



County Council Meeting Beaufort County, SC

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

Monday, April 08, 2024
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 York Glover
3. PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES - *March 11, 2024*
6. ADMINISTRATOR'S REPORT
7. PRESENTATION OF A PROCLAMATION RECOGNIZING LIBRARY WEEK - *Council Member Anna Maria Tabernik*
8. PRESENTATION OF A PROCLAMATION RECOGNIZING APRIL 2024 AS SEXUAL ASSAULT AWARENESS MONTH - *Council Member Paula Brown*
9. PRESENTATION OF A PROCLAMATION RECOGNIZING ALCOHOL AWARENESS AND UNDERAGE DRINKING PREVENTION MONTH IN BEAUFORT COUNTY - *Vice-Chairman Lawrence McElynn*
10. PRESENTATION OF A PROCLAMATION RECOGNIZING THE HILTON HEAD ISLAND PUBLIC SERVICE DISTRICT - *Vice-Chairman Lawrence McElynn*

CITIZEN COMMENTS

11. 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

12. LIASION AND COMMITTEE REPORTS

PUBLIC HEARINGS AND ACTION ITEMS

13. APPROVAL OF CONSENT AGENDA

14. PUBLIC HEARING AND THIRD READING OF AN ORDINANCE APPROPRIATING FUNDS FROM THE STATE A-TAX FUNDS AS RECOMMENDED BY THE STATE A-TAX COMMITTEE IN COMPLIANCE WITH THE REQUIREMENTS OF THE SOUTH CAROLINA CODE OF LAWS. **(FISCAL IMPACT: Funding will come from the State Accommodations Fund.)**

Vote at First Reading on January 22, 2024 - 6:5

Vote at Public Hearing and Second Reading on February 12, 2024 - Recommend to move back to Finance, Administration, and Economic Development Committee 9:2

Vote at Finance, Administration, and Economic Development Committee on February 26, 2024 - Move forward to Council meeting for second reading on March 25, 2024, public hearing to be held on April 8, 2024

Vote at Second Reading on March 25, 2024 - 9:1

15. THIRD READING OF AN ORDINANCE AMENDING CHAPTER 66 TAXATION, ARTICLE II ACCOMMODATIONS TAX BOARD, DIVISION 1. GENERALLY AND DIVISION 2. ACCOMMODATIONS (3%) TAX

Vote at First Reading on March 11, 2024- 10:1

Vote at Public Hearing and Second Reading on March 25, 2024 - 9:1

16. FIRST READING OF AN ORDINANCE AMENDING CHAPTER 99 STORMWATER MANAGEMENT, ARTICLE II STORMWATER MANAGEMENT UTILITY SECTIONS 110, STORMWATER SERVICE FEE BILLING, DELINQUENCIES AND COLLECTIONS; AND 113, ENFORCEMENT AND PENALTIES OF THE BEAUFORT COUNTY CODE OF ORDINANCES

17. FIRST READING OF AN ORDINANCE AMENDING ORDINANCE 2023/32 AN ORDINANCE TO AMEND THE BEAUFORT COUNTY ORDINANCE ESTABLISHING A ROAD USE FEE

18. FIRST READING OF AN ORDINANCE TO AMEND CHAPTER 2 ADMINISTRATION, ARTICLE VII FINANCE, DIVISION 2 FEES AND SERVICE CHARGES GENERALLY, SECTION 2-437 ROAD USE FEE OF THE BEAUFORT COUNTY CODE OF ORDINANCES

19. FIRST READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS FOR THE ACCEPTANCE OF PROPERTIES PURSUANT TO A DEVELOPMENT AGREEMENT BETWEEN BEAUFORT COUNTY AND CHEROKEE BEAUFORT, LLC

20. APPROVAL OF A RESOLUTION AND AN INTERGOVERNMENTAL AGREEMENT BETWEEN BEAUFORT COUNTY AND HILTON HEAD ISLAND FOR WILLIAM HILTON PARKWAY SAFETY AND PEDESTRIAN IMPROVEMENTS **(FISCAL IMPACT: not to exceed amount of \$600,000 to be funded from the Hilton Head**

Island/Daufuskie Island Road Impact Fees account 2300-30-0000-54500-12300 with a balance of \$800,000)

CITIZEN COMMENTS

21. 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.

EXECUTIVE SESSION

- 22. PURSUANT TO S. C. CODE §30-4-70(a)(2): RECEIPT OF LEGAL ADVICE WHERE THE LEGAL ADVICE RELATES TO MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (FREEDOM OF INFORMATION ACT)
 - 23. PURSUANT TO S.C. CODE SECTION 30-4-70(A)(2): DISCUSSION OF MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (INQUIRIES AND INVESTIGATIONS PURSUANT TO S.C. CODE SECTION 4-9-660)
 - 24. PURSUANT TO S. C. CODE §30-4-70(a)(2): RECEIPT OF LEGAL ADVICE WHERE THE LEGAL ADVICE RELATES TO MATTERS COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (PENDING LITIGATION - WALLS v. BEAUFORT COUNTY)
 - 25. PURSUANT TO S. C. CODE SECTION 30-4-70(A)(2) TO ENGAGE IN DISCUSSIONS AND NEGOTIATIONS INCIDENT TO PROPOSED CONTRACTUAL ARRANGEMENTS (DAUFUSKIE FERRY EMERGENCY SERVICES)
 - 26. PURSUANT TO S.C. CODE SEC. 30-4-70(A)(2): RECEIPT OF LEGAL ADVICE WHERE THE ADVICE RELATES TO PENDING CLAIMS THAT ARE COVERED BY THE ATTORNEY-CLIENT PRIVILEGE (PINE ISLAND HOLDINGS, LLC v BEAUFORT COUNTY)
-

END OF EXECUTIVE SESSION

- 27. MATTERS ARISING OUT OF EXECUTIVE SESSION
- 28. ADJOURNMENT

CONSENT AGENDA

Items Originating from the Finance, Administration and Economic Development Committee

1. THIRD READING OF AN ORDINANCE TO AMEND BEAUFORT COUNTY'S BUDGET ORDINANCE FOR FISCAL YEAR 2024 (ORDINANCE NO. 2023/22) TO APPROPRIATE AND TRANSFER \$250,000 FROM FUND BALANCE OF THE GENERAL FUND TO THE SPECIAL REVENUE FUND (FUND 2546) TO COVER UNBUDGETED COSTS FOR THE DAUFUSKIE ISLAND FERRY OPERATIONS; TO APPROPRIATE AND TRANSFER \$3,600,000 FROM FUND BALANCE OF THE GENERAL FUND FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 333 AND 335 BUCKWALTER PARKWAY PURSUANT TO ORDINANCE 2023/14; TO INCLUDE THREE SPECIAL REVENUE FUNDS' BUDGETS (FUNDS 2230, 2252, AND 2255) IN AN AGGREGATE AMOUNT OF \$402,918 WHICH WERE CONVERTED TO THE GENERAL FUND DURING THE CHART OF ACCOUNTS CONVERSION PROCESS. TOTAL AMENDMENT OF BUDGET ORDINANCE 2023/22 IS \$4,252,918. **(FISCAL IMPACT: An increase in the County's operating budget of \$4,252,918)**

Vote at First Reading on March 11, 2024 - 10:1

Vote at Public Hearing and Second Reading on March 25, 2024 - 10:0

2. THIRD READING OF AN ORDINANCE AMENDING CHAPTER 66 TAXATION, ARTICLE V HOSPITALITY TAX OF THE BEAUFORT COUNTY CODE OF ORDINANCES

Vote at First Reading on March 11, 2024 - 11:0

Vote at Public Hearing and Second Reading on March 25, 2024 - 10:0

Items Originating from the Public Facilities and Safety Committee

3. RECOMMEND APPROVAL FOR A REQUEST TO PURCHASE 48 RECYCLING ROLL-OFF CONTAINERS (\$408,530). **(FISCAL IMPACT: Per the original ARPA ordinance (2022/06), \$2,000,000 of ARPA funds were allocated to Solid Waste & Recycling. Those funds have already been transferred to the Solid Waste Enterprise Fund and the funds have been divided into separate line items within the Solid Waste account. The quote for the purchase of these containers is for \$408,530. The remaining Solid Waste & Recycling ARPA funds will be \$1,591,470. The funding for this item is from account the Solid Waste & Recycling non-capital equipment account: 5010-90-1340-52600 with an available balance of \$408,747.01)**
4. APPROVAL OF A REQUEST TO PURCHASE QTY-13 WASTE COMPACTOR UNITS FOR BEAUFORT COUNTY CONVENIENCE CENTERS **(FISCAL IMPACT: \$624,021.42)**

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, March 11, 2024
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.new.swagit.com/videos/299532>

1. CALL TO ORDER

Vice-Chair Lawrence Called the meeting to order at 5:00PM

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

Vice-Chair McElynn led the Pledge of Allegiance and Council Member Dawson gave the invocation.

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

Vice-Chair McElynn stated public notice of this meeting had been published, posted, and distributed in compliance with SC FOIA.

4. APPROVAL OF AGENDA

Motion to Amend: It was moved by Council Member Tabernik, Seconded by Council Member Cunningham to amend the agenda to move the second citizens comment right below item number 8 due to individuals needing to leave prior to the end of the meeting.

The Vote - Motion to amend was approved without objection.

Motion to amend: It was moved by Council Member Brown, Seconded by Council Member Cunningham to amend the agenda to add the recently voted on LATS resolution for council action.

The Vote - Motion to amend was approved without objection.

Main Motion: It was moved by Council Member Cunningham, Seconded by Council Member Tabernik to approve the agenda as amended.

The Vote - Motion to amend was approved without objection.

5. ADMINISTRATOR'S REPORT

Interim County Administrator Robinson recognized the following employees:

Elena Milbrandt, Accounts Payable Specialist, Beaufort County Airports

Cynthia (Cindy) Collieran, Office Manager, Building Codes Department

Eric Brown, New Parks and Recreation Director

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

<https://beaufortcountysc.new.swagit.com/videos/299532>

6. PROCLAMATION RECOGNIZING DISABILITIES AWARENESS MONTH

Vice-Chair Lawrence McElynn presented a proclamation recognizing Disabilities Awareness Month.

7. PROCLAMATION HONORING FRED E. LEYDA

Council Member Alice Howard presented a proclamation to Fred E. Leyda for all of his years of service to Beaufort County as the Director of the Human Services Department.

8. CITIZEN COMMENT PERIOD

Citizen comment was taken.

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

<https://beaufortcountysc.new.swagit.com/videos/299532>

9. LIASION AND COMMITTEE REPORTS

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

<https://beaufortcountysc.new.swagit.com/videos/299532>

10. APPROVAL OF CONSENT AGENDA

Motion: It was moved by Council Member Glover, Seconded by Council Member Howard to approve the following consent agenda items: approval of Cisco Enterprise support agreement renewal; Boards and Commissions Appointments and Reappointments; and approval to enter into an intergovernmental agreement between Beaufort County and the South Carolina Department of Transportation for Beaufort County Transportation program projects.

The Vote - Motion was approved without objection.

11. PUBLIC HEARING AND THIRD READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO ENTER INTO A LEASE AGREEMENT WITH THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION (SCDOT) FOR PROPERTY LOCATED UNDER THE CROSS-ISLAND PARKWAY ADJACENT TO THE BROAD CREEK BOAT LANDING PARCEL 552 010 000 0650 0000

Motion: It was moved by Council Member Cunningham, Seconded by Council Member Brown to approve public hearing and third reading of an ordinance authorizing the interim county administrator to enter into a lease agreement with the South Carolina Department of Transportation (SCDOT) for property located under the Cross-Island Parkway adjacent to the broad creek boat landing parcel 552 010 000 0650 0000.

Vice-Chairman McElynn opened the floor for public comment.

No one came forward.

Vice-Chairman McElynn closed the public comment.

The Vote - Motion was approved without objection.

12. PUBLIC HEARING AND SECOND READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS TO CONVEY A PORTION OF PROPERTY OWNED BY BEAUFORT COUNTY WITH TMS NO. R510 005 000 0329 0000, LOCATED ON BEACH CITY ROAD, HILTON HEAD ISLAND.

Motion made by Council Member Glover, Seconded by Council Member Cunningham.

Vice-Chairman McElynn opened the floor for public comment.

No one came forward.

Vice-Chairman McElynn closed the public comment.

The Vote - Motion was approved without objection.

13. FIRST READING OF AN ORDINANCE TO AMEND BEAUFORT COUNTY BUDGET ORDINANCE 2023/22 FOR THE FISCAL YEAR 2023-2024 TO APPROPRIATE AND TRANSFER \$250,000 FROM FUND BALANCE OF THE GENERAL FUND TO THE SPECIAL REVENUE FUND (2546) TO COVER UNBUDGETED COSTS FOR THE DAUFUSKIE ISLAND FERRY OPERATIONS; TO INCLUDE THREE (3) SPECIAL REVENUE FUNDS' BUDGETS (FUNDS 2230, 2252, AND 2255) IN AN AGGREGATE AMOUNT OF \$402,918 WHICH WERE CONVERTED TO THE GENERAL FUND DURING THE CHART OF ACCOUNTS CONVERSION PROCESS; TOTAL AMENDMENT OF BUDGET ORDINANCE 2023/22 IS \$652,918

Motion to amend: It was moved by Council Member Tabernik, Seconded by Council Member Cunningham to amend the proposed budget ordinance to include the transfer of 3.6 million dollars from general fund balance for the purchase of 333 and 335 Buckwalter Parkway in accordance with BC Ordinance 2023/14.

The Vote - Motion was approved without objection.

Motion to Amend Amended Motion: It was moved by Council Member Cunningham, Seconded by Council Member Tabernik to remove the \$250,000 slated to go towards the Daufuskie Island Ferry Contract from this budget ordinance amendment.

The Vote - Voting Yea: Council Member Cunningham. Voting Nay: Chairman Passiment, Vice-Chairman McElynn, Council Member Bartholomew, Council Member Brown, Council Member Dawson, Council Member Glover, Council Member Howard, Council Member Lawson, Council Member Tabernik, Council Member Reitz. The motion to amend failed 1:10

Main Motion: It was moved by Council Member Dawson, Seconded by Council Member Howard to approve first reading of an ordinance to amend Beaufort County budget ordinance 2023/22 for the fiscal year 2023-2024 to appropriate and transfer \$250,000 from fund balance of the general fund to the special revenue fund (2546) to cover unbudgeted costs for the Daufuskie Island Ferry Operations; to include three (3) special revenue funds' budgets (funds 2230, 2252, and 2255) in an aggregate amount of \$402,918 which were converted to the general fund during the chart of accounts conversion process; total amendment of budget ordinance 2023/22 is \$652,918 to include the transfer of 3.6 million dollars from

general fund balance for the purchase of 333 and 335 Buckwalter Parkway in accordance with BC Ordinance 2023/14.

The Vote - Voting Yea: Chairman Passiment, Vice-Chairman McElynn, Council Member Bartholomew, Council Member Brown, Council Member Dawson, Council Member Glover, Council Member Howard, Council Member Lawson, Council Member Tabernik, Council Member Reitz. Voting Nay: Council Member Cunningham. The motion passed 10:1.

14. FIRST READING OF AN ORDINANCE AMENDING CHAPTER 66 TAXATION, ARTICLE V HOSPITALITY TAX OF THE BEAUFORT COUNTY CODE OF ORDINANCES

Motion: It was moved by Council Member Tabernik, Seconded by Council Member Brown to approve first reading of an ordinance amending chapter 66 Taxation, Article V Hospitality Tax of the Beaufort County Code of Ordinances.

15. FIRST READING OF AN ORDINANCE AMENDING CHAPTER 66 TAXATION, ARTICLE II ACCOMMODATIONS TAX BOARD, DIVISION 1. GENERALLY AND DIVISION 2. ACCOMMODATIONS (3%) TAX

Motion: It was moved by Council Member Tabernik, Seconded by Council Member Howard to approve first reading of an ordinance amending chapter 66 Taxation, Article II Accommodations Tax Board, Division 1. Generally and Division 2. Accommodations (3%) Tax.

The Vote - Voting Yea: Chairman Passiment, Vice-Chairman McElynn, Council Member Bartholomew, Council Member Brown, Council Member Cunningham, Council Member Dawson, Council Member Glover, Council Member Howard, Council Member Lawson, Council Member Tabernik. Voting Nay: Council Member Reitz. The motion passed 10:1.

16. APPROVAL OF A RESOLUTION TO ACCEPT THE TRANSPORTATION ALTERNATIVE SET ASIDE PROGRAM FUND GRANT FROM THE US DEPARTMENT OF TRANSPORTATION'S FEDERAL HIGHWAY ADMINISTRATION (FHWA) IN THE AMOUNT OF \$1,177,868,.71 FOR THE ALLJOY ROAD SIDEWALK PROJECT

Motion: It was moved by Council Member Lawson, Seconded by Council Member Cunningham to approve a resolution to accept the transportation alternative set aside program fund grant from the US Department of Transportation's Federal Highway Administration (FHWA) in the amount of \$1,177,868,.71 for the Alljoy Road Sidewalk Project.

The Vote - Motion was approved without objection.

17. REQUEST FOR PRIVATE ROAD ACCEPTANCE OF SCHEPER LANE INTO THE COUNTY ROAD INVENTORY

Motion: It was moved by Council Member Howard, Seconded by Council Member Bartholomew to accept Scheper Lane into the County Road Inventory.

The Vote - Motion was approved without objection.

18. APPROVAL OF A \$100 SUPPLEMENT TO POLL WORKERS FOR THE REMAINING 2023-2024 FISCAL YEAR

Motion: It was moved by Council Member Tabernik, Seconded by Council Member Bartholomew to approve a \$100 supplement to poll workers for the remaining 2023-2024 Fiscal year.

Recusals: Council Members Howard, Glover, and Dawson recused themselves from discussing this item and left the room at this time.

The Vote - Voting Yea: Chairman Passiment, Vice-Chairman McElynn, Council Member Bartholomew, Council Member Brown, Council Member Cunningham, Council Member Lawson, Council Member Tabernik, and Council Member Reitz. Recusals: Council Member Dawson, Council Member Glover, and Council Member Howard. The motion passed 8:0.

19. **Motion:** It was moved by Council Member Cunningham, Seconded by Council Member Bartholomew to review council’s decision to either rescind the earlier vote or to amend the earlier vote to tweak the approved LATS Resolution

The Vote - Motion was approved without objection.

20. **EXECUTIVE SESSION**

Motion: It was moved by Council Member Tabernik, Seconded by Council Member Bartholomew to go into executive session to discuss the items below.

Pursuant to S.C. Code sec. 30-4-70(a)(2): receipt of legal advice where the legal advice relates to matters covered by the attorney-client privilege (Haynesworth, Sinkler, Boyd Investigations)

Pursuant to S.C. Code §30-4-70(a)(2): receipt of legal advice where the legal advice relates to matters covered by the attorney-client privilege (application of road use fee)

Pursuant to S.C. code sec. 30-4-70(a)(2): receipt of legal advice where the advice relates to pending claims or other matters covered by the attorney-client privilege (Beaufort County v Hatcher Holdings, LLC)

Pursuant to S.C. Code section 30-4-70(a)(2) to receive legal advice where the advice relates to pending litigation (Munday v Beaufort County)

The Vote - Motion was approved without objection.

24. **MATTERS ARISING OUT OF EXECUTIVE SESSION**

Motion: It was moved by Council Member Bartholomew, Seconded by Council Member Reitz to amend the road use fee ordinance as discussed in executive session.

The Vote - Motion was approved without objection.

25. **ADJOURNMENT**

The meeting adjourned at 7:38PM

COUNTY COUNCIL OF BEAUFORT COUNTY

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

ATTEST:

Sarah W. Brock, Clerk to Council
Ratified:

~ Proclamation ~

Whereas, libraries offer the opportunity for everyone to connect with others, learn new skills, and pursue their passions, no matter where they are on life’s journey;

Whereas, libraries have long served as trusted institutions, striving to ensure equitable access to information and services for all members of the community regardless of race, ethnicity, creed, ability, sexual orientation, gender identity, or socioeconomic status;

Whereas, libraries adapted to the ever-changing needs of their communities, developing and expanding collections, programs, and services that are as diverse as the populations they serve;

Whereas, libraries are accessible and inclusive places that promote a sense of local connection, advancing understanding, civic engagement, and shared community goals;

Whereas, libraries play a pivotal role in economic development by providing resources and support for job seekers, entrepreneurs, and small businesses, thus contributing to local prosperity and growth;

Whereas, libraries make choices that are good for the environment and make sense economically, creating thriving communities for a better tomorrow;

Whereas, libraries are treasured institutions that preserve our collective heritage and knowledge, safeguarding both physical and digital resources for present and future generations;

Whereas, libraries, librarians, and library workers are joining library supporters and advocates across the nation to celebrate National Library Week;

Now, therefore, be it resolved, that Beaufort County proclaim National Library Week April 7-13, 2024. During this week, I encourage all residents to visit their library and celebrate the adventures and opportunities they unlock for us every day. Ready, Set, Library!

“National Library Week”

Dated this 8th day of April 2024

Please visit your library to explore the wealth of resources available.



Joseph Passiment, Chairman
Beaufort County Council

~ Proclamation ~

Whereas, Sexual Assault Awareness Month calls attention to the fact that sexual violence is widespread and has dire public health implications for every community member in Beaufort County; and

Whereas, rape, sexual assault, and sexual harassment impacts our community as seen by statistics indicating that 1 in 5 women, and 1 in 71 men will experience sexual violence in their lifetime; and

Whereas, Hopeful Horizons, our local children’s advocacy, domestic violence, and rape crisis organization, served 1,242 primary victims of sexual violence; and provided 217 survivors of domestic and sexual violence free legal services in the year 2023;

Whereas, Hopeful Horizons urges every person to speak out against harmful attitudes and actions that lead to violence; and

Whereas, all people are encouraged to report all types of violence in the community to make it safer; and

Whereas, prevention of sexual violence is possible. Therefore, we must work together to increase awareness by using the hashtag #PreventSexualViolence and involve all members of the community in these efforts, as well as help survivors connect with services.

Whereas, prevention of sexual violence is possible. Therefore, we must work together to increase awareness by using hashtag #PreventSexualViolence and involve all members of the community in these efforts; as well as help survivors connect with services.

Now, therefore, be it resolved, that Beaufort County Council joins advocates across the United States and the State of South Carolina to proclaim the month of April 2024 as

“Sexual Assault Awareness Month”

And urges all citizens to observe this month by becoming aware of the tragedy of sexual assault, supporting those who are working towards its end, and participating in community efforts aimed at changing the culture of violence.



