that he does not, and will not, permit his employees to perform their services at those locations, under his control, where segregated facilities are provided and maintained. Segregated fountains, transportation, parking, entertainment, recreation, and housing facilities; waiting, rest, wash, dressing, and locker room, and time clock, work, storage, restaurant, and other eating areas which are set apart in fact, or by explicit directive, habit, local custom, or otherwise, based on color, creed, national origin, and race. The Bidder agrees that, except where he has obtained identical certifications from proposed subcontractors for specific time periods, he will obtain identical certifications from proposed subcontractors prior to the award of subcontractors exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his files.

The Bidder agrees that a breach of this certification is a violation of the Equal Opportunity clause in this Contract. The penalty for making false statements is prescribed in 18 U.S.C. 1001.

Robert D. O'Quinn, III
Contractor

(Signature)

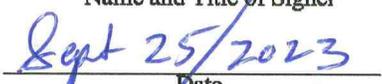
Robert D.O'Quinn, III - President
Name and Title of Signer

Date

EXHIBIT C

EVALUATION FORM

DATE: 09/25/2023

RFP#: 090723 TITLE: Whitehall Park Phase 2 Design/Build

OFFEROR: O'Quinn Marine Construction Inc.

		POINT RANGE	POINTS ASSIGNED
1.0	Demonstrated understanding of the objectives, scope of work and issues needing to be addressed during each phase of the project.	0-20 Points	
2.0	Approach to the process and ability to meet objectives in all phases of the project, including design, permitting, and construction oversight.	0-30 Points	
3.0	Demonstrated experience showing ability to provide accurate cost estimates and ability to meet schedules and deadlines.	0-30 Points	
4.0	Quality and breadth of experience as provided in the form of similar projects and references.	0-20 Points	
		Total Points	