Dated this 8th day of April 2024

Joseph Passiment, Chairman
Beaufort County Council

~ Proclamation ~

Whereas, adolescence is a critical and often vulnerable stage of human development, and it is during this time that many young people experiment with substances such as alcohol; and,

Whereas, compared to those who wait until they are 21 years of age to drink, young people who start drinking before the age of 15 are at higher risk for developing alcohol use disorder later in life and are more likely to be in a motor vehicle crash due to alcohol use; and,

Whereas, youth who drink alcohol are more likely to experience problems in school and their social life, legal problems, physical and sexual violence, higher risk for suicide and homicide, misuse of other substances, and have changes in brain development that may have lifelong effects; and,

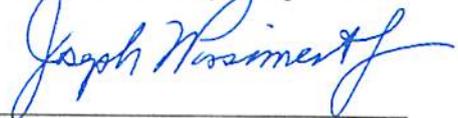
Whereas, the solution to ending underage drinking comes through widespread collaboration and engagement of multiple organizations and communities with all adults doing their part; and,

Whereas, during this month, we ask that parents, youth, government agencies, public and private institutions, businesses, workplaces, and all Beaufort County citizens support the efforts to reduce and prevent underage drinking in Beaufort County by limiting alcohol availability to minors.

Now, therefore, be it resolved that Beaufort County Council does hereby proclaim April 2024 as

Alcohol Awareness and Underage Drinking Prevention Month in Beaufort County

Dated this 8th day of April 2024.



Joseph F. Passiment, Chairman
Beaufort County Council



~ Proclamation ~

Whereas it is with immense pride that Beaufort County Council acknowledges the remarkable achievements of the Hilton Head Public Service District (PSD) and its dedicated personnel; and

Whereas the PSD, through its unwavering commitment to environmental stewardship and regulatory compliance, has been honored with the prestigious Facility of Excellence Award by the South Carolina Department of Health and Environmental Control (DHEC); and

Whereas the Recycled Water Plant on Oak Park Drive, under the exemplary leadership of PSD General Manager Pete Nardi, has been instrumental in recycling approximately 1 billion gallons of treated wastewater annually, thereby preserving water resources and nurturing the delicate Hilton Head Island environment; and

Whereas the Water Quality Supervisor of the PSD, Sarah Hickman, has been duly recognized by receiving the esteemed Crystal Crucible Award for her outstanding contributions to water and wastewater analysis, her promotion of professionalism, and her dedication to fostering distinguished ideals among industry professionals; and

Whereas Sarah Hickman's volunteerism, spirit and leadership have enriched the water industry in South Carolina and have also earned her the honor of representing our state at the prestigious operations challenge at I...F...A...T... Munich; and

Whereas the PSD's commitment to excellence extends beyond environmental stewardship, as evidenced by the successful hosting of the statewide Asset Management Workshop in 2023, earning recognition from the Water Environment Association of South Carolina (WEASC); and

Now, therefore, it is resolved that Beaufort County Council extends its gratitude to the HHPSD and recognizes its exceptional personnel for their significant contributions to the well-being and sustainability of the Hilton Head Island Community.



Dated this 8th Day of April 2024

A handwritten signature in blue ink, reading "Joseph P. Passiment, Jr.", is written over a horizontal line.

Joseph P. Passiment, Jr., Chairman
Beaufort County Council

CITIZENS COMMENTS 2nd PORT

Item 11.

Any Topic

1st

DATE: 4/8/2024

PRINT FULL NAME: Jesse Gantt

TOPIC: CPO

COUNTY COUNCIL

CITIZENS COMMENTS 2nd PORTION

Any Topic

1st

2PM

DATE: 4-8-24

PRINT FULL NAME: Arnold Brown

TOPIC: CPO - PINE ISLAND

COUNTY COUNCIL

CITIZENS COMMENTS 1ST PORTION

AGENDA ITEMS ONLY

DATE: 4/8/24

PRINT FULL NAME: Robert New

Agenda Item to be addressed: Investigation/Pine Island

COUNTY COUNCIL

CITIZENS COMMENTS 1ST PORTION

AGENDA ITEMS ONLY

DATE: 4/8/24

PRINT FULL NAME: Tade' Oyeilumi

Agenda Item to be addressed: St. Helena Island
Negoite/CPO

COUNTY COUNCIL

CITIZENS COMMENTS 2nd PORTION

Any Topic

DATE: 4/8/24

PRINT FULL NAME: Carrie B. Major

TOPIC: Community/Youth Gr. St. Helena

COUNTY COUNCIL

CITIZENS COMMENTS 1ST PORT

Item 11.

AGENDA ITEMS ONLY

DATE: 4/8/24
PRINT FULL NAME: DICK STEWART
Agenda Item to be addressed: ATA

COUNTY COUNCIL

CITIZENS COMMENTS 1ST PORTION

AGENDA ITEMS ONLY

DATE: 4/8/2023
PRINT FULL NAME: Jinda Hunt
Agenda Item to be addressed: Pine Island

COUNTY COUNCIL

CITIZENS COMMENTS 1ST PORTION

AGENDA ITEMS ONLY

DATE: 04/08/24
PRINT FULL NAME: THERESA WHITE
Agenda Item to be addressed: PINE ISLAND/CPD

COUNTY COUNCIL

CITIZENS COMMENTS 1ST PORTION

AGENDA ITEMS ONLY

DATE: 4/8/2024
PRINT FULL NAME: Roy R. Brown
Agenda Item to be addressed: Pine Island

COUNTY COUNCIL

CITIZENS COMMENTS 1ST PORTION

AGENDA ITEMS ONLY

DATE: 4/8/24
PRINT FULL NAME: ROBERT ADAMS
Agenda Item to be addressed: PINE ISLAND

COUNTY COUNCIL
CITIZENS COMMENTS 2nd PORTION Item 11.

Any Topic
DATE: 4-8-24
PRINT FULL NAME: Anthony Cappuccio
TOPIC: San Luis & Council Report

COUNTY COUNCIL
CITIZENS COMMENTS 2nd PORTION

Any Topic
DATE: 4/8/24
PRINT FULL NAME: Joyce Ham
TOPIC: Ramsay Rd. & Junction

*2nd portion
of 1st portion*
COUNTY COUNCIL ^{2nd}
CITIZENS COMMENTS 1st PORTION

AGENDA ITEMS ONLY
DATE: 4/8/2024
PRINT FULL NAME: ANN UBELIS
Agenda Item to be addressed: SALES TAX 4 ~~FE~~
ROAD USE FEE

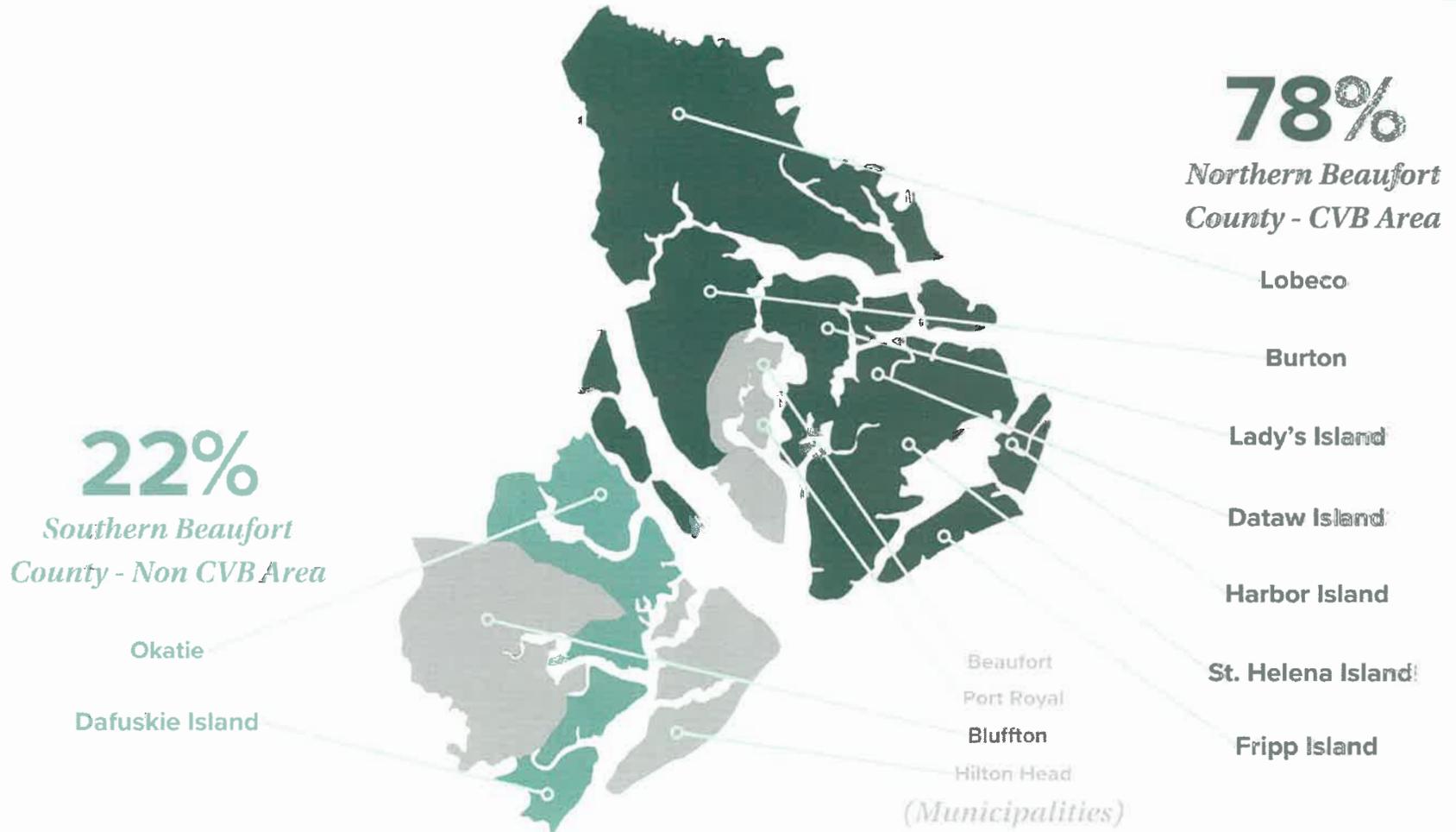
COUNTY COUNCIL
CITIZENS COMMENTS 1st PORTION

AGENDA ITEMS ONLY
DATE: 4/8/24
PRINT FULL NAME: Margie Bright Matthews
Agenda Item to be addressed: Pine Island

COUNTY COUNCIL
CITIZENS COMMENTS 2nd PORTION ^{1st}

Any Topic
DATE: 04/08/2024
PRINT FULL NAME: MARQUE VIRELLI
TOPIC: PINE ISLAND

ATAX Revenues Collected in Beaufort County





BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
AN ORDINANCE APPROPRIATING FUNDS FROM THE STATE A-TAX FUNDS AS RECOMMENDED BY THE STATE A-TAX COMMITTEE IN COMPLIANCE WITH THE REQUIREMENTS OF THE SOUTH CAROLINA CODE OF LAWS
MEETING NAME AND DATE:
County Council, March 25, 2024
PRESENTER INFORMATION:
Thomas J. Keaveny, II, County Attorney
ITEM BACKGROUND:
On February 24, 2024 Council referred this matter back to the Finance, Administration, and Economic Development Committee for further review, discussion, and consideration of the recommendations of the State Accommodations Tax Board. On March 11, 2024 Committee held a special called meeting for the sole purpose of reviewing the State Accommodation Board’s recommendations. After a thorough review and discussion of the recommendations with the Chairman of the board, Jonathan Sullivan, the committee decided to accept the recommendations as originally received. The committee recommends to Council that it approve the recommendation of the State 2% Accommodations Board as received.
PROJECT / ITEM NARRATIVE:
See Above. See also previous AIS’s (January 22, 2024 and November 20, 2023) which are included in the backup for historical reference. While <i>this</i> proposed ordinance has been pending, Council has approved a <i>separate</i> ordinance appropriating 15% of FY24 gross state accommodations tax revenue to the development of workforce housing (Ordinance 2024/09 adopted February 26, 2024).
FISCAL IMPACT:
Funding will come from the State Accommodations Fund.
STAFF RECOMMENDATIONS TO COUNCIL:
Administration recommends Council approve the recommendations as received.
OPTIONS FOR COUNCIL MOTION:
Motion to approve second reading of an ordinance to appropriate state a-tax funds as recommended by the state accommodations tax board; Motion to amend the ordinance to add or remove proposed appropriations as recommended by the state accommodations board; Motion to deny second reading of an ordinance to appropriate state a-tax funds as recommended by the state accommodations tax board.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
RECONSIDERATION OF COUNCIL’S ACTION ON FIRST READING OF AN ORDINANCE APPROPRIATING FUNDS FROM THE STATE 2% ACCOMMODATIONS TAX FUND AND FIRST READING OF AN ORDINANCE APPROPRIATING FUNDS FROM THE STATE 2% ACCOMMODATIONS TAX FUND
MEETING NAME AND DATE:
County Council, January 22, 2024
PRESENTER INFORMATION:
Thomas J. Keaveny, II, County Attorney
ITEM BACKGROUND:
<p>On December 11, 2023 Council gave first reading to a proposed ordinance appropriating funds from the state 2% accommodations tax fund based upon the recommendations of the state a-tax committee. At that time, Council approved a motion to: (1) set aside \$150,000 of the funds for workforce housing. This amount is equal to fifteen percent (15%) of the total 2023-2024 state accommodation revenue of \$1,000,000; and (2) to refer the recommendations back to the state a-tax committee for it to reallocate the balance of the funds based on Council’s decision. Since that time, Administration has determined that it has \$150,000 in funds remaining from the 2022-2023 state a-tax allocation (essentially a carryover balance) that it can devote to this purpose and still allow Council to approve the a-tax committee’s recommended appropriations for 2023-2024.</p>
PROJECT / ITEM NARRATIVE:
<p>If Council wishes to approve the state a-tax committee’s recommendations and still award \$150,000 from the state a-tax funds, it can consider a two-part motion. The motion would be to: (1) rescind its decision of December 11th to set aside \$150,000 from the 2023-2024 state a-tax allocation and to refer the recommendations back to the state a-tax committee; and (2) give first reading to an ordinance appropriating funds from the state a-tax fund as recommended by the state a-tax committee. If that motion succeeds, Council is back to where it was on December 11th. It can then give first reading to the ordinance appropriating funds from the 2% a-tax fund as recommended by the state a-tax committee. While giving first reading to the proposed ordinance, Council can consider a motion to amend. The amendment would be to adopt the recommendations of the state a-tax committee <i>and</i> to appropriate the sum of \$150,000 from the 2022-2023 state a-tax fund (carry-over) to workforce housing.</p>
FISCAL IMPACT:
Funding will come from the state a-tax fund carryover.
STAFF RECOMMENDATIONS TO COUNCIL:
Administration recommends Council proceed as outlined in the Project/Item Narrative.
OPTIONS FOR COUNCIL MOTION:

Approve a motion to rescind;

Deny a motion to rescind;

Approve first reading of an ordinance appropriating state a-tax funds;

Deny first reading of an ordinance appropriating state a-tax funds.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
RECOMMEND APPROVAL OF AN ORDINANCE APPROPRIATING FUNDS FROM THE STATE 2% ACCOMMODATIONS TAX FUND AND OTHER MATTERS RELATED THERETO.
MEETING NAME AND DATE:
Finance Committee, November 20, 2023
PRESENTER INFORMATION:
Jonathan Sullivan Chairman of the State Accommodations Tax Committee 20 minutes
ITEM BACKGROUND:
The State Accommodations Tax Committee meet on November 14, 2022 and reviewed 37 applications requesting over \$2.6 million in awards.
PROJECT / ITEM NARRATIVE:
The Committee selected the organizations listed in Attachment A for a total of \$1,000,000
FISCAL IMPACT:
The award will be from the State ATAX Fund 2000, Budgeted Line Item 2000-10-0000-55000 (Direct Subsidies) in the current fiscal year.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends County Council to approve the recommendation.
OPTIONS FOR COUNCIL MOTION:
Motion to approve/deny "Recommend approval of an Ordinance to appropriate funds from the State 2% Accommodations Tax Fund and other matters related thereto."

ORDINANCE 2024/ _____

AN ORDINANCE APPROPRIATING FUNDS FROM THE STATE 2% ACCOMMODATIONS TAX FUND AND OTHER MATTERS RELATED THERETO

WHEREAS, County Council is authorized to utilize State 2% Accommodations Tax (“A-Tax”) Funds to promote tourism and enlarge the economic benefits of tourism through advertising, promotion, construction and maintenance of access and access to nearby roads for civic, cultural recreational or historic facilities; and

WHEREAS, S.C. Code Ann. §6-4-10(4)(b) expressly authorizes a county which has a high concentration of tourism activity to use state accommodations tax funds "to provide additional county and municipal services including, but not limited to, law enforcement [and] traffic control" as may be necessary for tourism related activities; and

WHEREAS, Beaufort County ("County") initiated a formal grant application process, and accepted applications from local entities to receive grant funds from the state A-Tax; and

WHEREAS, applications were received, reviewed and scored by the state accommodations tax advisory board, which has made award recommendations to County Council for approval and appropriation of funds; and

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

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL, that appropriations shall be made in the form of grant awards to local entities from Beaufort County's state A-Tax Funds as set forth in the attached Exhibit “A”.

DONE this _____ Day of _____, 2024

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Jr. Chairman

ATTEST:

Sarah Brock, Clerk to Council

Time	Contact Person	Email	Organization	Event/Project	Amount Requested	Recommended	Awarded	
							Last Year	Amount (2022-2023)
1 12:15pm	Robb Wells	robbs@beaufortsc.org	Greater Beaufort-Port Royal CVB	Tourism Marketing FY 2023-2024	\$ 195,000.00	\$ 195,000.00	yes	\$ 180,000.00
2 12:30pm	Peach Morrison	Peach@SouthCarolinaLowcountry.com	SC Lowcountry & Resort Islands Tourism Commission	Promotion of Beaufort County & the Lowcountry	\$ 93,300.00	\$ 93,300.00	yes	\$ 72,545.00
3 1pm	Tim Waz	sports@beaufortsc.org	Beaufort Area Sports Council	Beaufort Area Sports Marketing & Sales FY 2023-2024	\$ 60,000.00	\$ 60,000.00	yes	\$ 25,000.00
4 1:07pm	Jon Rembold	irembold@bcgov.net	Beaufort County Airports	Destination Marketing	\$ 50,000.00	\$ 40,000.00	no	
5 1:14pm	Ron Tucker	beaufortfilm@gmail.com	Beaufort Film Society	18th Beaufort International Film Festival	\$ 60,000.00	\$ 60,000.00	yes	\$ 30,000.00
6 1:21pm	Denise Bullitt	sankofainspirit@gmail.com	Festivals: Gullah Festival, Shrimp Festival, & Taste of Beaufort, etc.	Beaufort Festivals & Events Advertising fy 2023-2024	\$ 60,000.00	\$ 60,000.00	yes	
7 1:28pm	Denise Bullitt	lroper@cityofbeaufort.org	Gullah Traveling Theater	GTI Decoration Day	\$ 60,000.00	\$ 30,000.00	yes	\$ 30,000.00
8 1:35pm	Leah Arnold	leah_arnold@islandrecenter.org	HHI Recreation Assoc.	Jeep Island, Oyster Festival & Wingfest	\$ 10,000.00	\$ -	no	
9 1:42pm	David Coyle	dhcoyle@roadrunner.com	Hilton Head Choral Society	Marketing for Tourism/Visitor Development	\$ 5,000.00	\$ 2,500.00	yes	\$ 4,000.00
10 1:49pm	Jeff Gerber	circlemstr@gmail.com	Hilton Head Hospitality Association	Hilton Head Wine and Food Festival	\$ 10,000.00	\$ 10,000.00	yes	\$ 10,000.00
11 1:56pm	Robert Lee/Lindsey Harrell	Bob.Lee@BeaconAllied.com	Hilton Head Island Concours d'Elegance, Inc.	Hilton Head Island Concours d'Elegance & Motorign Festival	\$ 38,000.00	\$ 38,000.00	yes	\$ 40,000.00
12 2:03pm	Robin Storey/George Banino	hhilandtrust@hhilandtrust.org	Hilton Head Island Land Trust	Raptor CAM, Website, Marketing	\$ 23,600.00	\$ 20,000.00	no	
13 2:10pm	Alan Jordan/Susan Hartmann	ajordan@hhsa.org	Hilton Head Symphony Orchestra	HHSO Marketing Programs	\$ 25,000.00	\$ 25,000.00	yes	\$ 25,000.00
2:17pm								
14 2:27pm	Ashlee Houck	Ashlee@bfthospitality.com	Beaufort Area Hospitality Association	Beaufort Oyster Festival 2024	\$ 30,000.00	\$ 30,000.00	yes	\$ 20,000.00
15 2:34pm	Ashlee Houck	Ashlee@bfthospitality.com	Beaufort Area Hospitality Association	New Years Eve Fireworks 2024	\$ 35,000.00	\$ 35,000.00	yes	\$ 20,000.00
16 2:41pm	Andrea Gannon	agannon@artshhi.com	Arts Center of Coastal Carolina	Tourism Marketing of Unincorporated Areas of Beaufort County	\$ 20,000.00	\$ 20,000.00	yes	\$ 6,000.00
17 2:48pm	Katherine Lang	klang.beaufort@gmail.com	Beaufort History Museum	Promoting "New" Beaufort History Museum	\$ 15,000.00	\$ 4,200.00	no	
18 2:55pm	Caprice Wilborn	cwblufftongullah843@gmail.com	Bluffton Gullah Cultural Heritage Center	Bluffton Gullah Cultural Heritage Center	\$ 250,000.00	\$ 25,000.00	no	
19 3:02pm	Rex Garniewicz	rgarniewicz@coastaldiscovery.org	Coastal Discovery Museum	Coastal Discovery Museum: Cultural and Ecotourism	\$ 37,500.00	\$ 36,000.00	yes	\$ 34,500.00
20 3:09pm	Nancy Ludtke	nlfuskie@aol.com	Daufuskie Island Historical Foundation	Brochure Printing	\$ 7,000.00	\$ 7,000.00	no	
21 3:16pm	Stacy Applegate / Angela Dore	stacy@freedmanartsdistrict.org	Freedman Arts District, Inc.	Chalk It Up!	\$ 30,000.00	\$ 30,000.00	no	
22 3:23pm	Linda Miller	FQHiorp@gmail.com	Friends of Hunting Island State Park, Inc.	Restoration & Construction of Exhibit space for 1st Order 1875 Fresnel Lens	\$ 40,000.00	\$ 30,000.00	no	
23 3:30pm	Blake White	blake@leanensemble.org	Lean Ensemble Theater	Lean Ensemble Theater Marketing	\$ 6,000.00	\$ 3,000.00	no	
24 3:37pm	Barry Fleming	bfleminggolf@gmail.com	Lowcountry Golf Course Owners Association	Golf Tourism Connected TV Advertising Campaign	\$ 25,000.00	\$ 7,500.00	yes	\$ 20,000.00
25 3:44pm	Eric Turpin	eturpin@nibcaa.org	NIBCAA	Hilton Head Gullah Celebration	\$ 50,000.00	\$ 35,000.00	yes	\$ 50,000.00
26 3:51pm	Kate Schaefer	kate@openlandtrust.org	Open Land Trust	Old Sheldon Church Road Trail	\$ 45,000.00	\$ -	no	
27 3:58pm	Jon Black	jblack9469@gmail.com	Historic Campbell Chapel	Campbell Chapel Community Development	\$ 130,874.00	\$ -	no	
28 4:05pm	Ahmad Ward	award@exploremitchelville.org	Historic Mitchelville Freedom Park	Marketing and Site Preparation/Design for Juneteenth Celebration	\$ 35,000.00	\$ 35,000.00	yes	\$ 35,000.00
4:12pm								
29 4:22pm	Pamela Courtney	PamelaCourtney@gmail.com	Historic Port Royal Foundation	First Annual Port Royal International Storytelling Festival	\$ 25,000.00	\$ 5,000.00	yes	\$ 5,950.00
30 4:29pm	Charlene M. Spearen	cspearen@penncenter.com	Penn Center	40th Annual Heritage Days Celebration	\$ 30,000.00	\$ 30,000.00	no	\$ 19,500.00
31 4:36pm	Kat Armstrong	karmstrong@portroyalsoundfoundation.org	Port Royal Sound Foundation	Native Gardens Exhibit and Greenhouse	\$ 55,400.00	\$ 20,000.00	yes	\$ 91,000.00
32 4:43pm	Dan Durbin	DHD3495@GMAIL.COM	Second Founding of America	Beaufort History Walk - A Community Volksmarch	\$ 2,088.64	\$ -	no	
33 4:50pm	Ginnie Kozak	vkozak@tcl.edu	Technical College of the Lowcountry	Mather School Museum and Interpretive Center Accessibility Project	\$ 375,000.00	\$ -	no	\$ 40,000.00
34 4:57pm	Pinky Harriott	pharriott@uscb.edu	USCB Center of the Arts	USCB Center for the Arts ADA Upgrades	\$ 160,000.00	\$ -	no	
35 5:04pm	Yolanda Bryant	gullahrootsfoundation@gmail.com	Gullah Roots Historical Foundation	Daufuskie Island GullahFest	\$ 25,000.00	\$ 9,000.00	no	
36 5:11pm	Jeremy Sponceller	jeremysponceller@fipisd.org	Fripp Island Public Service District	Fripp Island Inlet Bridge Repair	\$ 500,000.00	\$ -	no	
37 5:18pm	Eileen Newton	treasurer@foprcw.org	Friends of Port Royal Cypress Wetlands, Inc.	Guided Nature Tours	\$ 11,400.00	\$ 4,500.00	no	
					\$ 2,630,162.64	\$ 1,000,000.00		



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
An Ordinance amending Chapter 66 Taxation, Article II Accommodations Tax Board, Division 1. Generally and Division 2. Accommodations (3%) tax.
MEETING NAME AND DATE:
Finance, Administration, Economic Development Committee February 20, 2024
PRESENTER INFORMATION:
(Deputy County Attorney Brian Hulbert) (10 minutes)
ITEM BACKGROUND:
The South Carolina Legislature ratified Act 57 on May 17, 2023 and the Governor approved and signed it on May 19, 2023. Act 57 amended South Carolina Code of Laws Section 6-1-530 relating to the use of revenue from local accommodations tax and Section 6-4-10 so as to provide that the development of workforce housing is one of the purposes for which funds from these two accommodation taxes may be used. The Act further provides that the County may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue from the two local accommodations tax funds (state 2% and local 3%) for the development of workforce housing. The Act also allows for the use of revenue to finance bonds, requires local governments to prepare a housing impact analysis before using the 2% State ATAX funds for workforce housing, which must be done before giving second reading to the comprehensive plan amendment ordinance. The development of workforce housing must include programs to promote home ownership.
PROJECT / ITEM NARRATIVE:
Amend Accommodation Tax ordinances to bring them in compliance with current state code.
FISCAL IMPACT:
<i>There would be no direct fiscal impact on the County.</i>
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of the Ordinance Amendments.
OPTIONS FOR COUNCIL MOTION:
(Move forward to Council for Approval/Adoption or to not Approve on March 11, 2024)

ORDINANCE 2024/ _____

AN ORDINANCE AMENDING CHAPTER 66 TAXATION, ARTICLE II ACCOMMODATIONS TAX BOARD, DIVISION 1. GENERALLY AND DIVISION 2. ACCOMMODATIONS (3%) TAX

WHEREAS, In 1982, Beaufort County enacted Chapter 66 Taxation Division 1 pursuant to the authority granted by South Carolina Code of Laws, 4-9-30 (1976, as amended) which provides that the county may adopt all ordinances which appear necessary and proper for the security, general welfare and convenience of the county and for the preservation of the general health, peace and order in the county; and pursuant to the laws enumerated in Title 6-4-5 et seq.; and

WHEREAS, by enacting Chapter 66 Beaufort County created the Accommodations Tax Board for the purpose of advising County Council in matters concerning the expenditure of revenues received by the county by means of a two-percent state tax on tourist lodging facilities; and

WHEREAS, In 2002, Beaufort County adopted Chapter 66, Taxation, Division 2, Accommodations (3%) Tax pursuant to the authority granted by South Carolina Code of Laws, 4-9-30 (1976, as amended) which provides that the county may adopt all ordinances which appear necessary and proper for the security, general welfare and convenience of the county and for the preservation of the general health, peace and order in the county; and pursuant to the laws enumerated in Title 6-1-500 et seq. (1976 as amended) which expressly provides authorization for the imposition of a local accommodations tax; and

WHEREAS, The South Carolina General Assembly ratified Act 57 on May 17, 2023 and the Governor approved and signed Act 57 on May 19, 2023 whereby South Carolina Code of Laws Section 6-1-530 relating to the use of revenue from local accommodations tax and Section 6-4-10 were amended so as to provide that the development of workforce housing is one of the purposes for which funds from these two taxes may be used until December 31, 2030; and

WHEREAS, Act 57 amended South Carolina Code of Laws Section Sections 6-1-530 and 6-4-10 relating to the use of revenue from local accommodations tax to provide that the county may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue from the two local accommodations tax funds (state 2% and local 3%) for the development of workforce housing until December 31, 2030; and

WHEREAS, The South Carolina Attorney General issued an opinion dated October 16, 2023 wherein his office opined that “A plain reading of 6-4-10(4)(b)(ix) indicates the fifteen percent limitation is calculated based on the total annual local accommodations tax a local government receives, not on the amount allocated for tourism-related expenditures. As such, we believe the plain language of the statute best expresses the intent of the legislature to base the fifteen percent limitation on the annual local accommodations tax received rather than the amount allocated for tourism-related expenditures under Section 6-4-10(4)(a).”; and

WHEREAS, Act 57 amended South Carolina Code of Laws Section 6-4-15 relating to the use of revenue to finance bonds, so as to provide that the development of workforce housing is one of the purposes for which bonds may be issued; and

WHEREAS, Act 57 also added South Carolina Code of Laws Section 6-4-12 so as to require local governments to prepare a housing impact analysis before using such funds for workforce housing; and

WHEREAS, Act 57 amended South Carolina Code of Laws Section 6-4-5 and 6-1-510 so as to add certain definitions; and

WHEREAS, Act 57 amended South Carolina Code of Laws Section 6-29-510 relating to local planning, so as to require the Planning Commission to solicit input for the analysis from homebuilders and other experts when developing a housing element for the local comprehensive plan; and

WHEREAS, staff now wishes to amend Chapter 66, Article II to bring it into compliance with the South Code of Laws (as amended) to reflect the language found within Chapter 66, contained here within as exhibit A.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL THAT:

Chapter 66, Taxation, Article II, Accommodations Tax Board, Divisions 1 and 2 which appears in Beaufort County Code of Ordinances is hereby amended to reflect the language as depicted in exhibit A.

Adopted this _____ day of _____ 2024.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah w. Brock, JD, Clerk to Council

EXHIBIT A

ARTICLE II. ACCOMMODATIONS TAXES BOARD¹**DIVISION 1. STATE ACCOMODATIONS (2%) TAX GENERALLY****Sec. 66-26. Purpose.**

The purpose of the county's state accommodations tax board committee shall be to advise the county council in matters concerning the expenditure of revenues received by the county by means of a two-percent state tax on tourist lodging facilities; provisions of the state act (South Carolina Code of Laws Section 6-4-5 et seq) require the council to comply with specified criteria for the expenditure of revenues derived from the tax, and the council wishes to comply with the provisions of the state act.

(Code 1982, § 7-21(a))

SECTION 66-27. Definitions.

As used in this chapter:

(1) "County area" means Beaufort County and municipalities within the geographical boundaries of Beaufort County.

(2) "Cultural", as it applies to members of the accommodations tax committee, means persons actively involved and familiar with the cultural community of the area including, but not limited to, the arts, historical preservation, museums, and festivals.

(3) "Hospitality", as it applies to members of the accommodations tax committee, means persons directly involved in the service segment of the travel and tourism industry including, but not limited to, businesses that primarily serve visitors such as lodging facilities, restaurants, attractions, recreational amenities, transportation facilities and services, and travel information and promotion entities.

(4) "Travel" and "tourism" mean the action and activities of people taking trips outside their home communities for any purpose, except daily commuting to and from work.

(5) "Housing costs" for housing occupied by the owner means:

(a) the principal and interest on a mortgage loan that finances the purchase of the housing;

(b) the closing costs and other costs associated with a mortgage loan;

(c) mortgage insurance;

(d) property insurance;

(e) utility-related costs;

(f) property taxes; and

(g) if the housing is owned and occupied by members of a cooperative or an unincorporated cooperative association, fees paid to a person for managing the housing.

(6) "Housing costs" for rented housing means:

(a) rent; and

¹Cross reference(s)—Boards and commissions, § 2-191 et seq.

(b) utility-related costs, if not included in the rent.

(7) "Ordinance" means an ordinance adopted pursuant to Section 6-29-530 of the South Carolina Code of Laws.

(8) "Utility-related costs" means costs related to power, heat, gas, light, water, and sewage.

(9) "Workforce housing" means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income falls within thirty percent and one hundred twenty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).

Sec. 66-~~27~~ 28. Committee Membership.

Membership on the accommodations tax ~~board committee~~ shall be composed of the following seven members with appointments as follows:

- (1) ~~Four members~~ A majority shall be selected from the hospitality industry of the county and a minimum of two of the hospitality industry members must be from the lodging industry.
- (2) Up to two members shall ~~may~~ be selected at large at the pleasure of the council.
- (3) One member shall ~~be selected from a cultural organization~~ represent the cultural organizations of the county.
- (4) Members shall represent the geographic area where the majority of the revenue is derived.

(Code 1982, § 7-21(b)(1)-(3))

Sec. 66-~~28~~ 29. Meetings.

The accommodations tax ~~board committee~~ shall meet no less than four times a year at least once annually, but as often as necessary, to ensure they submit written recommendations on the expenditure of revenue generated from the accommodations tax to the County Council at least once annually.

(Code 1982, § 7-21(b)(4))

Sec. 66-~~29~~ 30. Powers and duties.

To be in compliance with S.C. Code of Laws, Title 6 Chapter 4, the state (2%) accommodations tax shall be allocated in the following manner:

- (1) ~~Be in compliance with the Ordinance No. 89-9; however, the~~ The first \$25,000.00 of revenues received from the accommodations tax will, by law, be placed in the county's general fund with no restrictions on the expenditures.
- (2) Five percent of the balance must be allocated to the general fund with no restrictions on expenditures.
- (3) Thirty percent of the ~~remaining~~ balance is split with half going to the Greater Beaufort-Port Royal Convention and Visitors Bureau and half going to the Hilton Head - Bluffton Chamber of Commerce as the council hereby designates the Greater Beaufort-Port Royal Convention and Visitors Bureau and the Hilton Head - Bluffton Chamber of Commerce as the designated marketing organizations (DMOs).
 - (a) In accordance with state law, the DMOs shall submit for approval a budget of planned expenditures. The proposed budgets from the two DMOs shall be presented at the April finance committee meeting. At the end of each fiscal year, an organization receiving funds shall render an accounting of the expenditure to the county. The final reports from the two DMOs shall be presented at the ~~August~~ September finance committee meeting.

- (b) Advertising expenditures using these county funds cannot be spent within Beaufort County except for notifications of festivals or other events similar in nature.
- ~~(c) Adoption of this section goes into effect immediately; however, any changes to this section of the Code after initial adoption shall go into effect one year from date of adoption.~~
- (4) (a) The remaining balance plus earned interest received by the county must be allocated to a special fund and used for tourism-related expenditures.
- (b) The funds may be used to provide additional county services including, but not limited to, law enforcement, traffic control, public facilities, highway and street maintenance, as well as the continual promotion of tourism. These expenditures shall be ~~dispersed~~ awarded through a grant process of which the accommodations (2% state) tax board committee evaluates requests and makes recommendations to county council. Grant requests must not be used as an additional source of revenue to provide services normally provided by the county, but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county to attract and provide for tourists. Tourism-related expenditures include:
- i. Advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;
 - ii. Promotion of the arts and cultural events;
 - iii. Construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;
 - iv. The criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;
 - v. Public facilities such as restrooms, dressing rooms, parks, and parking lots;
 - vi. Tourist shuttle transportation;
 - vii. Control and repair of waterfront erosion, including beach renourishment;
 - viii. Operating visitor information centers.
- (ix) Development of workforce housing, which must include programs to promote home ownership. However, a county or municipality may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue for the purposes set forth in this item (4)(b)(ix). The provisions of this item (4)(b)(ix) are no longer effective after December 31, 2030.
- ~~(b)(c)(i)~~ Allocations to the special fund must be spent by the county within two years of receipt. However, the time limit may be requested to be extended upon the recommendation of the county council and approval of the oversight committee established pursuant to Section 6-4-35. An extension must include provisions that funds be committed for a specific project or program.
- (ii) Notwithstanding the provisions of subsubitem (i), upon a two-thirds affirmative vote of the membership of the county council, the county may carry forward unexpended allocations to the special fund beyond two years provided that the county commits use of the funds exclusively to the control and repair of waterfront erosion, including beach renourishment or development of workforce housing, which must include programs to promote home ownership. The county annually shall notify the oversight committee, established pursuant to Section 6-4-35, of the basic activity of the committed funds, including beginning balance, deposits, expenditures, and ending balance.

(d) In the expenditure of these funds, the county is required to promote tourism and make tourism-related expenditures primarily in the geographical areas of the county in which the proceeds of the tax are collected where it is practical.

(Code 1982, § 7-21(c); Ord. No. 2009/15, 3-30-2009 ; Ord. No. 2018/21, 6-11-2018)

SECTION 66-31. Housing impact analysis.

(A) If the county council intends to use the funds for the development of workforce housing, then the county shall prepare a housing impact analysis prior to giving second reading to the ordinance.

(B) The analysis required by subsection (A) must include:

(1) information about the effect of the ordinance on housing, including the effect of the ordinance on each of the following:

(a) the cost of developing, construction, rehabilitating, improving, maintaining, or owning single-family or multifamily dwellings;

(b) the purchase price of new homes or the fair market value of existing homes;

(c) the cost and availability of financing to purchase or develop housing;

(d) housing costs; and

(e) the density, location, setback, size, or height development on a lot, parcel, land division, or subdivision; and

(2) an analysis of the relative impact of the ordinance on low- and moderate-income households.

(C) The following applies to information on housing costs required to be included in the analysis conducted pursuant to subsection (B)(1)(d):

(1) the analysis must include reasonable estimates of the effect of the ordinance on housing costs, expressed in dollar amounts. The county shall include a brief summary of, or worksheet demonstrating, the computations used in determining the dollar amounts. However, if the county determines that it is not possible to make an estimate expressed in dollar amounts, then the analysis must include a statement setting forth the reasons for the county's determination; and

(2) the analysis must include descriptions of both the immediate effect and, to the extent ascertainable, the long-term effect of the ordinance on housing costs.

(D) Except as otherwise provided in this section, a housing impact analysis required pursuant to this section must be based on costs associated with the development, construction, financing, purchasing, sale, ownership, or availability of a median-priced single-family residence. However, the analysis may include estimates for larger developments as part of an analysis of the long-term effects of the ordinance.

(E) The county may request information from any state agencies, local units of government, universities or colleges, organizations, or individuals as necessary to prepare a housing impact analysis pursuant to this section.

(F) The county council shall provide the housing impact analysis for an ordinance to the members of the legislative body of the local government, the Department of Revenue, and the Tourism Expenditure Revenue Committee before the ordinance is considered by the legislative body. The Department of Revenue may not disburse any accommodations taxes to the county for purposes of development of workforce housing unless and until the county has provided the housing impact analysis to the parties required pursuant to this subsection.

Secs. 66-~~30-32~~—66-40. Reserved.

DIVISION 2. LOCAL ACCOMMODATIONS (3%) TAX

Sec. 66-41. Authority.

This article is enacted pursuant to the authority S.C. Code § 4-9-30 (1976, as amended) which provides that the county may adopt all ordinances which appear necessary and proper for the security, general welfare and convenience of the county and for the preservation of the general health, peace and order in the county and S.C. Code § 6-1-500 et seq. (1976, as amended) which expressly provides authorization for the imposition of a local accommodations tax.

(Ord. No. 2002-11, § 1, 3-11-2002; Ord. No. 2005/10, § 1, 3-28-2005)

Sec. 66-42. Local (3%) accommodations tax—definitions.

- (a) *Tourist* and *transient* means a person traveling to and staying in places outside his or her usual environment for one night or more for leisure, business, or any other purpose for consideration within the unincorporated areas of Beaufort County, South Carolina. A person meeting this definition may be staying in places of public accommodations such as hotels, motels, inns, condominium, bed and breakfasts, tourist courts, campgrounds or the residences of family or friends for consideration.
- (b) *Local accommodations tax* means a tax on the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for consideration. This tax does not apply where the facilities consist of less than six sleeping rooms, contained on the same premises, which is used as the individual's place of abode. The gross proceeds derived from the lease or rental of sleeping accommodations supplied to the same person for a period of 90 continuous days are not considered proceeds from transients. The tax imposed herein does not apply to additional guest charges as defined in S.C. Code § 12-36-920(B) (1976, as amended).

(c) "Workforce housing" means residential housing for rent or sale that is reasonably and appropriately priced for rent or sale to a person or family whose income falls within thirty percent and one hundred twenty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).

~~(c) A local accommodations tax equal to three percent is hereby imposed on the gross proceeds derived from the rental of any room(s) (excluding meeting rooms) as provided above.~~

(Ord. No. 2002-11, § 2, 3-11-2002; Ord. No. 2005/10, § 2, 3-28-2005 ; Ord. No. 2009/15, 3-30-2009)

Sec. 66-43. Imposition of Tax and Payment of local (3%) accommodations tax.

(a) A local accommodations tax equal to three percent is hereby imposed on the gross proceeds derived from the rental of any room(s) (excluding meeting rooms) camping spaces, lodgings, or sleeping accommodations furnished to transients as provided above in Section 66-42.

~~(a)~~(b) Payment of the local accommodations tax established herein shall be the liability of the consumer of the services described herein. The local accommodations tax shall be paid at the time of delivery of the services to which the local accommodations tax applies, and shall be collected by the provider of the services.

~~(b)~~(c) The county shall provide a local accommodations tax return, which shall be utilized by the provider of the services to calculate the amount of local accommodation taxes collected and due. Payment shall be made to Beaufort County and shall be made at the same time the return is required to be filed as provided below.

Real estate agents, brokers, corporations, or listing services required to remit taxes under this article must notify the county if rental property, previously listed by them, is dropped from their listings. The notice shall be on a form provided by the county.

~~(e)~~(d) The local accommodations tax collected by the provider of the services as required herein shall be remitted to the County of Beaufort, South Carolina, as follows:

- (1) Payment shall be collected and remitted to the county monthly starting January 1, 2010 and each month thereafter when the estimated amount of the average tax is more than fifty dollars per month.
- (2) Payment shall be collected and remitted to the county quarterly when the estimated amount of the average tax is twenty-five dollars to fifty dollars per month.
- (3) Payment shall be collected and remitted to the county on an annual basis when the estimated amount of the average tax is less than twenty-five dollars per month.

~~(2)~~(4) Payments are due on or before the twentieth day following the end of the filing period.

~~(d)~~ An interest-bearing restricted account, kept in a separate fund segregated from the county's general fund and to be known as "The County of Beaufort, South Carolina, Local Accommodations Tax Account" is hereby established. All revenue and interest generated by the local accommodations tax shall be deposited into this account. "The County of Beaufort, South Carolina, Local Accommodations Tax Account," shall be controlled by the county administrator for the County of Beaufort, South Carolina. The principal and any accrued interest thereon shall be spent only as provided herein.

~~(e)~~ All proceeds from a local accommodations tax must be kept in a separate fund segregated from the imposing entity's general fund. All interest generated by the local accommodations tax fund must be credited to the local accommodations tax fund.

~~(e)~~(f) Deposits into "The County of Beaufort, South Carolina, Local Accommodations Tax Account" may also include appropriations from the general fund by the county council and voluntary contributions of money and other liquid assets from any source. Once any such funds are so deposited, the funds become dedicated funds and may only be spent as provided herein.

(Ord. No. 2002-11, § 3, 3-11-2002; Ord. No. 2005/10, § 3, 3-28-2005 ; Ord. No. 2009/15, 3-30-2009 ; Ord. No. 2009/36, 10-12-2009)

Sec. 66-44. Permitted uses of local (3%) accommodations tax funds.

- (a) The county council is hereby authorized to utilize the funds collected from the imposition and collection of the local accommodations tax and other funds deposited into "The County of Beaufort, South Carolina, Local Accommodations Tax Account." The revenue generated by the local accommodations tax must be used exclusively for the following purposes:
- (1) Tourism-related buildings, including, but not limited to, civic centers, coliseums, and aquariums;
 - (2) Tourism-related cultural, recreational, or historic facilities;
 - (3) ~~River/beach access and renourishment~~ beach access, renourishment, or other tourism-related lands and water access;
 - (4) Highways, roads, streets, bridges and boat ramps providing access to tourist destinations;
 - (5) Advertisements and promotions related to tourism development;
 - (6) Water and sewer infrastructure to serve tourism-related demand; ~~and~~
 - (7) Development of workforce housing, which must include programs to promote home ownership. However, the county may not expend or dedicate more than fifteen percent of its annual local

accommodations tax revenue for the purposes set forth in this item. The provisions of this item are no longer effective after December 31, 2030.