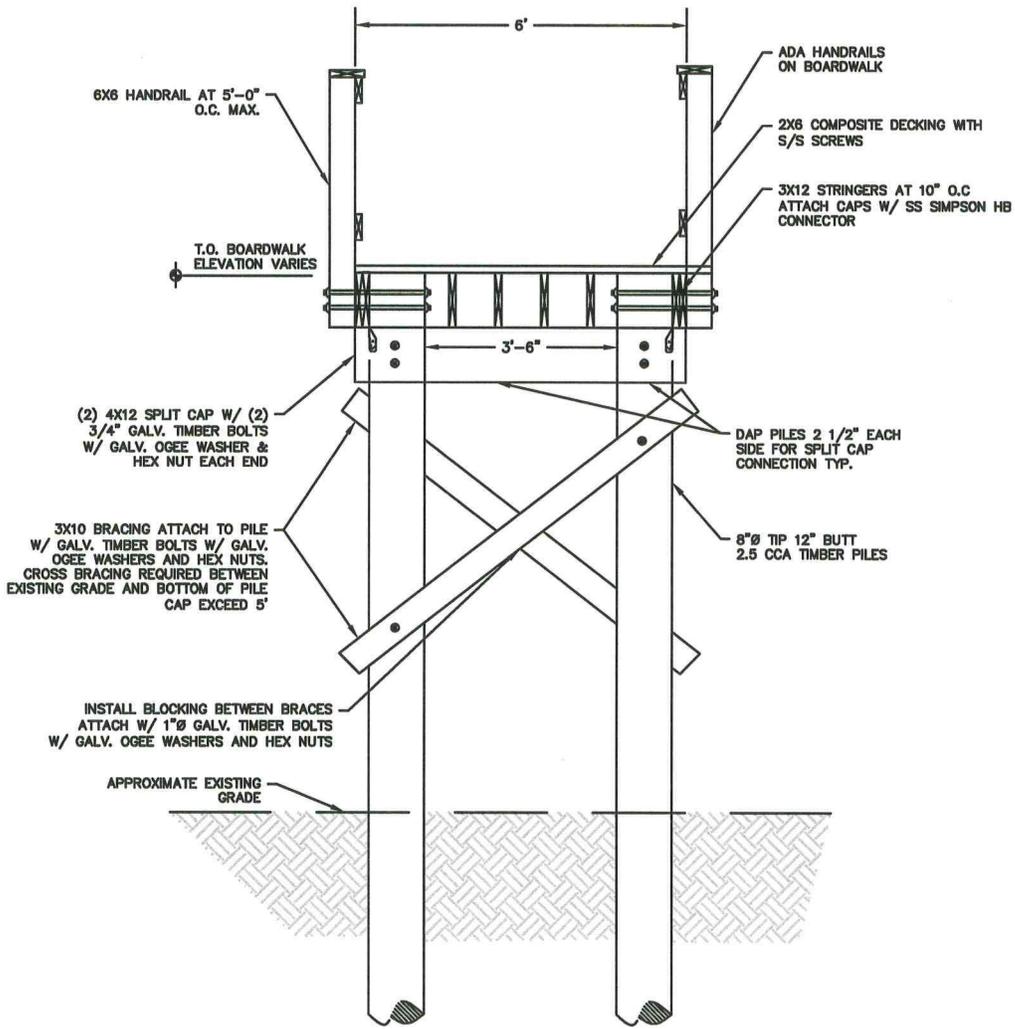
PROPOSED PLAN VIEW

SCALE: 1:400

WHITEHALL PARK PHASE 2

FIGURE 1
PROPOSED PLAN VIEW
SCALE: 1:400

O'QUINN MARINE CONSTRUCTION
COMPANY, INC.



PROPOSED BOARDWALK SECTION

SCALE: 1:40

WHITEHALL PARK PHASE 2

FIGURE 2
TYPICAL SECTION
SCALE: 1:40

**O'QUINN MARINE CONSTRUCTION
COMPANY, INC.**

Envision EverGrain



Item 5.

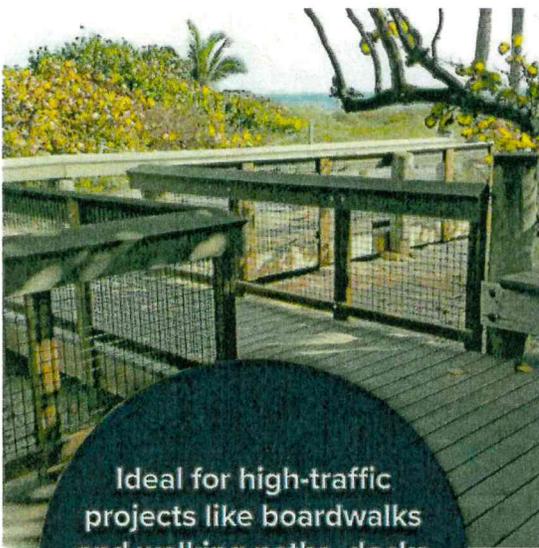
EverGrain sets the standard in composite decking, and has been trusted on homes, commercial properties, national parks, stadiums, and theme parks for more than 20 years.

*Colors weather to a lighter shade within the first several months of exposure to the environment.