~~(7)~~(8) The operation and maintenance of those items provided in (a)(1) through (a)(6) above, including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.

~~(8)~~(9) For all other proper purposes including those set forth herein.

- (b) Authorization to utilize any funds from the "County of Beaufort, South Carolina, Local Accommodations Tax Account," shall be by ordinance duly adopted by the county council for the County of Beaufort, South Carolina, except for expenditures following an emergency as provided in Ordinance 2020/46 , which may be authorized by approval of a resolution.

(Ord. No. 2002-11, § 4, 3-11-2002; Ord. No. 2005/10, § 4, 3-28-2005 ; Ord. No. 2009/15, 3-30-2009 ; Ord. No. 2020/46, § 2, 10-26-2020)

Sec. 66-~~45~~ 46. Inspections and audits.

- (a) For the purpose of enforcing the provisions of this article, the license official or other authorized agent of the County of Beaufort, South Carolina, is empowered to enter upon the premises of any person or establishment subject to this article to make inspections, examine and audit books and records of such person or establishment.
- (b) It shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon 24 hours' written notice. In the event that the audit reveals that false information has been filed by the remitter, the costs of the audit shall be added to the correct amount determined to be due in addition to the penalties provided herein. The license official may make systematic inspections of all businesses within the unincorporated areas of the County of Beaufort, South Carolina, to ensure compliance with this chapter.

(Ord. No. 2002-11, § 5, 3-11-2002; Ord. No. 2005/10, § 5, 3-28-2005 ; Ord. No. 2009/36, 10-12-2009)

Sec. 66-~~46~~ 47. Violations and penalty.

- (a) It shall be a violation of this chapter to:
- (1) Fail to collect the local accommodations tax in connection with the rental of accommodations to tourists or transients as set forth herein.
 - (2) Fail to remit to the County of Beaufort, South Carolina, any local accommodations taxes collected pursuant to this article by the twentieth day of the following month, as set forth herein.
 - (3) Knowingly provide false information on a return submitted to the County of Beaufort, South Carolina, as set forth herein.
 - (4) Fail or refuse to provide books and records to an authorized agent of the County of Beaufort, South Carolina, for the purpose of an examination or audit upon 24 hours' written notice as provided herein.
- (b) In the event that local accommodations taxes are not timely remitted to the County of Beaufort, South Carolina as provided herein, the person or establishment failing to remit shall also pay a penalty equal to one and one-half percent of the unpaid amount for each month or portion thereof that such taxes remain unpaid.
- (c) A person or establishment failing or refusing to timely file a return and make appropriate payment and/or provide books and records as provided herein may be subject to a conviction for a violation hereof. The violator shall be guilty of a misdemeanor and subject to the penalties provided in section 1-6 of the Code of the County Council of Beaufort County, South Carolina.

- (d) Upon identification of a delinquent account, the director of business license or his/her designee has the authority to establish payment plans, revenue procedures, and reduce or waive penalties based on the revenue procedures as adopted with this amendment.

(Ord. No. 2002-11, § 6, 3-11-2002; Ord. No. 2005/10, § 6, 3-28-2005 ; Ord. No. 2009/36, 10-12-2009)

Sec. 66-47 45. Management and use of local (3%) accommodations tax.

[The management and use of local accommodations tax is as follows:]

- (a) Fund the approved annual operating expenditures of the program at an amount not to exceed eight percent of the funds collected.
- (b) Allocate \$350,000.00 annually for advertising and promotion programs related to tourism development (subsection 66-44(a)(5)). These funds shall be allocated as follows:
- (1) One hundred fifty thousand dollars shall be allocated to the Greater Beaufort Port Royal Convention and Visitors Bureau for advertising, promotion and events to increase tourism within the county.
 - (2) One hundred fifty thousand dollars shall be allocated to the Hilton Head Bluffton Chamber of Commerce for advertising, promotion and events to increase tourism within the county.
 - (3) Fifty thousand dollars shall be allocated to the Beaufort County Black Chamber of Commerce for advertising, promotion and events to increase tourism within the county.
 - (4) Funds shall be distributed to the designated organizations on a quarterly basis no later than 30 days after the end of the quarter.
 - (5) Advertising expenditures using these county funds cannot be spent within Beaufort County except for notifications of festivals or other events similar in nature.
- (c)(a) Allocate the remaining balance of local accommodations tax collections as follows:
- (1) Twenty percent to establish a reserve fund for emergency or other unforeseen needs that qualify under Section 66-44 (a) (1) - (9). The reserve emergency fund shall be capped at one million dollars. Once the fund balance reaches one million dollars no additional funds shall be deposited into this emergency fund until the fund balance falls below one million dollars.
 - (2) Eighty percent for tourism related uses that qualify under Section 66-44 (a) (1) - (9).
 - (2) Twenty percent for river/beach access and renourishment (subsection 66-44(a)(3));
 - (3) Sixty percent for tourism related buildings, including, but not limited to, civic centers, coliseums and aquariums (subsection 66-44(a)(1)); cultural, recreational, or historic facilities; highways, roads, streets, bridges and boat ramps providing access to tourist destinations (subsection 66-44(a)(2)); water and sewer infrastructure to serve tourism related demand (subsection 66-44(a)(6)); the operation and maintenance, including police, fire protection, emergency medical services and emergency preparedness operating directly attendant to those facilities as referenced above (subsection 66-44(a)(7)); and for all other proper purposes (subsection 66-44(a)(8)).
 - (d) In accordance with state law, the three chambers shall submit for approval a budget of planned expenditures to County Council. The proposed budgets from the DMOs shall be presented at the April finance committee meeting. At the end of each fiscal year, an organization receiving funds shall render an accounting of the expenditure to the county. The final reports from the DMOs receiving funds shall be presented at the August finance committee meeting.
 - (e) Any changes to this section of the code shall go into effect after July 1, 2009.

(Ord. No. 2002-11, § 7, 3-11-2002; Ord. No. 2005/10, § 7, 3-28-2005 ; Ord. No. 2009/15, 3-30-2009 ; Ord. No. 2018/22, 6-11-2018)

Sec. 66-48. Applicability and effective date.

- (a) This division shall become effective on October 12, 2009 upon approval and adoption by county council.
- (b) The business license department is authorized to adopt guidelines, policies and procedures to implement this division.

(Ord. No. 2009/36, 10-12-2009)

Sec. 66-49. Severability.

If any part of the ordinance is held by a court of competent jurisdiction be unconstitutional, illegal, or invalid for any reason, it shall be construed to have been the legislative intent of the County Council of Beaufort County, South Carolina, to pass this Ordinance [Ord. No. 2009/36] without such unconstitutional, illegal or invalid provision, and the remainder of this division shall be deemed and held to be constitutional, lawful and valid as if such portion had not been included. If this division or any provision thereof is held by a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

(Ord. No. 2009/36, 10-12-2009)

Sec. 66-50. Reserved.

CHAPTER 4
Allocation of Accommodations Tax Revenues

SECTION 6-4-5. Definitions.

As used in this chapter:

- (1) "County area" means a county and municipalities within the geographical boundaries of the county.
- (2) "Cultural", as it applies to members of advisory committees in Section 6-4-25, means persons actively involved and familiar with the cultural community of the area including, but not limited to, the arts, historical preservation, museums, and festivals.
- (3) "Hospitality", as it applies to members of the committees in item (2), means persons directly involved in the service segment of the travel and tourism industry including, but not limited to, businesses that primarily serve visitors such as lodging facilities, restaurants, attractions, recreational amenities, transportation facilities and services, and travel information and promotion entities.
- (4) "Travel" and "tourism" mean the action and activities of people taking trips outside their home communities for any purpose, except daily commuting to and from work.
- (5) "Housing costs" for housing occupied by the owner means:
 - (a) the principal and interest on a mortgage loan that finances the purchase of the housing;
 - (b) the closing costs and other costs associated with a mortgage loan;
 - (c) mortgage insurance;
 - (d) property insurance;
 - (e) utility-related costs;
 - (f) property taxes; and
 - (g) if the housing is owned and occupied by members of a cooperative or an unincorporated cooperative association, fees paid to a person for managing the housing.
- (6) "Housing costs" for rented housing means:
 - (a) rent; and
 - (b) utility-related costs, if not included in the rent.
- (7) "Ordinance" means an ordinance adopted pursuant to Section 6-29-530.
- (8) "Utility-related costs" means costs related to power, heat, gas, light, water, and sewage.
- (9) "Workforce housing" means residential housing for rent or sale that is appropriately priced for rent or sale to a person or family whose income falls within thirty percent and one hundred twenty percent of the median income for the local area, with adjustments for household size, according to the latest figures available from the United States Department of Housing and Urban Development (HUD).

HISTORY: 1991 Act No. 147, Section 1; 2001 Act No. 74, Section 2; 2002 Act No. 312, Section 2; 2023 Act No. 57 (S.284), Section 5, eff May 19, 2023.

Editor's Note

2023 Act No. 57, Section 9, provides as follows:

"SECTION 9. Before the beginning of the 2030 Legislative Session, the Director of the Department of Parks, Recreation and Tourism, in consultation with the Secretary of Commerce and the Commissioner of Agriculture, shall issue a report to the General Assembly detailing the effects on tourism and workforce housing resulting from the codified provisions of this act."

Effect of Amendment

2023 Act No. 57, Section 5, added (5) to (9).

SECTION 6-4-10. Allocation to general fund; special fund for tourism; management and use of special fund.

The funds received by a municipality or a county in county areas collecting more than fifty thousand dollars from the local accommodations tax provided in Section 12-36-2630(3) must be allocated in the following manner:

(1) The first twenty-five thousand dollars must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.

(2) Five percent of the balance must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.

(3) Thirty percent of the balance must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity. To manage and direct the expenditure of these tourism promotion funds, the municipality or county shall select one or more organizations, such as a chamber of commerce, visitor and convention bureau, or regional tourism commission, which has an existing, ongoing tourist promotion program. If no organization exists, the municipality or county shall create an organization with the same membership standard in Section 6-4-25. To be eligible for selection the organization must be organized as a nonprofit organization and shall demonstrate to the municipality or county that it has an existing, ongoing tourism promotion program or that it can develop an effective tourism promotion program. Immediately upon an allocation to the special fund, a municipality or county shall distribute the tourism promotion funds to the organizations selected or created to receive them. Before the beginning of each fiscal year, an organization receiving funds from the accommodations tax from a municipality or county shall submit for approval a budget of planned expenditures. At the end of each fiscal year, an organization receiving funds shall render an accounting of the expenditure to the municipality or county which distributed them. Fees allocated pursuant to this subsection must not be used to pledge as security for bonds and to retire bonds. Also, fees allocated pursuant to this subsection must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity, and not used to pledge as security for bonds and to retire bonds.

(4)(a) The remaining balance plus earned interest received by a municipality or county must be allocated to a special fund and used for tourism-related expenditures. This section does not prohibit a municipality or county from using accommodations tax general fund revenues for tourism-related expenditures.

(b) The funds received by a county or municipality which has a high concentration of tourism activity may be used to provide additional county and municipal services including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance, as well as the continual promotion of tourism. The funds must not be used as an additional source of revenue to provide services normally provided by the county or municipality but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county or municipality to attract and provide for tourists.

"Tourism-related expenditures" include:

(i) advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;

(ii) promotion of the arts and cultural events;

(iii) construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;

(iv) the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;

(v) public facilities such as restrooms, dressing rooms, parks, and parking lots;

(vi) tourist shuttle transportation;

(vii) control and repair of waterfront erosion, including beach renourishment;

(viii) operating visitor information centers;

(ix) development of workforce housing, which must include programs to promote home ownership.

However, a county or municipality may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue for the purposes set forth in this item (4)(b)(ix). The provisions of this item (4)(b)(ix) are no longer effective after December 31, 2030.

(c)(i) Allocations to the special fund must be spent by the municipality or county within two years of receipt. However, the time limit may be extended upon the recommendation of the local governing body of

the county or municipality and approval of the oversight committee established pursuant to Section 6-4-35. An extension must include provisions that funds be committed for a specific project or program.

(ii) Notwithstanding the provisions of subsubitem (i), upon a two-thirds affirmative vote of the membership of the appropriate local governing body, a county or municipality may carry forward unexpended allocations to the special fund beyond two years provided that the county or municipality commits use of the funds exclusively to the control and repair of waterfront erosion, including beach renourishment or development of workforce housing, which must include programs to promote home ownership. The county or municipality annually shall notify the oversight committee, established pursuant to Section 6-4-35, of the basic activity of the committed funds, including beginning balance, deposits, expenditures, and ending balance.

(d) In the expenditure of these funds, counties and municipalities are required to promote tourism and make tourism-related expenditures primarily in the geographical areas of the county or municipality in which the proceeds of the tax are collected where it is practical.

HISTORY: 1990 Act No. 612, Part II, Section 74B; 1991 Act No. 147, Section 1; 2010 Act No. 284, Section 2, eff upon approval (became law without the Governor's signature on June 28, 2010); 2014 Act No. 184 (S.294), Sections 1, 2, eff June 2, 2014; 2023 Act No. 57 (S.284), Section 2, eff May 19, 2023.

Editor's Note

2023 Act No. 57, Section 9, provides as follows:

"SECTION 9. Before the beginning of the 2030 Legislative Session, the Director of the Department of Parks, Recreation and Tourism, in consultation with the Secretary of Commerce and the Commissioner of Agriculture, shall issue a report to the General Assembly detailing the effects on tourism and workforce housing resulting from the codified provisions of this act."

Effect of Amendment

The 2010 amendment, in item (3), inserted "only" preceding "for advertising" in the first sentence and added the last two sentences.

2014 Act No. 184, Section 1, in subsection (4)(b), changed the paragraph designators from arabic to roman numbers"; and in subsection (4)(b)(vii), inserted ", including beach renourishment".

2014 Act No. 184, Section 2, rewrote subsection (4)(c).

2023 Act No. 57, Section 2, in (4), in (b), inserted (ix) and made nonsubstantive changes, and in (c)(ii), in the first sentence, inserted "or development of workforce housing, which must include programs to promote home ownership".

SECTION 6-4-12. Housing impact analysis.

(A) If a local government intends to use the funds for the development of workforce housing, then the local government shall prepare a housing impact analysis prior to giving second reading to the ordinance.

(B) The analysis required by subsection (A) must include:

(1) information about the effect of the ordinance on housing, including the effect of the ordinance on each of the following:

(a) the cost of developing, construction, rehabilitating, improving, maintaining, or owning single-family or multifamily dwellings;

(b) the purchase price of new homes or the fair market value of existing homes;

(c) the cost and availability of financing to purchase or develop housing;

(d) housing costs; and

(e) the density, location, setback, size, or height development on a lot, parcel, land division, or subdivision; and

(2) an analysis of the relative impact of the ordinance on low- and moderate-income households.

(C) The following applies to information on housing costs required to be included in the analysis conducted pursuant to subsection (B)(1)(d):

(1) the analysis must include reasonable estimates of the effect of the ordinance on housing costs, expressed in dollar amounts. The local government shall include a brief summary of, or worksheet

demonstrating, the computations used in determining the dollar amounts. However, if the local government determines that it is not possible to make an estimate expressed in dollar amounts, then the analysis must include a statement setting forth the reasons for the local government's determination; and

(2) the analysis must include descriptions of both the immediate effect and, to the extent ascertainable, the long-term effect of the ordinance on housing costs.

(D) Except as otherwise provided in this section, a housing impact analysis required pursuant to this section must be based on costs associated with the development, construction, financing, purchasing, sale, ownership, or availability of a median-priced single-family residence. However, the analysis may include estimates for larger developments as part of an analysis of the long-term effects of the ordinance.

(E) A local government may request information from any state agencies, local units of government, universities or colleges, organizations, or individuals as necessary to prepare a housing impact analysis pursuant to this section.

(F) The local government shall provide the housing impact analysis for an ordinance to the members of the legislative body of the local government, the Department of Revenue, and the Tourism Expenditure Revenue Committee before the ordinance is considered by the legislative body. The Department of Revenue may not disburse any accommodations taxes to the local government for purposes of development of workforce housing unless and until the local government has provided the housing impact analysis to the parties required pursuant to this subsection.

HISTORY: 2023 Act No. 57 (S.284), Section 4, eff May 19, 2023.

Editor's Note

2023 Act No. 57, Section 9, provides as follows:

"SECTION 9. Before the beginning of the 2030 Legislative Session, the Director of the Department of Parks, Recreation and Tourism, in consultation with the Secretary of Commerce and the Commissioner of Agriculture, shall issue a report to the General Assembly detailing the effects on tourism and workforce housing resulting from the codified provisions of this act."

SECTION 6-4-15. Use of revenues to finance bonds.

A municipality or county may issue bonds, enter into other financial obligations, or create reserves to secure obligations to finance all or a portion of the cost of constructing facilities, all of which must fulfill the purpose of this chapter, for civic activities, the arts, cultural events, or workforce housing that includes programs to promote home ownership. The annual debt service of indebtedness incurred to finance the facilities or lease payments for the use of the facilities may be provided from the funds received by a municipality or county from the accommodations tax in an amount not to exceed the amount received by the municipality or county after deduction of the accommodations tax funds dedicated to the general fund and the advertising and promotion fund. However, none of the revenue received by a municipality or county from the accommodations tax may be used to retire outstanding bonded indebtedness unless accommodations tax revenue was obligated for that purpose when the debt was incurred.

HISTORY: 1991 Act No. 147, Section 1; 2023 Act No. 57 (S.284), Section 3, eff May 19, 2023.

Editor's Note

2023 Act No. 57, Section 9, provides as follows:

"SECTION 9. Before the beginning of the 2030 Legislative Session, the Director of the Department of Parks, Recreation and Tourism, in consultation with the Secretary of Commerce and the Commissioner of Agriculture, shall issue a report to the General Assembly detailing the effects on tourism and workforce housing resulting from the codified provisions of this act."

Effect of Amendment

2023 Act No. 57, Section 3, in the first sentence, substituted ", all of which must fulfill the purpose of this chapter, for civic activities, the arts, cultural events, or workforce housing that includes programs to promote home ownership" for "for civic activities, the arts, and cultural events which fulfill the purpose of this chapter".

SECTION 6-4-20. Administration account established; State Treasurer's duties; distribution of account revenues; exceptions to tourism spending mandate.

(A) An accommodations tax account is created to be administered by the State Treasurer.

(B) At the end of each fiscal year and before August first a percentage, to be determined by the State Treasurer, must be withheld from those county areas collecting four hundred thousand dollars or more from that amount which exceeds four hundred thousand dollars from the tax authorized by Section 12-36-2630(3), and that amount must be distributed to assure that each county area receives a minimum of fifty thousand dollars. The amount withheld from those county areas collecting four hundred thousand dollars or more must be apportioned among the municipalities and the county in the same proportion as those units received quarterly remittances in Section 12-36-2630(3). If the total statewide collections from the local accommodations tax exceeds the statewide collections for the preceding fiscal year then this fifty thousand dollar figure must be increased by a percentage equal to seventy-five percent of the statewide percentage increase in statewide collections for the preceding fiscal year. The difference between the fifty thousand dollars minimum and the actual collections within a county area must be distributed to the eligible units within the county area based on population as determined by the most recent United States census.

(C) At the end of each fiscal year and before August first, the State Treasurer shall distribute to each county area collecting more than fifty thousand dollars but less than four hundred thousand dollars an additional fifteen thousand dollars. If the total statewide collections from the local accommodations tax exceed the statewide collections for the preceding fiscal year, this fifteen thousand dollar figure must be increased by a percentage equal to seventy-five percent of the statewide percentage increase in statewide collections for the preceding fiscal year. This amount must be distributed in the same manner as the fifty thousand dollars in subsection (B). The amount paid those qualified county areas under this subsection must be paid from the account created under this section.

(D) The amount withheld in excess must be distributed to the county areas whose collections exceed four hundred thousand dollars based on the ratio of the funds available to the collections by each county area.

(E) The accommodations tax funds received by a municipality or county in county areas collecting fifty thousand dollars or less are not subject to the tourism-related provisions of this chapter.

(F) Two percent of the local accommodations tax levied pursuant to Section 12-36-2630(3) must be remitted quarterly and equally to the eleven agencies designated by law and regional organizations to administer multi-county tourism programs in the state tourism regions as identified in the promotional publications of the South Carolina Department of Parks, Recreation and Tourism. This remittance is in addition to other funds that may be allocated to the agencies by local governments.

(G) The State Treasurer may correct misallocations to counties and municipalities from accommodations tax revenues by adjusting subsequent allocations, but these adjustments may be made only in allocations made in the same fiscal year as the misallocation.

HISTORY: 1990 Act No. 612, Part II, Section 74B; 1991 Act No. 147, Section 1; 1991 Act No. 168, Section 2.

Code Commissioner's Note

1991 Act No. 168, Section 2, originally amended this section by adding item "(5)." By direction of the Code Commissioner, the added text was redesignated as subsection "(G)" to conform to the designations in the earlier amendment of this section by 1991 Act No. 147, Section 1.

SECTION 6-4-25. Advisory Committee; guidelines for expenditures; annual reports; reports to Accommodations Tax Oversight Committee.

(A) A municipality or county receiving more than fifty thousand dollars in revenue from the accommodations tax in county areas collecting more than fifty thousand dollars shall appoint an advisory committee to make recommendations on the expenditure of revenue generated from the accommodations tax. The advisory committee consists of seven members with a majority being selected from the hospitality industry of the municipality or county receiving the revenue. At least two of the hospitality industry

members must be from the lodging industry where applicable. One member shall represent the cultural organizations of the municipality or county receiving the revenue. For county advisory committees, members shall represent the geographic area where the majority of the revenue is derived. However, if a county which receives more in distributions of accommodations taxes than it collects in accommodations taxes, the membership of its advisory committee must be representative of all areas of the county with a majority of the membership coming from no one area.

(B) A municipality or county and its advisory committee shall adopt guidelines to fit the needs and time schedules of the area. The guidelines must include the requirements for applications for funds from the special fund used for tourism-related expenditures. A recipient's application must be reviewed by an advisory committee before it receives funds from a county or municipality.

(C) Advisory committees shall submit written recommendations to a municipality or county at least once annually. The recommendations must be considered by the municipality or county in conjunction with the requirements of this chapter.

(D) Municipalities and counties annually shall submit to the South Carolina Accommodations Tax Oversight Committee:

- (1) end-of-the-year report detailing advisory committee accommodations tax recommendations;
- (2) municipality's or county's action following the recommendations;
- (3) list of how funds from the accommodations tax are spent, except for the first twenty-five thousand dollars and five percent of the balance in Section 6-4-10(2) allocated to the general fund. The list is due before October first and must include funds received and dispersed during the previous fiscal year;
- (4) list of advisory committee members noting the chairman, business address if applicable, and representation of the hospitality industry including the lodging industry and cultural interests.

(E) The regional tourism agencies in Section 6-4-20 annually shall submit reports on their budgets and annual expenditure of accommodations tax funds pursuant to this chapter to the Accommodations Tax Oversight Committee.

HISTORY: 1991 Act No. 147, Section 1; 2002 Act No. 312, Section 3.

SECTION 6-4-30. Repealed by 2003 Act No. 69, Section 3.MM, eff June 18, 2003.

Editor's Note

Former section was entitled "Department of Revenue's duties regarding accommodations taxes" and was derived from 1991 Act No. 147, Section 1; 1997 Act No. 87, Section 1; 2001 Act No. 74, Section 3.B.

SECTION 6-4-35. Tourism Expenditure Review Committee.

(A) There is established the Tourism Expenditure Review Committee consisting of eleven members as follows:

- (1) one member appointed by the Speaker of the House;
- (2) one member appointed by the President of the Senate;
- (3) the Director of the South Carolina Department of Parks, Recreation and Tourism, or his designee, ex officio;
- (4) eight members appointed by the Governor as follows:
 - (a) one member on the recommendation of the South Carolina Association of Tourism Regions;
 - (b) one member on the recommendation of the South Carolina Association of Convention and Visitors Bureaus;
 - (c) one member on the recommendation of the South Carolina Travel and Tourism Coalition;
 - (d) one member on the recommendation of the Municipal Association of South Carolina;
 - (e) one member on the recommendation of the South Carolina Association of Counties;
 - (f) one member on the recommendation of the Hospitality Association of South Carolina;
 - (g) one member on the recommendation of the South Carolina Arts Commission; and
 - (h) one member at large.

Appointed members shall serve for terms of four years and until their successors are appointed and qualify, except that of those first appointed by the Governor, four shall serve for a term of two years and the term must be noted on the appointment. Regardless of the date of appointment, all terms expire July first of the applicable year. Members shall serve without compensation but may receive the mileage, subsistence, and per diem allowed by law for members of state boards, committees, and commissions. Vacancies must be filled in the manner of original appointment for the unexpired portion of the term.

(B)(1)(a) The Tourism Expenditure Review Committee shall serve as the oversight authority on all questionable tourism-related expenditures and to that end, all reports filed pursuant to Section 6-4-25(D)(3) must be forwarded to the committee for review to determine if they are in compliance with this chapter. The municipality or county must be notified if an expenditure is questioned, and the committee may consider any further supporting information the municipality or county may provide. If the committee finds an expenditure to be in noncompliance, it shall certify the noncompliance to the State Treasurer, who shall withhold the amount of the expenditure found in noncompliance from subsequent distributions in accommodations tax revenue otherwise due the municipality or county. An appeal from an action of the committee under this subitem lies with the Administrative Law Judge Division.

(b) If the committee determines that a municipality or county has failed to file the reports required pursuant to Section 6-4-25(D)(3), it may impose a fee of five hundred dollars a month or part of a month for each month the report is not filed, but not more than five thousand dollars. The committee shall certify the penalty to the State Treasurer, who shall withhold the amount of the penalty from subsequent distributions otherwise due the municipality or county. An appeal from an action of the committee under this subitem lies with the Administrative Law Judge Division.

(c) Allocations withheld must be reallocated proportionately to all other recipients.

(2) The committee has jurisdiction to investigate and research facts on written complaints submitted to it with regard to the appropriate tourism-related expenditures and resolve these complaints as provided in item (1) of this subsection.

(3) The committee shall forward copies of information submitted by the local governments and regional tourism agencies pursuant to Section 6-4-25 arising under the tourism provisions of this chapter to the Department of Parks, Recreation and Tourism, which shall publish an annual report on the information submitted.

HISTORY: 2001 Act No. 74, Section 3.A; 2003 Act No. 38, Section 1, eff June 2, 2003; 2019 Act No. 1 (S.2), Section 31, eff January 31, 2019.

Editor's Note

2004 Act No. 202, Section 3, provides as follows:

"Wherever the term 'Administrative Law Judge Division' appears in any provision of law, regulation, or other document, it must be construed to mean the Administrative Law Court established by this act."

Effect of Amendment

The 2003 amendment, in subsection (A) substituted "eleven" for "nine" in the introductory paragraph, substituted "eight" for "six" in paragraph (4), added paragraphs (4)(g) and (4)(h), and made nonsubstantive changes.

2019 Act No. 1, Section 31, in (A)(2), substituted "President of the Senate" for "President Pro Tempore of the Senate".



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
AN ORDINANCE AMENDING CHAPTER 99 STORMWATER MANAGEMENT, ARTICLE II STORMWATER MANAGEMENT UTILITY SECTIONS 110, STORMWATER SERVICE FEE BILLING, DELINQUENCIES AND COLLECTIONS; AND 113, ENFORCEMENT AND PENALTIES OF THE BEAUFORT COUNTY CODE OF ORDINANCES.
MEETING NAME AND DATE:
Public Facilities and Safety Committee March 25, 2024
PRESENTER INFORMATION:
(Deputy County Attorney Brian Hulbert) (5 minutes)
ITEM BACKGROUND:
Staff has become aware of a need to clarify language in our stormwater ordinance to make it more clear what properties in Beaufort County are subject to stormwater fees. There is a requirement to clarify the language addressing penalties for late payment and when they are imposed. The maximum penalty which may be imposed for a violation is also being amended to keep it within the jurisdictional maximum allowed under state law for a local ordinance which is prosecuted in magistrate court.
PROJECT / ITEM NARRATIVE:
Amend the stormwater ordinance to make the penalty language more clear and to amend the maximum penalty which may be imposed for a violation which is adjudicated in the magistrates court.
FISCAL IMPACT:
<i>There would be no direct fiscal impact on the County.</i>
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of the Ordinance Amendments.
OPTIONS FOR COUNCIL MOTION:
(Move forward to Council for Approval/Adoption or to not Approve on March 25, 2024)

ORDINANCE 2024/ ____

AN ORDINANCE AMENDING CHAPTER 99 STORMWATER MANAGEMENT, ARTICLE II STORMWATER MANAGEMENT UTILITY SECTIONS 110, STORMWATER SERVICE FEE BILLING, DELINQUENCIES AND COLLECTIONS; AND 113, ENFORCEMENT AND PENALTIES OF THE BEAUFORT COUNTY CODE OF ORDINANCES

WHEREAS, Chapter 99, Article II Stormwater Management Utility was adopted on August 27, 2001 and was thereafter amended on August 22, 2005, September 28, 2015, September 26, 2016, May 26, 2020, January 11, 2021, and on January 10, 2022; and

WHEREAS, Stormwater Management Utility was established for the purpose of managing, acquiring, constructing, protecting, operating, maintaining, enhancing, controlling, and regulating the use of stormwater drainage systems in the county; and

WHEREAS, The Stormwater Management Utility ordinance needs to be amended to more clearly reflect the imposition of penalties for late and delinquent payments of the fees and the maximum penalty which may be assessed by a magistrate for a violation; and

WHEREAS, staff now wishes to amend Chapter 99, Article II to clarify the imposition of penalties for late and delinquent payments of the fees and the maximum penalty which may be assessed by a magistrate for a violation.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL THAT:

Chapter 99, Stormwater Management, Article II Stormwater Management Utility which appears in Beaufort County Code of Ordinances is hereby amended to reflect the language as depicted in exhibit A.

Adopted this _____ day of _____ 2024.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah w. Brock, JD, Clerk to Council

Sec. 99-110. Stormwater service fee billing, delinquencies and collections.

- (a) *Method of billing.* A stormwater service fee bill may be attached as a separate line item to the county's property tax billing or may be sent through the United States mail or by alternative means, notifying the customer of the amount of the bill, ~~The the~~ date the fee is due is thirty days after the mailing of the fee notice or January 15, whichever occurs later. (January 15), and the date when past due (March 17 – see Title 12, Section 45-180 of the South Carolina State Code). The stormwater service fee bill may be billed and collected along with other fees, including, but not limited to, the Beaufort County property tax billing, other Beaufort County utility bills, or assessments as deemed most effective and efficient by the Beaufort County Council. Failure to receive a bill is not justification for non-payment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of land shall be ultimately obligated to pay such fees and any associated fines or penalties, including, but not limited to, interest on delinquent service fees. If a customer is under-billed or if no bill is sent for a particular property, Beaufort County may retroactively bill for a period of up to one year, but shall not assess penalties for any delinquency during that previous unbilled period.
- (b) *Declaration of delinquency.* ~~A stormwater service fee shall be declared delinquent if not paid within 60 days of the date of billing, or upon the date (March 17) of delinquency of the annual property tax billing if the stormwater service fee is placed upon the annual property tax billing or enclosed with or attached to the annual property tax billing.~~
- (b) *Method of payment by County for County owned property.* The County shall pay the annual stormwater fees owed for County owned properties by way of a journal entry prepared by the Finance Office charging the General Fund's budgeted Stormwater Fees line items and crediting the Stormwater Fund's revenue line item for the total stormwater fees for county owned property.
- (c) *Nonpayment of fee.* For non-payment of all or any part of the stormwater service fee, the monetary penalty shall be the same penalty set forth in S.C. Code 1976, § 12-45-180. If any fee shall remain 60 days after the due date, the county may issue a lien upon the parcel for the stormwater service fee, penalties and costs of collection and shall proceed to collect in the same manner as prescribed by law for the collection of other fees and taxes.

(Ord. No. 2015/24, 9-28-2015 ; Ord. No. 2021/04, 1-11-2021 ; Ord. No. 2022/02 , 1-10-2022)

Sec. 99-111. Appeals.

Any customer who believes the provisions of this article have been applied in error may appeal in the following manner and sequence:

- (a) An appeal of a stormwater service fee must be filed in writing with the Beaufort County Public Works Director, or his/her designee within 30 days of the fee being mailed or delivered to the property owner and stating the reasons for the appeal. In the case of stormwater service fee appeals, the appeal shall include a survey prepared by a registered land surveyor or professional engineer containing information on the impervious surface area and any other feature or conditions that influence the development of the property and its hydrologic response to rainfall events.
- (b) Using information provided by the appellant, the county public works director or his/her designee shall conduct a technical review of the conditions on the property and respond to the appeal in writing within 30 days after receipt of the appeal. In response to an appeal, the county public works director or his/her designee may adjust the stormwater service fee applicable to the property in conformance with the general purposes and intent of this article.
- (c) A decision of the public works director or his/her designee that is adverse to an appellant may be further appealed to the county administrator or his/her designee within 30 days of the adverse decision. The appellant, stating the grounds for further appeal, shall deliver notice of the appeal to the county administrator or his designee. The county administrator or his designee shall issue a written decision on the appeal within 30 days. All decisions by the county administrator or his designee shall be served on the customer personally or by registered or certified mail, sent to the billing address of the customer. All decisions of the county administrator or his designee shall be final.
- (d) The appeal process contained in this section shall be a condition precedent to an aggrieved customer seeking judicial relief. Any decisions of the county administrator or his designee may be reviewed upon application for writ of certiorari before a court of competent jurisdiction, filed within 30 days of the date of the service of the decision.

(Ord. No. 2015/24, 9-28-2015 ; Ord. No. 2021/04, 1-11-2021 ; Ord. No. 2022/02 , 1-10-2022)

Sec. 99-112. No suspension of due date.

No provision of this article allowing for an administrative appeal shall be deemed to suspend the due date of the service fee with payment in full. Any adjustment in the service fee for the person pursuing an appeal shall be made by refund of the amount due.

(Ord. No. 2015/24, 9-28-2015 ; Ord. No. 2021/04, 1-11-2021 ; Ord. No. 2022/02 , 1-10-2022)

Sec. 99-113. Enforcement and penalties.

Any person who violates any provision of this article may be subject to a civil penalty of not more than ~~\$1,000.00~~, **five hundred dollars (\$500.00)** or such additional maximum amount as may become authorized by state law, provided the owner or other person deemed to be in violation has been notified of a violation. Notice shall be deemed achieved when sent by regular United States mail to the last known address reflected on the county tax records, or such other address as has been provided by the person to the county. Each day of a continuing violation may be deemed a separate violation. If payment is not received or equitable settlement reached within 30 days after demand for payment is made, a civil action may be filed on behalf of the county in the **magistrate court or the** circuit court to recover the full amount of the penalty. This provision on penalties shall be in addition to and not in lieu of other provisions on penalties, civil or criminal, remedies and enforcement that may otherwise apply.

(Ord. No. 2015/24, 9-28-2015 ; Ord. No. 2021/04, 1-11-2021 ; Ord. No. 2022/02 , 1-10-2022).



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
RECOMMEND APPROVAL OF AN ORDINANCE AMENDING ORDINANCE 2023/32 AN ORDINANCE TO AMEND THE BEAUFORT COUNTY ORDINANCE ESTABLISHING A ROAD USE FEE
MEETING NAME AND DATE:
Public Facilities and Safety Committee March 25, 2024
PRESENTER INFORMATION:
(Deputy County Attorney Brian Hulbert) (5 minutes)
ITEM BACKGROUND:
In September 2023 Council adopted Ordinance 2023/32 to amend our road use fee ordinance and to set the current motorized vehicle road use fee at \$20.00. Staff has become aware of a need to clarify language in the road use fee ordinance to clarify which motorized vehicles in Beaufort County are subject to the road use fees. This amendment will clarify that only motorized motor vehicles required to be licensed and which are carried on the tax records in Beaufort County will be subject to the road use fee in Beaufort County.
PROJECT / ITEM NARRATIVE:
Amend the road use fee ordinance to clarify language in the road use fee ordinance to clarify which motorized vehicles in Beaufort County are subject to the road use fees.
FISCAL IMPACT:
<i>There would be no direct fiscal impact on the County (aside from the lack of collection of road use fees from vehicles not subject to the road use fee).</i>
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of the Ordinance Amendments.
OPTIONS FOR COUNCIL MOTION:
(Move forward to Council for Approval/Adoption or to not Approve on April 08, 2024)

ORDINANCE 2024/ _____

**AN ORDINANCE TO AMEND ORDINANCE 2023/32 THE BEAUFORT COUNTY
ORDINANCE ESTABLISHING A ROAD USE FEE**

WHEREAS, in 1993 Beaufort County Council (the “Council”) adopted Beaufort County Ordinance 93/20 establishing the road use fee on all vehicles which are domiciled and garaged in Beaufort County (the “County”) and thereby use the roadways and bridges owned and maintained by the County and the State; and

WHEREAS, the Council has amended Ordinance 93/20 with Ordinances 2012/13, 2015/8, 2020/28, AND 2023/32; and

WHEREAS, the Council has the authority under South Carolina law to charge and collect the road use fee and to impose new service or user fees; and

WHEREAS, the Council has determined that it is in the best interests of its citizens to amend its existing road use fee; and

WHEREAS, the Council has determined that it is in the best interests of its citizens to amend its existing road use fee ordinance 2023/32 to clarify that the road use fee shall only apply to motorized vehicles required by the state to be licensed and which are subject to the taxes in Beaufort County.

NOW, THEREFORE, BE IT ORDAINED, by Beaufort County Council to amend the road use fee and does hereby amend the Beaufort County Road Use Fee Ordinance 2023/32 as follows:

Section 1. Findings and Authority. County Council makes the following findings of fact and authority in connection with the enactment of this ordinance (this “*Ordinance*”):

(a) The County is a political subdivision of the State of South Carolina and possesses certain powers granted by the Constitution and general laws of the State.

(b) Pursuant to the provisions of Title 4, Chapter 9, Article 13 (the “*Home Rule Act*”) of the South Carolina Code of Laws, as amended (the “*S.C. Code*”), and specifically, Section 4-9-30(5)(a) of the Home Rule Act, County Council is authorized to assess and levy property taxes and uniform service charges and to make appropriations for certain functions of the County specifically including general public works, roads and drainage.

(c) Pursuant to Section 57-17-10 of the S.C. Code, the governing body of the County shall have control and supervision of all county designated roads.

(d) Pursuant to Title 6, Chapter 1, Article 3 of the S.C. Code, specifically Sections 6-1-300 and 330 of the S.C. Code, County Council is authorized to charge and collect service or user fees, including uniform service charges. Section 6-1-300(6) of the S.C. Code, defines a “service or user fee” as a “charge required to be paid in return for a particular government service or

program” and further requires that the revenue generated from the service or user fee must: (i) be used to benefit the payers, even if the general public also benefits; (ii) only be used for the specific improvement contemplated; (iii) not exceed the cost of the improvement; and (iv) be uniformly imposed on all payers.”

(e) Pursuant to Section 6-1-330 of the S.C. Code, County Council is authorized to charge and collect service or user fees, including uniform service charges, subject to the following requirements: (i) the service or user fee must be imposed by adoption of an ordinance approved by a positive majority of County Council; (ii) County Council must provide public notice of the service or user fee being considered and hold a public hearing on the proposed service or user fee prior to final adoption; (iii) revenue derived from the service or user fee to finance the provision of public services must be used to pay costs related to the provision of the service or program for which the service or user fee is paid; and (iv) a local governing body that imposes a user or service fee pursuant to S.C. Code § 6-1-300(6) must publish the amount of dollars annually collected on each fee on the county’s website.

(f) Pursuant to Section 6-1-330(A) of the S.C. Code, a fee adopted or imposed by a local governing body prior to December 31, 1996, remains in force and effect until repealed by the enacting local governing body, notwithstanding the provisions of Title 6, Chapter 1, Article 3 of the S.C. Code.

(g) In 1993, County Council imposed a road use fee of Ten and NO/100 (\$10.00) Dollars annually on every motor vehicle required ~~to be registered~~ which are carried on the tax records of the County and licensed in the County pursuant to Ordinance 93/20, enacted June 28, 1993, and thereafter amended the ordinance by adopting Ordinances 2012/13, 2015/8, and 2020/28 (the “**Initial Fee Ordinance**”).

(h) Council never repealed the Initial Fee Ordinance and has collected the fee continuously from January 1, 1994, to the present date.

(i) Pursuant to the Initial Fee Ordinance, the road maintenance fee is uniformly imposed on all owners of vehicles ~~required to be registered~~ which are carried on the tax records of in the County by the South Carolina Department of Motor Vehicles.

(j) Pursuant to the Initial Fee Ordinance, the proceeds from the collection of the road use fee are deposited into a special road maintenance account and specifically used to maintain and improve the County’s road system and to pay for debt service on any outstanding General Obligation Bond issued by the County for road improvements.

(k) Pursuant to the Initial Fee Ordinance, any interest earned on road use fee funds shall accrue to the road maintenance account. Funds which are not used in any fiscal year shall be carried forward and used for the construction, maintenance, and improvement of County roads and related drainage, as well as to pay debt service on any General Obligation Bond issued exclusively for County road improvements.

(l) For the past 30 years, the County has used the road use fee as a dedicated revenue source to maintain and improve the County road system. The revenue generated from the road use fee is used only for the maintenance and improvement of the County road system.

(m) The County road system consists of approximately seven hundred (700) lane miles of paved and unsurfaced roads designated as major arterial roads, collector roads, residential collector roads and local roads. The County's road system provides vital access for local residents to employment, commerce, housing, social services, health services, education services, and reliable emergency evacuation routes. The County's road system is maintained by the Beaufort County Public Works Department.

(n) The condition of every *paved* County road is evaluated every three (3) years by an independent firm and assigned a pavement condition rating. Higher scores reflect roads that require either preventative maintenance or no maintenance at all. Low-range scores reflect roads that require the costliest repairs or full reconstruction.

(o) According to the latest report, which was prepared in February 2022 by F&ME Consultants, none on Beaufort County's roads are in excellent condition. According to the report, twelve point five percent (12.5%) of the roads are in very good condition, sixty-three point five percent (63.5%) are in good condition, twenty-three point four percent (23.4%) are in fair condition and three point six percent (3.6%) are in poor condition. The remaining one point two percent (1.2%) are in poor or very poor condition. Of particular importance is the fact that fully twenty-eight percent (28%) of the County's paved roads are deemed to be in fair to poor condition. If these roads are left unrepaired, they will decline rapidly and become candidates for costly reconstruction. (This report, and all subsequent reports regarding the condition of County Pavement, are incorporated into this ordinance by reference.)

(p) The condition of every *unsurfaced* County road is also evaluated approximately every three (3) years by an independent firm. Each road is assigned an overall rating. Higher scores reflect roads with a higher priority for improvement. Lower scores reflect with lower priority.

(q) According to the November 2022 Beaufort County 2026 – 2030 Dirt Road Paving Plan Report, which was prepared by Consor Engineers, the County's *unsurfaced* road system consists of two hundred nine (209) roads totaling approximately seventy-seven (77) miles. Due to the limited funding that is currently available, the County can afford to improve about only one to two (1 – 2) miles of *unsurfaced* roads each year. (This report, and all subsequent reports regarding Dirt Road Paving, are incorporated into this ordinance by reference.)

(r) Beaufort County's plan is to improve all County unsurfaced roads while maintaining the paved roadway system with at least ninety-five percent (95%) of paved roads in good or very good condition. Currently, seventy-six percent (76%) of paved roads are good to very good. Approximately seventy-seven (77) miles of unsurfaced dirt roads are left to be improved.

(s) The current road use fee of Ten and No/100 (\$10.00) Dollars per vehicle generates approximately \$1.6 million annually. Increasing the road use fee to Twenty and No/100 (\$20.00) Dollars per vehicle would generate approximately \$3 million annually. Neither the current road use fee, nor the proposed increase, will generate revenue that would meet or exceed the cost of maintaining and improving the County's road system.

(t) Despite the County's efforts to maintain and improve the County's road network, significant unfunded road maintenance remains, and it is growing every year. The pavement

condition of County's roads is deteriorating faster than the County can repave them based on available resources.

(u) The life cycle of the County's road system is greatly affected by the County's ability to perform timely maintenance and upgrades to ensure that road surfaces last as long as possible.

(v) Cost-effective preventive maintenance reduces costly future repairs. The cost of fixing roads after they have deteriorated is many times greater than the cost of preventive maintenance.