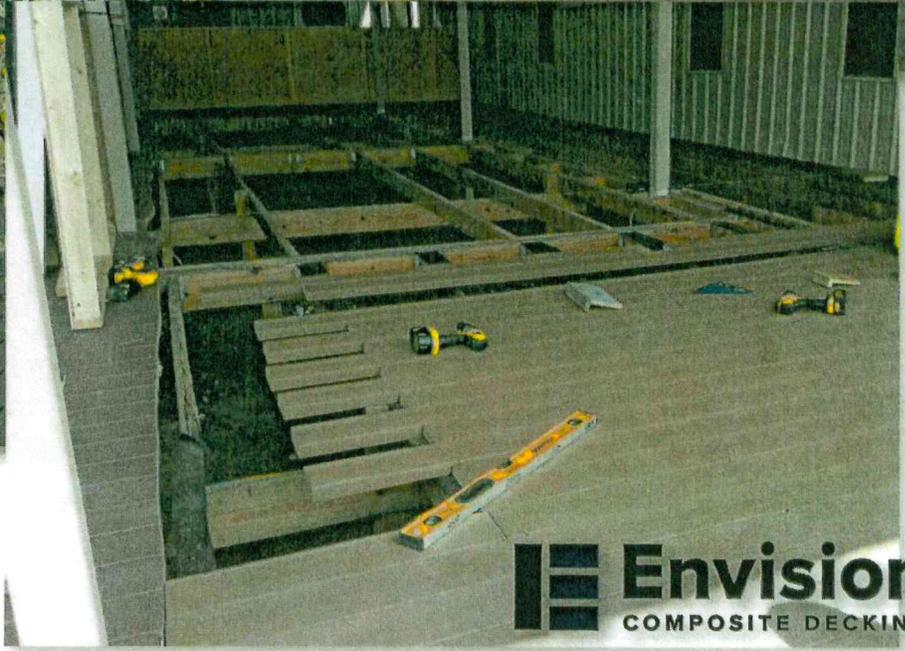


Nominal Size	Actual Size
2" x 6" x (16' or 20')	1-7/16" x 5-1/2"

Board Size	Span (90°)	Span (up to 45°)	Stair Tread
2" x 6"	24"	16"	12"



Ideal for high-traffic projects like boardwalks and walking paths, docks and piers, waterfront decks and patios, and much more.



EnvisionDecking.com

Envision Evergrain vs Pressure Treated Lumber

	25 year Warranty	Needs Seasonal Painting/Staining	Rots, splits and splinters	Susceptible to Insect Damage	Contributes to Deforestation	Uses Post Consumer Recyclables
Envision Evergrain 2x6	Yes	No	No	No	No	Yes
Pressure Treated Lumber	No	Yes	Yes	Yes	Yes	No



AIA Document A310™ – 2010

Bid Bond

CONTRACTOR:

(Name, legal status and address)
O'Quinn Marine Construction, Inc
95 Sheppard Road
Beaufort, SC 29907

SURETY:

(Name, legal status and principal place of business)
Merchants Bonding Company (Mutual)
P.O. Box 14498
Des Moines, IA 50306-3498

OWNER:

(Name, legal status and address)
County Council of Beaufort County
P.O. Drawer 1228
Beaufort, SC 29901-1228

BOND AMOUNT: Five Percent (5%) of Amount of Bid

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

PROJECT:

(Name, location or address, and Project number, if any)
Design Build for Whitehall Park Dock and Bulkhead

Project Number, if any:
RFP # 090723

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 26th day of September, 2023

(Handwritten signature)

(Witness)

(Handwritten signature)

(Witness) Raymond E. Cobb, Jr.

O'Quinn Marine Construction, Inc
(Handwritten signature) _____ *(Seal)*
(Principal)

Merchants Bonding Company (Mutual)
(Handwritten signature) _____ *(Seal)*
(Surety)

(Handwritten signature) _____
(Title) M. Kathryn McCartha-Powers, Attorney-in-Fact

Init.

MERCHANTS BONDING COMPANY POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

C Wayne McCartha; M Kathryn McCartha-Powers; Raymond E Cobb Jr

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

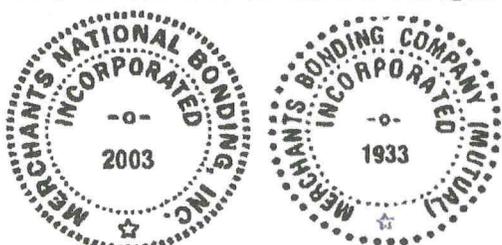
"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and authority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 28th day of December, 2022.