(w) All individuals who pay the fee (those who own vehicles registered in the County licensed, which are carried on the tax records of Beaufort County) have enjoyed and will continue to enjoy the benefits provided by the purchase, condemnation, construction, ownership, maintenance, and repairs of County and State-owned roads and bridges. The County specifically finds that those paying the fee receive the following benefits from the expenditures of the fee:

- a. *Enhanced Emergency Response Time.* Those paying the fee receive the benefit of enhanced emergency response time. Quality road systems have a direct impact on emergency response times. The revenue from the fee is used to build, design, and maintain a road network that enhances public safety and emergency response times. *See FY 20212 Performance and Accountability Report, Montgomery County Fire Rescue Services.*
- b. *Evacuation Routes.* Those paying the fee receive the benefit of a network of roadways that allow them to safely and timely evacuate the County to avoid impending hurricanes, storms, floods, or other Acts of God. The County borders the Atlantic Ocean. The County is prone to hurricanes, storms, and flooding, all of which threaten the health and safety of those paying the fee. When hurricanes, storms, and floods threaten the County, it is vital that the County residents have a safe, functioning network of roads to allow for the mass exodus of County residents. The revenue from the fee is used to build, design, and maintain a road network to allow for safe and expeditious evacuation of County residents. The findings in this subparagraph are axiomatic and obvious to all. coastal communities in South Carolina and other States bordering the ocean have endured and suffered through violent storms and flooding throughout human history. These storms and flooding have caused numerous injuries and loss of life to those residents of coastal communities. *See National Weather Service Website, www.weather.gov/chs/TChistory (From 1851 through 2018, forty-one (41) Tropical Cyclones have made landfall in the NWS Charleston, SC County Warning Area (CWA), which runs from Charleston County, SC to McIntosh, GA).*
- c. *Increased Property Values.* Those paying the fee receive the benefit of increased property values. The revenue from the fee is used to build, design, and maintain a road network. This road network increases the property values of those who pay the fee. There are numerous scholarly public and private

reports evidencing a manifest nexus between the good quality of roads and increased property values, as well as the poor condition of roads and lower property values. The County craves reference to those selected reports cited below:

- i. An eighteen year (1982-1999) parcel-level real estate assessment study using a land value model, an improvement or structure value model, and a total property value model, yielding empirical results that suggest that improvement type, freeway proximity, parcel location at key network points (e.g., corner parcels), and timing of construction and completion play key roles in property valuation. *See Property Values and Highway Expansions: An Investigation of Timing, Size, Location, and Use Effects* by Brian ten Siethoff, Cambridge Systematics, Inc., and Kara M. Kockelman, C.B. Luce Assistant Professor of Civil Engineering Department of Civil Engineering, The University of Texas at Austin, Transportation Research Record No. 1812: 191-200, Presented at the 81st Annual Meeting of the Transportation Research Board, January 2002.
- ii. Highway capitalization studies analyzing the effects of highway construction on residential sale prices. *See* Transportation Research Board (TRB), *Special Report Number 245 1995. Expanding Metropolitan Highways*. Washington, DC: National Academy Press.
- iii. Extensive literature by Huang (1994) finding that virtually every major land use study came to the conclusion that transportation improvements positively affect the value of nearby land. *See* Huang, W. 1994. "The Effects of Transportation Infrastructure on Nearby Property Values: A Review of the Literature." Institute of Urban and Regional Development: Berkeley, CA.
- iv. A 1997 study of median housing prices and monthly rents in the San Francisco Bay Area showing a strong positive association between accessibility and land prices, after controlling for a wide variety of other variables, including parcel size and square footage of development. *See* Kockelman, K.M. 1997. "Effects of Location Elements on Home Purchase Prices and Rents in San Francisco Bay Area." *Transportation Research Record No. 1606*, 40-50.
- v. A 2001 report concluding that homeowners and renters value improvements to the transportation network whether their perception of the travel benefits is direct or indirect. *See* Mikelbank, Brian. 2001. "Spatial Analysis of the Relationship between Housing Values and Investments in Transportation Infrastructure." Paper presented at the 40th Annual Meeting of the Western Regional Science Association, Palm Springs, CA (February).
- vi. Classical economic theory study showing that when a highway is built, large parcels of land that previously had poor accessibility—or none at

- all—are suddenly underpriced. Often, the market immediately responds: the area is quickly developed and the real estate market establishes a new equilibrium based on the new transportation technology. The land-value impacts that are experienced can be significant. *See* Giuliano, G. 1989. “New Directions for Understanding Transportation and Land Use.”
- vii. Major improvements to infrastructure should also have a strong, positive effect on nearby real estate values. *See* Landis, J., Guhathakurta, S., Huang, W., and Zhang, M. 1995. “Rail Transit Investments, Real Estate Values, and Land Use Change: A Comparative Analysis of Five California Rail Transit Systems.” The University of California Transportation Center, University of California at Berkeley: Berkeley, CA; *see also* Tomasik, J. 1987. “Socioeconomic and Land Values of Urban Freeways in Arizona.” Phoenix, AZ: Arizona Department of Transportation.
 - viii. A 1961 study concluding that lack of access may decrease land values. *See* Mohring, Herbert. 1961. “Land Values and the Measurement of Highway Benefits.” *Journal of Political Economy* 49 (June), 236-249.
 - ix. Construction associated impacts and property values. *See* Nelson, J.P. 1982. “Highway noise and property values: A survey of recent evidence,” *Journal of Transport Economics and Policy*, 16(2), 117-38.
 - x. Property-value models predictions that depressed freeway designs contribute more to residential property values than at-grade freeways. *See* Lewis, C.A., Buffington, J.L., and Vadali, S.R. 1997. “Land Value and Land Use Effects of Elevated, Depressed, and At-Grade Level Freeways in Texas.” Texas Transportation Institute Research Report Number 1327-2. Texas A&M University: College Station, TX.
 - xi. “Improvements to transportation networks, especially those in growing areas, tend to have impacts on local land markets. In principle, an improvement to a link in the network will confer economic benefits to adjacent and nearby properties by increasing the utility that the network provides [U]rban economic theory suggests that many of these benefits are capitalized into local property values, yielding a localized spillover effect. *See* “The Economic Impact of Upgrading Roads, 2009-2016,” Minnesota Department of Transportation.
- d. *Reduced Automobile Operating Costs.* Those paying the fee receive the benefit of reduced automobile operating costs. The revenue from the fee is used to construct and maintain roads and bridges in the County. This construction and maintenance work helps improve the quality of roads in the County. Those paying the fee normally use the roads and bridges in the County; therefore, those paying the fee receive the benefit of reduced automobile operating costs..

- e. *Reduced Automobile Insurance Premiums.* Those paying the fee receive the benefit of reduced automobile insurance premiums. The revenue from the fee is used to construct and maintain roads and bridges in the County. Because of the quality of the roads and bridges in the County, those paying the fee receive the benefit of reduced automobile insurance premiums. *See Cotto, Tony, Cost Drivers: How Riskier Roads, Rising Repairs, and Reckless Driving Are Increasing Insurance Costs (NAMIC 2021) (“[T]he rate you pay for your auto insurance depends in part on where you live.”).*
- f. *Safety and Convenience Benefits.* Those paying the fee receive the safety and convenience benefits associated with having a well-built, well designed, and well-maintained network of roads. The roads in the County are used by those who pay the fee. The roads built, designed, and maintained with the revenue from the fee provide those paying the fee with access to the entire State and federal road network. Further, the roads built, designed, and maintained with the revenue from the fee provide safe, reliable, and efficient access to the entire road network in the County, State, and parts beyond.

(x) County Council finds that increasing the road use fee to Twenty and No/100 (\$20.00) Dollars is desirable and necessary for the County to maintain and to improve the County road system, additional revenues are needed to adequately maintain the County road system, the County road system has experienced degradation due to insufficient maintenance funding, additional degradation is expected without additional maintenance funding, and road maintenance fees are a stable form of revenue that is generated by users of the County road system.

Section 2. Road Use Fee Amendment. Section 2 of the Initial Fee Ordinance (Ordinance 93/20) is hereby amended to increase the road use fee to Twenty and No/100 (\$20.00) Dollars. Section 4 of the Initial Fee Ordinance which provides that the funds shall be deposited in the General Fund is amended to provide that the funds collected shall be deposited into the road maintenance account, that any interest collected on these funds in this account shall be deposited into this account, and that all funds in the account shall be used solely and exclusively for the purposes set forth herein above.

Section 3. Compliance with Title 6, Chapter 1, Article 3 of the S.C. Code.

(a) *Initial Fee Grandfathered.* County Council finds that the Initial Fee Ordinance imposing an annual road use fee was adopted prior to December 31, 1996, and in accordance with the grandfathering language of Section 6-1-330 of the S.C. Code, remains in force and effect until repealed by County Council.

(b) *Increase to the road maintenance fee satisfies S.C. Code § 6-1-330(6).* Beaufort County Council finds that the Ten and No/100 (\$10.00) Dollar increase to the road use fee bringing the total fee to Twenty and no/100 (\$20.00) Dollars is (i) uniformly imposed on all owners of motor vehicles required to be registered in the County by the South Carolina Department of Motor Vehicles licensed, which are carried on the tax records of Beaufort County; (ii) revenues generated from the fee are exclusively used for the maintenance and improvement of the County road system; (iii) payers of the fee benefit from maintenance and improvement of the County road system, even if the general public also benefits; and (iv) revenues generated from the fee do not exceed the cost of maintaining and improving the County road system.

(c) *Adopted by positive majority of County Council.* This Ordinance must be adopted by a positive majority of County Council, which is defined in Section 6-1-330(5) of the S.C. Code as “a vote for adoption by the majority of the members of Council, whether present or not.”

(d) *Public Hearing.* County Council must provide public notice of the fee increase being considered and hold a public hearing on the proposed fee increase prior to final adoption of the Ordinance in compliance with S.C. Code § 6-1-330.

(e) *Road use fee revenues published on County website.* The annual revenues collected from the road use fee and any increase must be published on the County’s website in compliance with S.C. Code § 6-1-330.

Section 4. **Severability.** Severability is intended throughout and within the provisions of this Ordinance. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is held to be invalid or unconstitutional by a court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Ordinance.

Section 5. **Repeal.** All ordinances or parts of ordinances in conflict with this Ordinance, or inconsistent with its provisions, are hereby repealed or superseded to the extent necessary to give this Ordinance full force and effect.

Section 6. **Effective Date.** This Ordinance shall take effect upon the date of its adoption.

Adopted this ___ day of _____, 2024.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah Brock, Clerk to Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
RECOMMEND APPROVAL OF AN ORDINANCE TO AMEND CHAPTER 2 ADMINISTRATION, ARTICLE VII FINANCE, DIVISION 2 FEES AND SERVICE CHARGES GENERALLY, SECTION 2-437 ROAD USE FEE OF THE BEAUFORT COUNTY CODE OF ORDINANCES
MEETING NAME AND DATE:
Public Facilities and Safety Committee March 25, 2024
PRESENTER INFORMATION:
(Deputy County Attorney Brian Hulbert) (5 minutes)
ITEM BACKGROUND:
In 1993 Beaufort County Council adopted an ordinance to establish a road use fee in Section 2-437 of the Beaufort County code of ordinances. The road use fee ordinance was amended in 2012, 2015, 2018, 2020, and 2023. In 2023 Council amended the ordinance to increase the road use fee to \$20.00. Currently Section 2-437 requires the fee to be evaluated annually and to be established in the annual County Operations Budget. This amendment would remove this annual requirement. Additionally, Section 2-437 requires the road use fee collected to be deposited in the general fund of the County. Ordinance 2023/32 clarified the requirement to have the road use fees collected to be deposited into a special road maintenance account and be specifically used to maintain and improve the County’s road system and to pay for debt service on any outstanding General Obligation Bond issued by the County for road improvements. This amendment will match the language of 2-437 with Ordinance 2023/32 and the 1993 Ordinance language.
PROJECT / ITEM NARRATIVE:
Amend Section 2-437 Road Use Fee ordinance to bring it into compliance with Ordinance 2023/32 and Ordinance 1993/20.
FISCAL IMPACT:
<i>There would be no direct fiscal impact on the County .</i>
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of the Ordinance Amendments.
OPTIONS FOR COUNCIL MOTION:
(Move forward to Council for Approval/Adoption or to not Approve on April 08, 2024)

ORDINANCE 2024/ _____

AN ORDINANCE TO AMEND CHAPTER 2 ADMINISTRATION, ARTICLE VII FINANCE, DIVISION 2 FEES AND SERVICE CHARGES GENERALLY, SECTION 2-437 ROAD USE FEE OF THE BEAUFORT COUNTY CODE OF ORDINANCES

WHEREAS, in 1993 Beaufort County Council (the “Council”) adopted Beaufort County Ordinance 93/20 establishing the road use fee on all vehicles which are domiciled and garaged in Beaufort County (the “County”) and thereby use the roadways and bridges owned and maintained by the County and the State; and

WHEREAS, the Council has amended Ordinance 93/20 with Ordinances 2012/13, 2015/8, 2020/28, AND 2023/32; and

WHEREAS, the Council has the authority under South Carolina law to charge and collect the road use fee and to impose new service or user fees; and

WHEREAS, the Council has determined that it is in the best interests of its citizens to amend its existing road use fee; and

WHEREAS, the Council has determined that it is in the best interests of its citizens to amend its existing road use fee ordinance 2023/32 to clarify that the road use fee shall only apply to motorized vehicles required by the state to be licensed and which are subject to the taxes in Beaufort County.

NOW, THEREFORE, BE IT ORDAINED, by Beaufort County Council to amend the road use fee and does hereby amend the Beaufort County Road Use Fee Ordinance 2023/32 as follows:

Sec. 2-437. Road use fee.

(a) Established. There is established a road use fee on all motorized licensed vehicles required by the state to be licensed, which are carried on the tax records of the county. Any person owning such vehicle shall be subject to and shall pay, in addition to any other licensing fees and taxes, a per vehicle per annum or road use fee with a value as established in Beaufort County Ordinance Section 2-437(b).

(b) Assessments. The auditor shall add a uniform charge per vehicle to all motorized licensed vehicles subject to the taxes in the county beginning with tax notices which become due and each month thereafter. The charge shall become due and payable at the time other personal property taxes become due and payable. The fee shall be ~~evaluated yearly and the value shall be established in the annual County Operation Budget Ordinance~~ **Twenty and no/100 (\$20.00) Dollars.**

(c) Collection. The county treasurer is directed to collect the charges in this section at the time of collection of all other charges and taxes due on such vehicles.

(d) Purpose and use of funds collected. The funds collected under the terms and conditions of this section shall be deposited in the general fund of the county and shall be utilized for the purchase, condemnation, construction, ownership, maintenance, and repairs of all county and state owned roads and bridges. The funds collected shall be deposited into the road maintenance account, that any interest collected on these funds in this account shall be deposited into this account, and that all funds in the account shall be used solely and exclusively for the purposes maintain and improve the County's road system and to pay for debt service on any outstanding General Obligation Bond issued by the County for road improvements.

Effective Date. This Ordinance shall take effect upon the date of its adoption.

Adopted this ___ day of _____, 2024.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah Brock, Clerk to Council



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
RECOMMEND APPROVAL TO COUNCIL FOR FIRST READING OF AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS FOR THE ACCEPTANCE OF PROPERTIES PURSUANT TO A DEVELOPMENT AGREEMENT BETWEEN BEAUFORT COUNTY AND CHEROKEE BEAUFORT, LLC
MEETING NAME AND DATE:
Public Facilities and Safety Committee Meeting March 25, 2024
PRESENTER INFORMATION:
Jared Fralix, P.E., Assistant County Administrator, Engineering Neil Desai, Public Works Director (5 Minutes)
ITEM BACKGROUND:
On December 15, 2014, Beaufort County entered into a Development Agreement with Cherokee Beaufort, LLC, and Burtn Development, LLC, via County Council Ordinance 2014/2. Under <u>Section IX subsection C(ii)</u> of the Agreement which states “All such improvements (the “Cherokee Farms Road Improvements”) shall adhere to applicable road and right-of-way construction standards. To the extent that all or any portion of Cherokee Farms Road is not owned by the County or the State of South Carolina, the same shall be dedicated and accepted by the County.
PROJECT / ITEM NARRATIVE:
Beaufort County staff have been working with the developers associated with designs outlined in the Development Agreement. Part of the agreement outlines conditions for the conveyance of Cherokee Farms Right of Way to be donated to the County. Beaufort County desires to fulfill the conditions of the Development Agreement by accepting Cherokee Farms Road Right of Way identified in EXH01, EXH02, AND EXH03 on Cherokee Farms Road Right of Way Plans.
FISCAL IMPACT:
N/A
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of Cherokee Farms Right of Way donation.
OPTIONS FOR COUNCIL MOTION:
<i>Motion to either approve, deny or amend an Ordinance authorizing the Interim County Administrator to execute any and all necessary documents for the acceptance of properties encumbering the road right of way for Cherokee Farms Road.</i> <i>Next Step – Move to County Council for first reading of an ordinance.</i>

ORDINANCE 2024/____

AN ORDINANCE AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR TO EXECUTE ANY AND ALL NECESSARY DOCUMENTS FOR THE ACCEPTANCE OF PROPERTIES PURSUANT TO A DEVELOPMENT AGREEMENT BETWEEN BEAUFORT COUNTY AND CHEROKEE BEAUFORT, LLC

WHEREAS, Beaufort County (“County”) entered into a Development Agreement (“Agreement”) with Cherokee Beaufort, LLC, a South Carolina Limited Liability Company (“Cherokee Beaufort”) and Burton Development, LLC, a South Carolina Limited Liability company (“Developer”) on December 15, 2014; and

WHEREAS, Beaufort County Council adopted Ordinance 2014/24 providing the authority for the County to enter into the Agreement; and

WHEREAS, Under Section IX subsection C(ii) of the Agreement which states “All such improvements (the “Cherokee Farms Road Improvements”) shall adhere to applicable road and right-of-way construction standards. To the extent that all or any portion of Cherokee Farms Road is not owned by the County or the State of South Carolina, the same shall be dedicated and accepted by the County; and

WHEREAS, Beaufort County Staff have reviewed the attached Cherokee Farms Road Right of Way plans identified as EXH01, EXH02, and EXH03 and recommend acceptance of Right of Way to be conveyed to Beaufort County; and

WHEREAS, Beaufort County Council has determined that it is in its best interest to accept Right of Way associated with Cherokee Farms Road ; and

NOW, THEREFORE, BE IT ORDAINED that Beaufort County Council authorize the Interim County Administrator to execute any and all documents associated with conveyance to Beaufort County of certain Property owned by Cherokee Beaufort, LLC as identified in attached EXH01, EXH02, and EXH03.

DONE this ____ day of _____ 2024.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

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

2014 / 24

AN ORDINANCE TO APPROVE A DEVELOPMENT AGREEMENT BETWEEN CHEROKEE BEAUFORT, LLC, A SOUTH CAROLINA LIMITED LIABILITY COMPANY, AND THE COUNTY OF BEAUFORT, SOUTH CAROLINA PURSUANT TO SECTION 6-31-30 OF THE *CODE OF LAWS OF SOUTH CAROLINA*, 1976, AS AMENDED.

WHEREAS, the General Assembly of the State of South Carolina has enacted the "South Carolina Local Government Development Agreement Act" as set forth in Section 6-31-10 through 6-31-160 of the *Code of Laws of South Carolina*, 1976, as amended; and

WHEREAS, the Act authorizes local governments, including Beaufort County through its County Council, to enter Development Agreements with developers for the purpose of providing a continuous agreement for development of projects and for the protection and advance payments for the impact upon the citizens of Beaufort County.

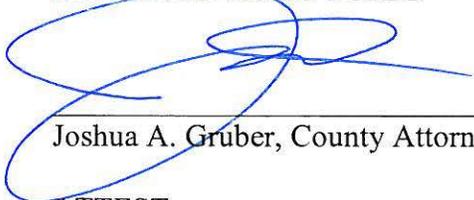
NOW, THEREFORE, in consideration and pursuant to Section 6-31-10, of the *Code of Laws of South Carolina*, 1976, as amended, Beaufort County Council herein adopts this Ordinance, which is necessary to provide the authority to execute a Development Agreement with Cherokee Beaufort, LLC, a South Carolina Limited Liability Company, authorized to conduct business in South Carolina.

Adopted this 25th day of August, 2014.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: 
D. Paul Sommerville, Chairman

APPROVED AS TO FORM:


Joshua A. Gruber, County Attorney

ATTEST:


Suzanne M. Rainey, Clerk to Council

First Reading: July 28, 2014
Second Reading: August 11, 2014
Public Hearings: August 11, 2014 and August 25, 2014
Third and Final Reading: August 25, 2014

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Item 19.

DEVELOPMENT AGREEMENT

FOR

CHEROKEE FARMS

BEAUFORT COUNTY, SOUTH CAROLINA

December 15, 2014

BURTON DEVELOPMENT, LLC

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

DEVELOPMENT AGREEMENT
FOR CHEROKEE FARMS

This Development Agreement (the “**Development Agreement**” or the “**Agreement**”) is made and entered into this ~~16th~~ day of ~~December~~, 2014 (the “**Effective Date**”), by and between Cherokee Beaufort, LLC, a South Carolina limited liability company (hereinafter sometimes referred to as “**Cherokee Beaufort**”), Burton Development, LLC, a South Carolina limited liability company (hereinafter sometimes referred to as “**Burton Development**” or “**Developer**”), and the governmental authority of the County of Beaufort, South Carolina (“**Beaufort County**” or the “**County**”).

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

WHEREAS, the Act recognized that “The lack of certainty in the approval of development can result in a waste of economic and land resources, can discourage sound capital improvement planning and financing, can cause the cost of housing and development to escalate, and can discourage commitment to comprehensive planning.” (Section 6-31-10(BB)(1) of the Act); and

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

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

WHEREAS, Cherokee Beaufort owns two (2) adjacent tracts of land, each as more particularly described in Exhibit “A”, which is attached hereto and made a part hereof, which together consist of approximately 105 acres, more or less (collectively referred to as the “**Property**”), and Cherokee Beaufort has entered into a joint venture agreement with Cherokee Investments, which joint venture agreement resulted in the formation of Burton Development to serve as master developer for the Property (hereinafter, “**Owner**” or “**Developer**” shall refer collectively to Cherokee Farms, Cherokee Investments, and Burton Development, unless the context requires otherwise). The Owner proposes to sell, develop, or cause to be developed, a mixture of residential, commercial and/or other uses on the Property as more particularly described in this Agreement; and

WHEREAS, in February 2004, Cherokee Investments submitted a development agreement to the County in which certain matters, including traffic mitigation and Air Installations Compatible Use Zone (“**AICUZ**”) application to the Property, were initially addressed (the “**2004 Draft Agreement**”); and

WHEREAS, the 2004 Draft Agreement was held in abeyance while certain matters were addressed, including: matters arising from revised impact traffic mitigation studies; the amendment of the

planned unit development adjacent to the south of the Property and known as Habersham (hereinafter “**Habersham**” or the “**Habersham PUD**”), which amendment included additional property in the planned unit development while the Property was re-zoned to a Suburban zoning district; discussions with Beaufort County regarding designing the Property in the same manner or in a similar manner as Habersham; discussions and negotiations regarding the need for the submission of a planned unit development rather than re-zoning to a Suburban zoning district; and, various other related matters; and

WHEREAS, to better adhere to the aesthetic quality, connectivity and continuity between the Property and the adjacent Habersham PUD, Cherokee Investments has developed and submitted to the County a Unified Development Plan (the “**Unified Development Plan**”), attached hereto as Exhibit “B”, for the Habersham PUD and the Property (collectively hereinafter sometimes referred to as the “**Unified Development**”), which was approved by the County on October 30, 2013; and

WHEREAS, the County acknowledges and agrees that in the area of the Property, the character of the land: supports the development proposed by the Unified Development Plan; furthers the objectives of the Beaufort County Comprehensive Land Use Plan; increases the number of available lots; creates affordable housing opportunities for its citizens; improves traffic conditions; and, secures for its citizens a quality, well-planned and well-designed real estate development, while also increasing the County’s tax base; and

WHEREAS, the Development of the Property results in the imposition of certain impact fees (collectively, and not intending to be limiting, hereinafter “**Impact Fees**”) in accordance with applicable County ordinances and state law; and

WHEREAS, the County finds that the Owner’s proposed development of the Property, as described in this Development Agreement and in the Unified Development Plan, is consistent with Beaufort County’s Comprehensive Land Use Plan and will further the health, safety, welfare and economic well-being of the County and its citizens; and

WHEREAS, Owner has proposed the construction of certain road infrastructure on and off the Property and has agreed to the dedication thereof to the County; and

WHEREAS, the proposed Development of the Property presents the County with an exceptional opportunity to receive public road system improvements; secures quality planning and a well-designed and constructed mixed use real estate development; enhanced protection of the environment; and, a strengthened and revitalized tax base; and,

WHEREAS, this Development Agreement is being made and entered into between the Owner and the County under the terms of the Act for the purpose of providing assurances to the Owner so that the Owner may proceed with Development of the Property according to the terms of this Agreement and as depicted in the Unified Development Plan without encountering future changes in law that may materially affect the Owner’s ability to develop the Property according to the terms of this Development Agreement and as depicted in the Unified Development Plan.