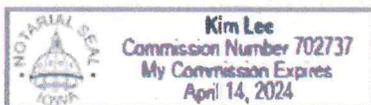


MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
d/b/a MERCHANTS NATIONAL INDEMNITY COMPANY

By *Larry Taylor*
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 28th day of December 2022, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.



Kim Lee
Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 26th day of September, 2023.



William Warner Jr.
Secretary

Bid Form

1. Remove existing asphalt, add and grade soil, and reseed = \$ 26,325.00 GMP
2. Construct Bulkhead and erosion stabilization = \$ 97,750.000 GMP
3. Stairway to marsh = \$ 2,500.00 GMP
4. Remove existing dock structure = \$ 1,500.00 GMP
5. Construct Dock and Pier * = \$ 121,925.00

*This bid item is subject to change based on final approved design.

GMP= Guaranteed Maximum Price \$250,000.00

See Attached Cost Break Down

WHITEHALL PARK PHASE 2 Design/Build
RFP# 090723

Cost Break Down

Description of Work

Cost

1	Survey work by Davis & Floyd	
	A. Permitting survey-tree and topography, critical line at 2 locations	\$ 11,000.00
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TOTAL PROJECT COST

\$250,000.00

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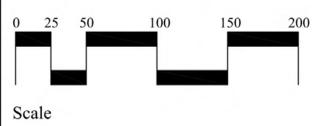
ADD-ONS



LEGEND

- A PROPOSED HWY 21 ACCESS, RIGHT IN / RIGHT OUT ACCESS EASEMENT
- B PROPOSED MERIDIAN ROAD ACCESS EASEMENT
- C MAIN PARK ENTRANCE (GATED ACCESS)
- D PARK DROP-OFF, PARKING AREA AND INFORMATION KIOSK
- E PICNIC PAVILION (30'x50') WITH RESTROOMS, STORAGE & DRINKING FOUNTAIN
- F GATHERING LAWN
- G PICNIC GARDEN
- H COVERED DOCK
- I WHITEHALL POINT OVERLOOK
- J BOARDWALK CONNECTION (BY OTHERS)
- K SWING TRELLIS, TYP.
- L BIKE PATH
- M COVERED OBSERVATION PIER
- N PERVIOUS UPLAND FOREST TRAIL
- O PERVIOUS PATH
- P PERIMETER FENCING
- Q BENCHES, TYP.
- R EXISTING CONCRETE SIDEWALK

Project No: 01-19047 Date: 12-11-2020 Page Title: Draft Concept Plan



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 2013 Wood+Partners Inc., 7 Lafayette Place, Hilton Head Island, SC 29926 Tel. 843-681-6618 Fax 843-681-7086, www.woodandpartners.com



WHITEHALL PARK
 DRAFT CONCEPTUAL PLAN
 Beaufort, South Carolina



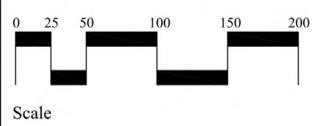


LEGEND

A	PROPOSED HWY 21 ACCESS, RIGHT IN / RIGHT OUT ACCESS EASEMENT
B	PROPOSED MERIDIAN ROAD ACCESS EASEMENT
C	MAIN PARK ENTRANCE (GATED ACCESS)
D	PARK DROP-OFF, PARKING AREA AND INFORMATION KIOSK
E	PICNIC PAVILION (30'x50') WITH RESTROOMS, STORAGE & DRINKING FOUNTAIN
F	GATHERING LAWN
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WHITEHALL PARK