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

I. INCORPORATION

The above recitals are hereby incorporated into this Agreement, together with the South Carolina General Assembly findings as set forth under Section 6-31-10(6) of the Act.

II. DEFINITIONS

In addition to the terms defined herein, the following terms shall be defined as follows:

“**Act**” means the South Carolina Local Government Development Agreement Act, as codified in Sections 6-31-10 through 6-31-160 of the South Carolina Code of Laws (1976), as amended.

“**Covenants**” means and refers to one (1) or more declaration of covenants and restrictions for all of or portions of the Property to be recorded in the Office of the Register of Deeds Office for Beaufort County, South Carolina, and all amendments and supplements thereto.

“**Density**” means the total number of residential dwelling units (“**Dwelling Units**”, as herein defined) or the total area of commercial square feet permissible for a specific parcel of the Property or for the Property as a whole under the terms of this Agreement, as context dictates. No other density requirements shall be applicable to the Property.

“**Develop**” or “**Development**” means the definition of development as set forth in the ZDSO (as defined herein).

“**Developer**” means the Owner, the master developer, Burton Development, LLC, and all successors in title or lessees of the Owner who undertake Development (as defined herein) of the Property or who have transferred Development Rights (also as defined herein).

“**Development Agreement Ordinance**” means all terms and conditions of this Development Agreement and all attachments hereto, including but not being limited to the Unified Development Plan and all narratives, applications, site development plans, standards, exhibits and applicable ordinances as the same may be hereafter amended by mutual agreement of the County and the Owner. Specifically, it is noted that the adoption of the Development Agreement Ordinance after public hearings shall have the effect of a properly adopted land use ordinance. To the extent that any provision of the Development Agreement Ordinance may be deemed to be a modification of presently existing Beaufort County law, such modification shall be hereby approved, ratified and adopted as binding upon the Property and the parties hereto by the approval of this Development Agreement.

“**Development Application**” or “**Initial Development Application**” means an application for the Development of individual portions or phases of the Property, being the concept (if required) or preliminary application (if required) for land development or subdivision referenced in Sections 106-369 and 106-370 of the ZDSO (as defined herein).

“**Development Rights**” means the Owner’s or Developer’s right to Develop the Property, or portions thereof, in accordance with the ZDSO (as defined herein), this Development Agreement and the Unified Development Plan.

“**DRT**” means Beaufort County’s Development Review Team or a similar planning review authorized and described in the ZDSO (as defined herein).

“**Dwelling Units**” means residential dwellings.

“**Effective Date**” means the date of complete execution of this Agreement after the County’s approval of the Development Agreement Ordinance.

“**Impact Fees**” or “**Development Impact Fee**” means a payment of money imposed as a condition of approval for Development, as defined in Section 6-1-920(8) of the South Carolina Code of Laws, 1976, as amended.

“**Habersham Amended PUD**” means that certain planned unit development for Habersham, which was approved on December 9, 1996, as amended by that certain amendment thereto, which was approved on March 13, 2006.

“**ITE**” means Institute of Traffic Engineers.

“**Owner**” means Cherokee Beaufort, LLC, its successors and/or assigns.

“**Owners Association**” means an entity or entities formed pursuant to applicable law and/or restrictive land use covenants, which may be responsible for the construction and/or maintenance and/or upgrading of some or all of the infrastructure contemplated in this Development Agreement and the Unified Development Plan, to include, but not be limited to, some or all of the roads, common areas, water, sewer and stormwater management systems proposed to be constructed on or for the benefit of the Property.

“**Property**” means those certain parcels of land depicted on Exhibit “A” of the Development Agreement.

“**Term**” means the duration of this Agreement as set forth in Article III hereof.

“**Unified Development Plan**” means the document entitled “Habersham Unified Development Plan” as well as all exhibits and attachments thereto as approved by the DRT on October 30, 2013, and as the same may be modified or amended from time to time in accordance with this Development Agreement and the ZDSO (as defined herein).

“**ZDSO**” means the Zoning and Development Standards Ordinances (ZDSO) of Beaufort County adopted April 26, 1999, existing as of the Effective Date and attached hereto as Exhibit “H” and made a part hereof. References in the ZDSO to the latest version of County manuals shall mean and refer to the latest version of such manual as of the date of this Agreement, and shall include any and all zoning and development ordinances subsequently adopted or approved by Beaufort County.

III. TERM

The Term of this Development Agreement shall commence on the Effective Date and shall terminate five (5) years thereafter; or, if renewed and described herein, at the end of three (3) additional five (5) year periods. During the Term, the provisions of this Development Agreement shall be vested against any future changes to the ZDSO, Beaufort County law or ordinances and changes to any now existing or future airport overlay zoning district, including but not limited to any AICUZ noise zone or overlay district, which would affect the ability of Owner to carry out the Development contemplated in this Development Agreement and in the Unified Development Plan. Further, at the end of the third five (5) year period, the provisions of this Development Agreement shall be vested against any future changes to Beaufort County law or ordinances if Owner shall have achieved Substantial Development. “**Substantial Development**” shall mean the completion of construction (the receipt of a certificate of occupancy) or construction that is underway (the receipt of applicable building or development permits)

of not less than twenty-five percent (25%) of the total Development proposed for the Property, as shown and depicted on the Unified Development Plan.

IV. DEVELOPMENT OF THE PROPERTY

The Property shall be developed in accordance with this Development Agreement and the Unified Development Plan. Certain provisions of the ZDSO may be interpreted, enhanced, supplemented or modified by this Agreement and the Unified Development Plan in accordance with Article XIV of this Agreement.

V. DEVELOPMENT SCHEDULE

The Property shall be developed generally in accordance with the Development Schedule, which is attached hereto as Exhibit "C" of this Agreement. The Development Schedule is an estimate, and may be modified to acknowledge market conditions, permitting requirements, or other considerations. It is acknowledged that the Property is anticipated to be developed in phases which include the Development of one (1) block of the Property at a time, in order to provide flexibility for the Owner and Developer to meet market demands.

In accordance with the Act, the failure of the Owner and Developer to meet the terms of the Development Schedule shall not, in and of itself, constitute a material breach of this Agreement, and shall be judged by the totality of circumstances, including, but not limited to, the Owner's and Developer's good faith efforts toward compliance with the terms of the Development Schedule and the Owner's and Developer's proof of good cause for modifying the Development Schedule. Further, the acceleration of the Development Schedule shall not constitute a material breach of this Agreement. It is expected that the actual Development of the Property may occur at a different pace, as determined in the sole reasonable discretion of Owner and based upon market conditions, and shall not constitute a default of this Agreement. In the future, the Owner or Developer may submit unilaterally to the County periodic adjustments to the Development Schedule, which shall not be considered an amendment or breach of this Agreement.

VI. DENSITY AND USE

Mixed use, residential and commercial Development of the Property shall be in accordance with the densities and uses as set forth in the approved Unified Development Plan.

VII. ACCESS

The Property shall be accessed by Cherokee Farms Road (S-83), which runs along the southern boundary of the Property, and by Joe Frazier Road (S-40) to the northeast, as approved and depicted in the Unified Development Plan and as described herein. At such time other interconnectivity to the west is completed as contemplated in this Development Agreement, the Property shall have the access as shown in the Unified Development Plan.

VIII. INFRASTRUCTURE AND SERVICES

County and Owner recognize that the majority of the direct costs associated with the Development of the Property shall be borne by the Owner and Developer, and that many necessary services shall be provided by other governmental or quasi-governmental entities, and not by the County. For further clarification, the parties make specific note of and acknowledge the following:

A. Roads/Facilities.

(i) **Private Roads.** Roads constructed within the Property may be constructed by the Owner and/or Developer, and shall be maintained by them and/or an Owners Association, or dedicated to other appropriate entities or the County, as provided in Article IX of this Agreement. Except as otherwise provided herein, the County shall not be responsible for the construction or maintenance of any private roads within the Property, unless the County specifically agrees to do so in the future.

(ii) **Public Roads.** The Property shall not have restricted access roads and shall be served by direct access to Joe Frazier Road (S-40) and Cherokee Farms Road (S-83) provided, however, that portions of the Property shall be Developed as separate housing and/or parking areas.

B. Potable Water. Potable water shall be provided to the Property by the Beaufort Jasper Water and Sewer Authority (“BJWSA”) on the same basis as is provided to other residents and businesses within the County. Each Owner or Developer shall construct, or cause to be constructed, all necessary water service infrastructure within the Property (or such applicable portion thereof), which shall be maintained by it or the provider of the service. The County shall not be responsible for any construction, treatment, maintenance or costs associated with water service to the Property, except as set forth herein, unless it otherwise agrees. Nothing herein shall be construed as precluding the County or other local governmental entity from providing potable water to its residents in accordance with applicable provisions of law.

C. Sewage Treatment and Disposal. Sewage treatment and disposal shall be provided by BJWSA on the same basis as is provided to other residents and businesses within the County. Each Owner or Developer shall construct, or cause to be constructed, all necessary sewer-related service infrastructure within the Property (or such applicable portion thereof), which shall be maintained by it or the provider of the service. The County shall not be responsible for any treatment, maintenance or costs associated with sewage treatment within the Property, except as set forth herein, unless it otherwise agrees. Nothing herein shall be construed as precluding the County or other local governmental entity from providing sewer services to its residents in accordance with applicable provisions of law.

D. Stormwater Drainage System. All stormwater runoff and drainage improvements within the Property shall be designed in accordance with the ZDSO and the most current edition available of the Beaufort County Best Management Practices manual, and best efforts shall be made to coordinate such stormwater runoff and drainage systems with the County’s master drainage program. All stormwater runoff and drainage system improvements shall be constructed by the Owner or Developer and maintained by the Owner, Developer and/or an Owners Association, except as otherwise contained herein. The County shall not be responsible for any construction or maintenance costs associated with the stormwater runoff and drainage systems solely within the Property, unless proper dedications and easements are granted in accordance with the ZDSO.

E. Solid Waste Collection. The County shall provide solid waste collection to the Property on the same basis as it provides to other residents and businesses within the County. The Owner acknowledges that the County does not currently provide waste disposal on an individual basis for single, multi-family or commercial developments or uses.

F. Utility Easements. The Owner shall furnish necessary easements for water, sewer, gas, electricity, telephone, cable television, and other utilities when the Owner determines that the same are required. Adequate easements for utilities shall be reserved by the Owner in the conveyances of

lots and parcels to be Developed. All utilities (except main electrical distribution lines) shall be installed underground.

G. Police Protection. The County shall provide police protection services to the Property on the same basis as it provides to other residents and businesses within the County. The Owner or a successor Owners Association may elect to provide private security services for all or a portion of the Property.

H. Recycling Services. The County shall provide recycling services to the Property on the same basis as it provides to the residents and businesses within the County. The County shall reserve the right to require that recycling materials generated from the Property comply with those standards promulgated by the County applicable to all residents and businesses within the County.

I. Emergency Medical Services. The County shall provide emergency medical services to the Property on the same basis as it provides to other residents and businesses within the County.

J. Fire Services. The County shall provide fire protection services to the Property on the same basis as it provides to other residents and businesses within the County; such services are currently provided by the Burton Township Fire District.

K. Library Services. The County shall provide library services to the Property on the same basis as it provides to other residents within the County.

L. School Services. The Beaufort County School District shall provide educational and school services to the Property on the same basis as it provides to other residents within the County.

M. AICUZ Requirements. Approximately 45.5 acres of the Property are located within AICUZ Noise Zone 2A (65-69 DNL), as defined in Appendix A1 of the ZDSO, Airport Overlay District, Section 3 et seq. No portion of the Property is located within any aircraft accident potential zone, as defined therein. In order to minimize the intrusion of noise into the proposed homes, Owner agrees that homes constructed within AICUZ Noise Zone 2A shall include construction measures, which should result in a 25db reduction of noise. Owner shall also notify any prospective purchaser of a property or lot within AICUZ Noise Zone 2A to comply with the notification requirements of Appendix A1, Section 4 of the ZDSO.

IX. FEES, DEDICATIONS, SYSTEM IMPROVEMENTS, CONVEYANCES, CREDITS AND RELATED AGREEMENTS

The following items are hereby agreed upon by the parties:

A. Impact Fees. Except as otherwise provided herein, Impact Fees which shall be payable to Beaufort County to support County infrastructure such as, but not limited to, fire, library, parks and roads, shall not be affected by this Agreement.

B. Dedications.

(i) Permissive. Except as otherwise contained herein, the County shall consider all requests to accept the dedication of any road or road right-of-way within the Property constructed to the standards contained in the Cherokee Farms Conceptual Master Plan approved on October 30, 2013 (the "Cherokee Farms Conceptual Master Plan") or to the specific requirements of the

County contained in this Agreement. The County shall also consider a request to take ownership of any drainage systems by dedication.

(ii) **No Implied Dedication.** The recording of a final plat or a plan subdividing any portion of the Property shall not constitute an offer to deed or dedicate any or all streets and rights-of-way shown thereon to the County, unless the plat or plan specifically and expressly makes such an offer, which offer is accepted by the County.

C. **System Improvements.**

(i) **Joe Frazier Road.** Beaufort County acknowledges the need for future improvements to Joe Frazier Road to accommodate new development and improved pedestrian access; and Impact Fees are the major revenue source for costs incurred by the County for such improvements. As depicted in the Unified Development Plan, the Owner has proposed and completed the design and engineering of a round-a-bout to access the Property directly from Joe Frazier Road. The engineering plans for the round-a-bout, prepared by Davis & Floyd, Inc., are attached hereto as Exhibit "D" (the "Joe Frazier Road Round-a-bout"). The Joe Frazier Road Round-a-bout also benefits Burton Wells Park by providing an improved entrance, an adjacent fire station, and other nearby residential developments. Owner shall assign to the County the engineering plans and any rights thereto, as well as fee title for any portion of the real property it owns, which portion is reasonably necessary or appropriate for the construction of the Joe Frazier Road Round-a-bout. Construction of the Joe Frazier Road Round-a-bout shall occur as set forth in Article IX (C) (iv) (a) below.

(ii) **Cherokee Farm Road.** The Property is also accessed and bounded to the south by Cherokee Farms Road (S-83) as depicted in the Unified Development Plan. Owner shall improve Cherokee Farms Road with the addition of on-street parking, street landscaping and trees, and such improvements shall be constructed in accordance with the standards contained in the Cherokee Farms Conceptual Master Plan. All such improvements (the "Cherokee Farms Road Improvements") shall adhere to applicable road and right-of-way construction standards. To the extent that all or any portion of Cherokee Farms Road is not owned by the County or the State of South Carolina, the same shall be dedicated to and accepted by the County.

(iii) **Intersection of Joe Frazier Road and Cherokee Farms Road.** The existing intersection at Cherokee Farms Road and Joe Frazier Road (the "Intersection") shall be reconfigured and aligned at a 45-degree angle. The Owner has proposed and completed the design and engineering of improvements to this intersection which engineering and designs were prepared by Davis & Floyd, Inc., and are attached hereto as Exhibit "E" (the "Joe Frazier Road and Cherokee Farms Road Intersection Redesign"). The improvement creates a turning lane that improves traffic flow and also corrects intersection alignment as depicted in the Unified Development Plan. Owner shall assign to the County the engineering plans and any rights thereto, as well as fee title for any portion of the real property it owns, which portion is reasonably necessary or appropriate for the construction of the improvements depicted in the Joe Frazier Road and Cherokee Farms Road Intersection Redesign (the "Intersection Improvement"). Construction of the Intersection Improvement shall occur as set forth in Article IX (C) (iv) (c) below.

(iv) **Timing.** The System Improvements shall be constructed as described below:

(a) **Joe Frazier Road Round-a-bout.** The Joe Frazier Road Round-a-bout shall be constructed as provided in this Article IX (C) at such time the County deems the round-a-bout necessary and sufficient funds become

available from the Road Impact Fees, which may be used for System Improvements.

(b) Cherokee Farms Road Improvements. The Cherokee Farms Road Improvements shall be constructed by and at the expense of the Owner and dedicated to the County prior to the expiration of the Term of this Agreement but only if the Development proposed in the Unified Development Plan is commenced.

(c) Intersection of Joe Frazier Road and Cherokee Farms Road. This intersection shall be improved upon the earlier of:

- A. A date, which is after the first building permit is issued by the County for Development for all or any portion of the Property, which the County deems necessary and appropriate to commence the Intersection Improvement, and, a traffic analysis or study prepared in accordance with the standards of the ITE recommends the construction of the Intersection Improvement prior to the date sufficient funds become available from the collection of Road Impact Fees which may be used for this System Improvement and no other alternative source of funding is available (i.e. derived from sales tax increases for transportation projects). Then, upon not less than thirty (30) days' prior written notice to the Owner, the County may cause the construction of the Intersection Improvement with its own funds, and the Owner shall be responsible for and shall pay not more than the interest expense for the use of such funds for a period of three (3) years or for a total cost of Fifty Thousand and No/100 Dollars (\$50,000.00), whichever is less;
- B. The date, which the County deems necessary and appropriate to commence the Intersection Improvement, when sufficient funds have become available from the collection of Road Impact Fees which may be used for this System Improvement without any cost or liability to the Owner;
- C. The date when the total number of Dwelling Units in the Unified Development Plan exceeds 1,000;
- D. The date of the commencement of the construction of a school by the Developer upon the school site located within the Habersham Unified Development Plan;
- E. The date of the issuance of the development permit by the DRT permitting the 84-unit multi-family phase of Habersham Amended PUD Tract; or
- F. January 1, 2025.

D. Credit for System Improvements. The County agrees that the Owner or Developer shall receive a credit for Impact Fees against the cost of and up to the total value of the Joe Frazier Road Round-a-bout, the Joe Frazier Road intersection upgrade and the Cherokee Farms Road Improvements (herein collectively the "System Improvements"). The total value of the System Improvements shall equal the cost of the design, engineering, planning and construction, except any construction of any System Improvements undertaken by the County in accordance with this Agreement. In the event the information submitted is deemed by the County to be inaccurate or unreliable, the County may prepare and provide to Owner or Developer alternative design, engineering and planning cost estimates. If the alternative cost estimates are deemed by the Owner to be inaccurate or unreliable, a third party shall be hired at the shared expense of the Owner and the County to develop cost estimates. Upon approval of this Development Agreement, all Impact Fees collected from any residential or commercial uses within any portion of the land subject to the Unified Development Plan shall be deposited into and held in a separate account that has been established by the County to be used to refund the Owner or the County, as the case may be, for the cost of constructing System Improvements when such System Improvements are constructed as described in this Agreement. The Owner or the County shall construct the System Improvements at such time described in Article IX (C) (iv). If constructed by the Owner, Owner shall be reimbursed with the Impact Fees collected. If the Joe Frazier Road Round-a-bout is constructed and completed through any means other than described above, all Impact Fees collected and being held by the County may be used to pay for the project or redistributed into the County's Capital Improvements Program. If, for any reason, the County deems any of the System Improvements unwarranted, the Owner shall be relieved of any responsibility as previously set forth in this Development Agreement, and all previously earmarked funds shall be redistributed into the County's Capital Improvements Program.

E. Access. The Owner agrees to cooperate with the appropriate governmental entities in locating and dedicating to the County, or its assigns, sufficient rights-of-way on the Property, in order to construct the access point improvements as depicted in the Unified Development Plan.

F. Other Charges or Fees. Nothing herein shall be construed as relieving the Owner, its successors and assigns, from payment of any such fees or charges in effect at the time of collection as may be assessed by entities other than the County. Moreover, the Owner, its successors and assigns, shall be subject to the payment of any and all present or future fees enacted by the County that are of County-wide application and that relate to processing applications, development permits, building permits, review of plans, or inspections or other matters, other than Development Impact Fees.

G. Service Districts. Nothing in this Agreement shall be construed to prevent the establishment by the County of a tax increment or other district on the Property in accordance with applicable provisions of the Code of Law of South Carolina, 1976, as amended.

H. Landscaping. The Owner or Developer shall, at its own expense, install landscaping as generally depicted in the "Joe Frazier Road Round-a-bout Landscape Plan" attached hereto as Exhibit "F". The Owner, its successors and assigns shall be responsible for and shall maintain landscaping of both the Joe Frazier Road Round-a-bout and the intersection realignment.

X. PERMITTING PROCEDURES

A. Development Applications for the individual parcels or tracts, or portions or phases thereof, shall be submitted to the DRT for processing under the provisions of this Agreement. It is acknowledged that the Property is anticipated to be developed in multiple phases which includes the Development of one (1) block of the Property at a time, in order to provide the Owner or Developer flexibility to meet market demands. Developer has conducted traffic studies and created a master plan for

the entire Property. Separate traffic studies shall not be required for individual residential phases of Development. Development Rights to the land encompassed by an Initial Development Application or master plan may be transferred to any other portion of the Property, or to another Developer of the Property, provided that such does not increase the proposed ranges of densities and intensities beyond that which would otherwise be allowed under the provisions of this Agreement. Such transfer of Development Rights shall require written notice to the County and written acknowledgment by the DRT, as set forth below, and which shall not be unreasonably withheld. The Unified Development Plan, which generally allocates building types, may be modified to accommodate market conditions, subject to the overall density and use maximums set forth in the ZDSO and in this Agreement.