DRAFT CONCEPTUAL PLAN

Beaufort, South Carolina





BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Recommend Approval of Contract Award to Terra Excavating, Inc. for IFB #101223 Southside Park Pickle Ball Courts Construction Services (\$570,024.00)
MEETING NAME AND DATE:
Public Facilities and Safety Committee – October 23, 2023
PRESENTER INFORMATION:
Eric Larson, PE, Director, Capital Projects (5 mins)
ITEM BACKGROUND:
Beaufort County requested bids for the new Southside Park Pickle Ball Courts on 10/12/23. Two bids were received with the qualified low bidder being Terra Excavating, Inc. with a cost of \$570,024.00. This includes one proposed bid alternate and deletion of one item of work from the scope. Staff and the design consultant, Landplan Group South, have reviewed the detailed bid submittal and found the prices to be fair and reasonable.
PROJECT / ITEM NARRATIVE:
The existing park on Battery Creek Road consists of one tennis court, two pickle ball courts, a pavilion, restrooms, and parking. The park is being expanded to include four additional pickle ball courts, a full-size basketball court, and trails connecting to the City of Beaufort Southside Park improvements. The total funds requested are the bid amount (plus a contingency) from the remaining project budget (\$570,024 + \$12,476 = \$582,500) Purchasing has not submitted a draft contract to Legal. This will occur after contract award.
FISCAL IMPACT:
Funding comes from Parks and Recreation Capital Fund, 10401600-54436. Current account balance is \$4,551,060.13.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of contract to Terra Excavating, Inc. award of IFB #101223 in the amount of \$570,024.00 with a \$12,476 contingency fund for a total of \$582,500.00
OPTIONS FOR COUNCIL MOTION:
Motion to approve/deny recommendation of award Terra Excavating, Inc. for IFB #101223 Southside Park Pickle Ball Courts Construction Services. <i>Next Step: Move forward to County Council to award Terra Excavating, Inc. for IFB #101223 Southside Park Pickle Ball Courts Construction Services.</i>

PRELIMINARY BID TABULATION
PURCHASING DEPARTMENT



Project Name:	Southside Pickleball Park
Project Number:	IFB 101223
Project Budget:	
Bid Opening Date:	12-Oct-23
Time:	3:00:00 PM
Location:	Beaufort County
Bid Administrator:	Dave Thomas
Bid Recorder:	Victoria Moyer

The following bids were received for the above referenced project:

BIDDER	BID FORM	ALL ADDENDA	Bid Bond	SCH OF VALUES	SMBE Docs	Sub Listing	Grand Total Price
Beaufort Construction of SC, LLC	x	x	x	x	x		\$ 849,100.00
Terra Excavating, LLC	x	x	x	x	x		\$675,767.80 * deduct of \$62,687.80 if using alt.

Beaufort County posts PRELIMINARY bid tabulation information within 2 business days of the advertised bid opening. Information on the PRELIMINARY bid tabulation is posted as it was read during the bid opening. Beaufort County makes no guarantees as to the accuracy of any information on the PRELIMINARY tabulation. The bid results indicated here do not necessarily represent the final compliance review by Beaufort County and are subject to change. After the review, the final award will be made by Beaufort County Council and a certified bid tab will be posted online.

David L. Thomas
Bid Administrator Signature

Bid Recorder

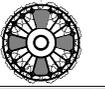
10/12/2023

10/16/2023
 Terra bid modifications
 Original bid = \$675,767.80
 Accept Asphalt alternate = -\$62,687.80
 Deduct replacing existing fence = -\$43,056
 New price = \$570,024.00

 EWL



THE LANDPLAN GROUP SOUTH
 1204 SCOTT STREET
 COLUMBIA, SC 29201
 803.254.0562
 WWW.LANDPLANGROUP.COM

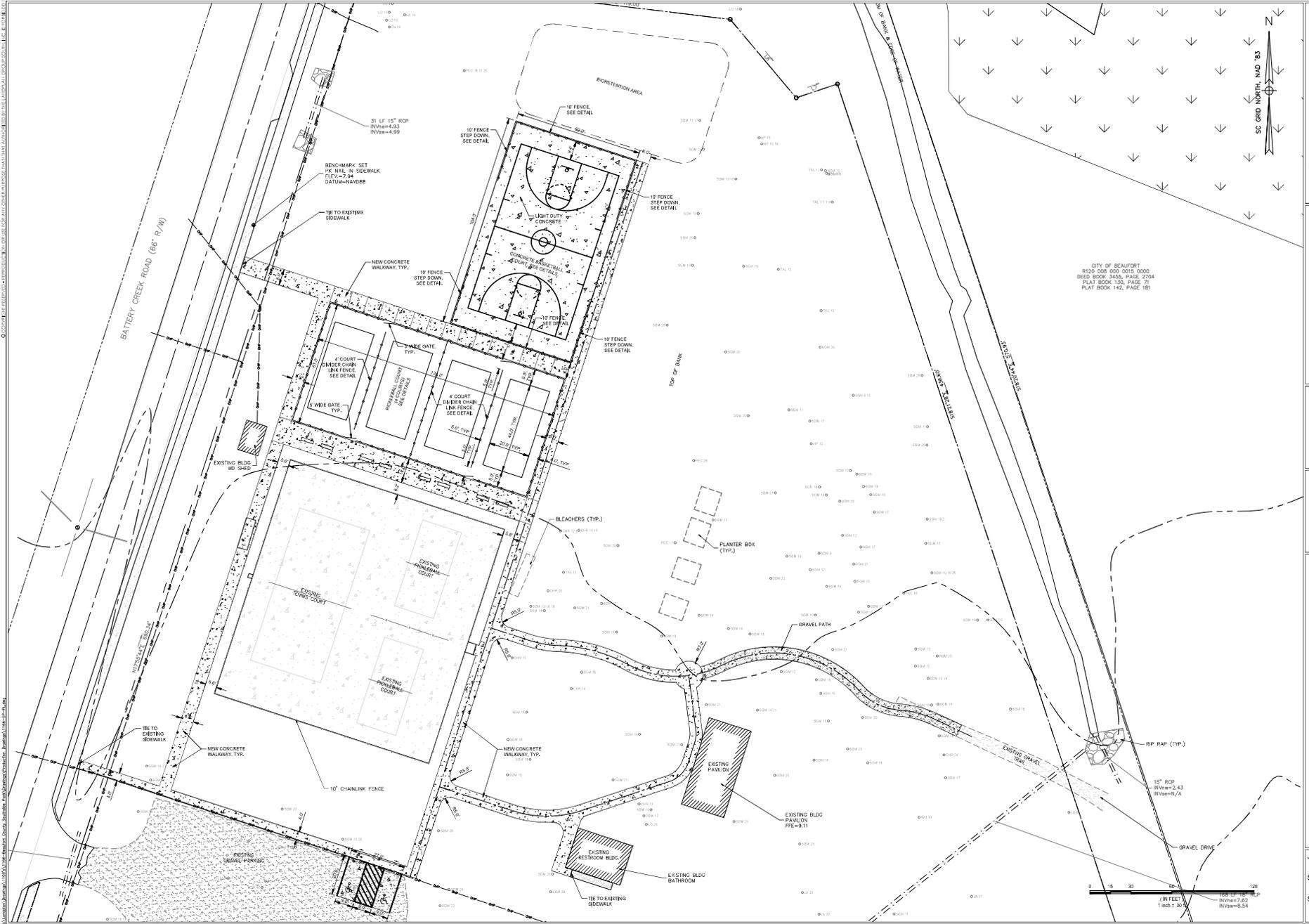


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CITY OF BEAUFORT
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 DEED BOOK 3450, PAGE 2704
 PLAT BOOK 130, PAGE 71
 PLAT BOOK 142, PAGE 181

SOUTHSIDE PARK IMPROVEMENTS
PERMIT DRAWINGS
CITY OF BEAUFORT, SOUTH CARLINA
LAYOUT PLAN

JOB # 1166
 SCALE 1" = 20'
 SHEET 04 OF XX



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