B. The County agrees that the Owner shall have the unlimited right to phase the Development of the Property in accordance with the Development Schedule.

C. The County agrees to use its best efforts to review in an expeditious manner all reviews contemplated by or required by the ZDSO, including but not limited to land use changes, Development applications, and plats and subdivisions for the Development of the Property. The Owner may submit these items for concurrent review by Beaufort County and other governmental authorities.

D. The County agrees that the Property is approved and fully vested for intensity, commercial density, Impact Fees, uses and height, setbacks, and parking and signage, and shall not have any obligations for onsite or offsite transportation or other facilities or improvements other than as specifically provided in this Agreement, but shall adhere to the Unified Development Plan as modified or amended from time to time. The County shall not impose additional obligations or regulations in connection with the ownership or Development of the Property, except in accordance with the procedures and provisions of Section 6-31-80 (B) of the Act, which Owner shall have the right to challenge.

XI. PROTECTION OF ENVIRONMENT AND QUALITY OF LIFE

Contained herein are those conditions, terms, restrictions or other requirements determined to be necessary by the County for the public health, safety and welfare of its citizens. Specifically, the County considers the protection of the natural environment and nearby waters and the preservation of Beaufort County's character and unique identity to be mandatory goals and to be achieved without compromise. The Owner shares this commitment and therefore agrees to the following:

A. Stormwater Quality. A primary goal of the County is the protection of the quality of nearby waters. The Owner and Developer shall be required to abide by all provisions of Federal, State and County laws and regulations for the handling of stormwater, including those established by the Department of Health and Environmental Control, the Office of Ocean and Coastal Resource Management, and their successors. In order to protect water quality of the rivers, the Owner agrees to prepare a master plan of the stormwater drainage systems, as defined in the ZDSO for all or any portion of the Property, for each Initial Development Application; to construct stormwater drainage systems in accordance with the approved master plan; and, to maintain the stormwater drainage systems ensuring proper operation and function. In order to meet the water quality and anti-degradation goals which are impacted by the amount of impervious surfaces, the Owner, its successors and assigns commit to design stormwater management systems in accordance with the County's current Best Management Practices ("BMP's"). Further, Owner agrees to provide BMP's for pre-treatment, including supplemental open space (in accordance with the most current edition available of the Beaufort County Storm Water Best Management Practices manual, required by engineering design and calculations. In addition to the water quality safeguards committed to above by the Owner, notwithstanding Article IX hereof, the Owner and Developer shall adhere to any and all future ordinances or regulations of the County (or portions thereof) governing detention, filtration, and treatment of stormwater provided those ordinances and

regulations apply County-wide and are consistent with sound engineering practices. It is specifically agreed, however, that any such ordinances of the County that directly or indirectly affect the setback, buffer or open space requirements permitted pursuant to the ZDSO and/or this Agreement shall not be applicable to the Owner, the Developer and the Property without the Owner's and Developer's express written consent thereto; provided, however, that open space requirements may be modified as a result of specific implementation requirements for future stormwater management BMP's related to detention and treatment of stormwater that are applicable County-wide and are consistent with sound engineering practices, unless such change in requirements is less than twenty percent (20%) and the appropriate increase in density/intensity is granted by the County to provide for no net loss of density or space.

B. Covenants. The Owner may record restrictive real property covenants that run with the Property that shall govern such matters as architectural control, permitted uses, setbacks, landscaping, trees, exterior lighting, pets and wildlife, maintenance of common areas or open space, and which shall specifically prohibit unsightly activities. The provisions of the covenants for portions of the Property may differ from the covenants applicable to the other portions of the Property.

C. Tree Protection. Except for lands used for silviculture, if any, which shall be controlled by State regulations and Beaufort County's BMP's, Owner, its successors and assigns, including the Developer, shall comply with the provisions of ZDSO appertaining to trees.

D. Legal Status of Workers. The Owner and the County recognize the importance of having legal workers undertake construction and other work on the Property only. Provided such is lawful, the Owner agrees to supplement current County and State laws by requiring all contractors and subcontractors to sign sworn affidavits stating that: (i) all workers in its employ have been verified as to legal status; and, (ii) that to the best of its knowledge, after reasonable diligence, the contractor and subcontractor has verified such legal status. Additionally, provided such is lawful, construction sites shall be posted with notices providing legal status requirements and providing that verification of status may be demanded on the construction site at any time by the Owner, Developer, secondary Developers and/or the County. Any provision of this Section D may be altered with consent of the County Administrator to reflect evolving legal and policy decisions on this subject without formal amendment hereto.

XII. COMPLIANCE REVIEWS

Pursuant to the requirements of Section 6-31-90 of the Act, the Owner or its designee(s), shall meet with the County or its designee, at least once per year during the Term, to review Development completed in the prior year and the Development anticipated to be commenced or completed in the ensuing year. The Owner or its designee(s) shall be required to provide such information as may reasonably be requested, to include but not be limited to: acreage of the Property sold in the prior year; acreage of the Property under contract; the number of certificates of occupancy issued in the prior year, the number of certificates of occupancy anticipated to be issued in the ensuing year; the Development Rights transferred in the prior year; and, the Development Rights anticipated to be transferred in the ensuing year. The Owner or its designee(s) shall be required to compile this information for its respective Development and that of its Developer.

XIII. ASSIGNMENT AND TRANSFERS

A. Notice of Assignment. Owner shall be required to notify Beaufort County, in writing, as and when Development Rights are transferred to any Developer or successor Owner. Such information shall include the identity and address of the acquiring party, a proper contact individual, and the location and number of acres of the Property for which Development Rights are being transferred.

Developers transferring Development Rights to any other party shall be subject to this requirement of notification.

B. Release After Assignment. In the event that the sale or other conveyance of all or a portion of the Property has been deemed to be compliant with this Agreement, the transferring Owner shall be released from any further obligations with respect to the Property being transferred, and the transferee shall, under this Agreement, be considered to be a substitute for the Owner for the Property transferred.

C. Variiances. It is acknowledged that nothing in this Agreement shall be deemed or construed to affect the right of any person to seek a variance from those provisions of the ZDSO that are in accordance with applicable state and local laws in effect at the time of the variance application.

XIV. EFFECT OF FUTURE LAWS AND CHANGES TO THE ZDSO

A. Vested Rights. Beaufort County acknowledges that the Owner and Developer are relying upon this Agreement, and agrees that Owner and Developer shall have vested rights to undertake Development of all or any portion of the Property, as depicted in the Unified Development Plan and in accordance with the terms and conditions contained herein. Accordingly, Beaufort County agrees that the Owner’s and Developer’s reliance upon the terms and conditions contained herein shall create vested rights to undertake Development of all or any portion of the Property in accordance with this Development Agreement.

B. Future Laws. Any amendment or modification to the ZDSO, including any new or successor zoning and development standards ordinances adopted by Beaufort County, shall not be applicable to the Property without the Owner’s express prior written consent, except as otherwise provided herein, provided that Beaufort County may apply such subsequently adopted laws to the Development if it holds a public hearing and it is determined that the subsequently adopted laws: (a) are not in conflict with laws governing this Agreement and do not prevent the Development contemplated in this Agreement; (b) are essential to public health, safety or welfare, and the subsequently adopted laws expressly state that they apply to the Development of the Property; and, (c) are specifically anticipated and provided for in the Development Agreement; and provided that: (i) Beaufort County demonstrates that substantial changes have occurred to pertinent conditions regarding the Property existing as of the Effective Date; and, if not addressed by Beaufort County, such conditions would pose a serious risk to the health, safety and welfare of its citizens; or (ii) the Development Agreement is based on substantially inaccurate information supplied by Owner. Owner and Beaufort County acknowledge that a portion of the Property is located within AICUZ Noise Zone 2A and that boundaries and restrictions may change for AICUZ noise zones. In the event such changes are proposed, which apply to all or any portion of the Property, the Owner and the County each agree to work together in good faith to alleviate the impact of such changes on the Property. In no event, however, shall the Owner be required to reduce or transfer density as shown in the Unified Development Plan, without the written consent of the Owner. Owner shall, however, continue to provide to purchasers of all or any portion of the Property, proper AICUZ Noise Zone Disclosure Forms as required by current or subsequent laws, and shall be bound by all current and future noise attenuation requirements for construction.

C. Future Laws of General Application. The parties specifically acknowledge that this Agreement shall not prohibit the application of any present standard codes or future codes in compliance with Section 6-31-160 of the Act, or any tax or fee of general application throughout the County. No future development and/or aid to construction, Impact Fees or special assessments shall apply to the Property without the written consent of the Owner.

XV. DEFAULTS

The failure of the Owner, Developer or County to comply with the terms of this Agreement shall constitute a default, entitling the non-defaulting party to pursue such remedies as deemed appropriate, including specific performance and the termination of this Development Agreement in accordance with the Act; provided, however, that no termination of this Development Agreement may be declared by the County without the County providing to the Owner and Developer the notice, hearing and opportunity to cure in accordance with the Act; and provided further that nothing herein shall be deemed or construed to preclude the County or its designee from issuing individual stop work orders or voiding specific permits issued for Development when such Development contravenes the provisions of the ZDSO or this Development Agreement.

A default of the Owner shall not constitute a default by the Developer; and a default by the Developer shall not constitute a default by the Owner; nor shall a default by one Owner or Developer constitute a default of the Owners collectively.

XVI. MODIFICATION OF AGREEMENT

This Development Agreement may be modified or amended only by the written agreement of the County and the Owner. No statement, action or agreement hereafter made shall be effective to change, amend, waive, modify, discharge, terminate or effect an abandonment of this Agreement in whole or in part unless such statement, action or agreement is in writing and signed by the party against whom such change, amendment, waiver, modification, discharge, termination or abandonment is sought to be enforced.

If an amendment affects less than all the persons and entities comprising the Owner(s), then only the County and those affected persons or entities shall sign such written amendment. Because this Agreement constitutes the Unified Development Plan for the Property, minor modifications to a site plan or to Development provisions may be made without a public hearing or amendment to the Development Agreement Ordinance. Any requirement of this Agreement requiring consent or approval of one of the parties shall not require amendment of this Agreement unless the text expressly requires amendment. Wherever said consent or approval is required, the same shall not be unreasonably withheld.

The plans for Development of the Property are not intended to be a rigid, nor exact. The location of roads, buildings, recreational amenities and other elements may vary at the time of permit applications when more specific designs are available, as long as the maximum densities set forth herein and the general concept of residential/commercial Developments suggested is followed and respected.

XVII. NOTICES

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

All notices, demands, requests, consents, approvals or communications to the County shall be addressed as follows:

To Beaufort County: Office of Beaufort County Administrator
100 Ribaut Road
Room 156
Beaufort, SC 29902

With Copy To: Beaufort County Legal Department
c/o Joshua A. Gruber, Esquire
Post Office Drawer 1228
Beaufort, SC 29901-1228

And to Owner: Burton Development, LLC
c/o Cherokee Beaufort, LLC
Attn: Mr. Robert Turner
22 Market Street
Beaufort, SC 29906

With Copy To: McNair Law Firm, P.A.
Post Office Drawer 3
Hilton Head Island, SC 29938
Attn: Walter J. Nester, III

XVIII. GENERAL

A. Subsequent Laws. In the event that State or Federal laws or regulations are enacted after the execution of this Development Agreement or decisions are issued by a Court of competent jurisdiction which prevent or preclude compliance with the Act or one or more provisions of this Agreement (“New Law” or “New Laws”), the provisions of this Agreement shall be modified or suspended as may be necessary to comply with such New Laws. Immediately after enactment of any such New Law or court decision, those parties designated by the Owner, the Developer and the County shall meet and confer in good faith in order to agree upon such modification or suspension based on the effect such New Law would have on the purposes of intent of this Agreement. During the time that these parties are conferring on such modification or suspension or challenging the New Laws, the County may take reasonable action to comply with such New Laws. Should these parties be unable to agree to a modification or suspension, either may petition a Court of competent jurisdiction for an appropriate modification or suspension of this Agreement. In addition, the Owner, the Developer and the County each shall have the right to challenge the New Laws preventing compliance with the terms of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect.

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

- (i) that this Agreement is in full force and effect;
- (ii) that this Agreement has not been amended or modified, or if so amended, identify those amendments;
- (iii) whether, to the knowledge of such notifying party, the requesting party is in default or claimed default in the performance of its obligations under this Agreement, and, if so, describing the nature and amount, if any, of any such default or claimed default; and

(iv) whether, to the knowledge of such notifying party, any event has occurred or failed to occur which, with the passage of time or the giving of notice, or both, would constitute a default and, if so, specifying each such event.

C. **Entire Agreement.** This Agreement sets forth, and incorporates by reference all of the agreements, conditions and understandings among the County, the Owner and the Developer relative to the Property and its Development and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth or as referred to herein.

D. **No Partnership or Joint Venture.** Nothing in this Agreement shall be deemed to create a partnership or joint venture between the Owner, the Developer or the County or between the Owner(s), or the Owner and any Developer, or to render such party liable in any manner for the debts or obligations of another party.

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

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

G. **Assignment.** Other than as defined herein, no other rights, obligations, duties or responsibilities devolved by this Agreement on or to the Owner, Developer or the County shall be assignable to any other person, firm, corporation or entity.

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

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

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

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

L. **No Third Party Beneficiaries.** The provisions of this Agreement may be enforced only by the County, the Owner and the Developer (including successors and/or assigns). No other persons shall have any rights hereunder.

XIX. STATEMENT OF REQUIRED PROVISIONS

A. **Specific Statements.** The Act requires that a development agreement include certain mandatory provisions, pursuant to Section 6-31-60(A). Although certain of these items are addressed elsewhere in this Agreement, the following listing of the required provisions is set forth for

convenient reference. The numbering below corresponds to the numbering utilized under Section 6-31-60(A) for the required items:

1. **Legal Description of Property and Legal and Equitable Owner.** The legal description of the Property is set forth in Exhibit "A", attached hereto. The current legal Owner of the Property is Cherokee Beaufort, LLC.
2. **Duration of Agreement.** The duration of this Agreement shall be five (5) years, with three (3) five (5)-year renewal terms.
3. **Permitted Uses, Densities, Building Heights and Intensities.** A complete listing and description of permitted uses, Dwelling Unit densities, building intensities and heights, as well as other Development related standards, are contained in this Agreement.
4. **Required Public Facilities.** The utility services available to the Property are described generally above regarding electrical service, telephone and solid waste disposal. The mandatory procedures of the ZDSO and this Agreement, and/or the use of Development Impact Fees, fees in lieu, or other funding sources at the County's option shall ensure availability of roads, schools, parks and utilities to serve residents on a timely basis.
5. **Dedication of Land and Provisions to Protect Environmentally Sensitive Areas.** All relevant State and Federal laws shall be fully complied with, in addition to the provisions set forth in this Agreement. Where required by State or Federal law, protective buffers for wetlands shall be created.
6. **Local Development Permits.** The Development is set forth in the Unified Development Plan, and must comply with the ZDSO. Specific permits shall be obtained prior to commencing Development, consistent with the standards set forth in the ZDSO. Building permits shall be obtained under County Ordinances for any vertical construction, and appropriate permits shall be obtained from the State of South Carolina (OCRM) and the Army Corps of Engineers, when applicable, prior to any impact upon salt or freshwater wetlands. It is specifically understood that the failure of this Agreement to address a particular permit, condition, term or restriction shall not relieve the Owner, its successors and assigns, of the necessity of complying with the law governing the permitting requirements, conditions, terms or restrictions.
7. **Comprehensive Land Use Plan and Development Agreement.** The Development permitted and proposed hereunder is consistent with the Beaufort County Comprehensive Land Use Plan and with the County's current land use regulations.
8. **Terms for Public Health, Safety and Welfare.** The Beaufort County Council finds that all issues currently relating to public health, safety and welfare have been adequately considered and appropriately dealt with under the terms of this Agreement, the ZDSO and existing law.
9. **Historical Structures.** No specific terms relating to historical structures shall be pertinent to this Development Agreement. All historic structures and issues shall be addressed through the permitting process of the ZDSO at the time of Development; and no exception from any existing standard shall be hereby granted.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Recommend approval of a Resolution and an Intergovernmental Agreement between Beaufort County and Hilton Head Island for William Hilton Parkway Safety and Pedestrian Improvements (\$600,000).
MEETING NAME AND DATE:
March 25, 2024 - Public Facilities and Safety Committee
PRESENTER INFORMATION:
Jared Fralix, ACA – Infrastructure <i>(5 mins)</i>
ITEM BACKGROUND:
Beaufort County and the Town of Hilton Head Island seek to establish an agreement whereby the County offers aid and assistance to the Town for safety improvements and pedestrian accommodations along sections of William Hilton Parkway (US 278) in 2024.
PROJECT / ITEM NARRATIVE:
The two safety projects are located on William Hilton Parkway: <ul style="list-style-type: none">a. William Hilton Parkway - Northridge Area Segment 3 Safety Improvements.<ul style="list-style-type: none">i. This project will update crosswalk pavement markings and replace existing pedestrian crossing signs with a push-button rectangular rapid flash beacon (RRFB), in pavement crosswalk lighting and roadway lighting.b. William Hilton Parkway and Palmetto Bay Road Intersection Safety Improvements, Signage, and Pavement Marking.<ul style="list-style-type: none">i. This project will update pavement markings, street signs, and make minor safety improvements to intersections.
FISCAL IMPACT:
A not to exceed amount of \$600,000 to be funded from the Hilton Head Island/Daufuskie Island Road Impact Fees account 2300-30-0000-54500-12300 with a remaining balance of \$800,000. The Town shall submit paid invoicing documentation to the County for reimbursement.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of an Intergovernmental Agreement between Beaufort County and Hilton Head Island for William Hilton Parkway Safety and Pedestrian Improvements.
OPTIONS FOR COUNCIL MOTION:
Recommendation to approve/deny an Intergovernmental Agreement between Beaufort County and Hilton Head Island for William Hilton Parkway Safety and Pedestrian Improvements. <i>Next Steps: Move forward to County Council to approve/deny an Intergovernmental Agreement between Beaufort County and Hilton Head Island for William Hilton Parkway Safety and Pedestrian Improvements.</i>

RESOLUTION NO. 2024 / __

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE TOWN OF HILTON HEAD ISLAND FOR PARKWAY SAFETY IMPROVEMENTS AND PEDESTRIAN ACCOMMODATIONS

WHEREAS, the Town of Hilton Head Island, South Carolina, (hereinafter referred to as the “Town”), has a need for safety improvements and pedestrian accommodations along certain sections of William Hilton Parkway (US 278) at areas located within the Town of Hilton Head Island;

WHEREAS, the County collects development impact fees in accordance with the Beaufort County Code of Ordinances, Chapter 82 - Impact Fees, and such fees may be expended on qualifying capital or system improvements, that address safety and capacity, in jurisdictions from which they were derived. The planned safety and pedestrian improvements on William Hilton Parkway are a qualifying project; and

WHEREAS, the County has a 2024 Fiscal Year balance of \$600,000.00 in Traffic Impact Fees that must be allocated to eligible transportation projects within the Hilton Head Island – Daufuskie Island jurisdictions; and

WHEREAS, the Town and County seek to establish an agreement whereby the County will offer aid and assistance to the Town in the form of funding for two safety projects along sections of William Hilton Parkway (US 278) at areas located within the Town of Hilton Head Island; and

WHEREAS, the two safety projects to be completed pursuant to an Intergovernmental Agreement are in the Northridge Area Segment 3 Safety Improvements, which will consist of updating crosswalk pavement markings and replace existing pedestrian crossing signs with a push-button rectangular rapid flash beacon (RRFB), in pavement crosswalk lighting and roadway lighting; and in the William Hilton Parkway and Palmetto Bay Road Intersection will update pavement markings, street signs, and make minor safety improvements to intersections; and

WHEREAS, pursuant to S.C. Code of Laws Sections 4-9-40, and 6-1-20, and Article VIII, Section 13 of the State of South Carolina Constitution, cities and counties may enter into agreements to provide joint services when mutually desirable.

NOW, THEREFORE, County Council hereby RESOLVES TO authorizes the County Administrator to enter into an Intergovernmental Agreements with the Town of Hilton Head Island to offer aid and assistance to the Town in the form of funding for the installation of safety

improvements and pedestrian accommodations along sections of William Hilton Parkway (US 278).

IT IS SO ORDERED!

Adopted this ____ day of _____ 2024

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joe Passiment, Chairman

ATTEST:

Sarah Brock, Clerk to Council

SECTION 1 – DEFINITIONS

- A. **TRAFFIC IMPACT FEES** - These are development impact fees charged by the County in accordance with the County Code of Ordinances, Chapter 82 - Impact Fees, and such fees may be expended on qualifying capital or system improvements in jurisdictions from which they were derived.
- B. **PROJECT** - The overall project will consist of work at two locations on William Hilton Parkway and the improvements are more specifically defined below:
- a. William Hilton Parkway - Northridge Area Segment 3 Safety Improvements.
 - i. This project will update crosswalk pavement markings and replace existing pedestrian crossing signs with a push-button rectangular rapid flash beacon (RRFB), in pavement crosswalk lighting and roadway lighting.
 - b. William Hilton Parkway and Palmetto Bay Road Intersection Safety Improvements, Signage, and Pavement Marking.
 - i. This project will update pavement markings, street signs, and make minor safety improvements to intersections.

SECTION 2 – PROCEDURES

- A. **DESIGN & PERMITTING:** The Town will be responsible for the design of the project and any procurement necessary to hire an engineering consultant required to design the planned improvements. The Town and its consultants will be responsible for obtaining all permits required to perform the work.
- B. **CONSTRUCTION:** The Town will be responsible for the procurement of a contractor to perform the planned work. The contractor is to perform the work in accordance with the prepared plans, specifications, and permit requirements.
- C. **CONSTRUCTION ADMINISTRATION & INSPECTION:** The Town will be responsible for the administration of the construction contract and any inspection of the work as required by the SCDOT encroachment permit.
- D. **INVOICES:** For all work on the project, the Town shall submit paid invoicing documentation to the County. The Town shall send the County an invoice(s) for all completed work requesting reimbursement in an amount not to exceed \$600,000.00. Any project costs incurred greater than \$600,000.00 will be the responsibility of the Town.
- E. **PAYMENT:** The County shall pay the invoice, or advise of any disputed items, not later than thirty (30) days following the billing date.

SECTION 3 – INSURANCE

Each party to this Agreement shall bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself what kinds of insurance, and in what amounts, it should carry. A copy of the insurance carrier’s letter or the resolution of self-insurance shall be attached to the executed copy of this Agreement. Each party shall be solely responsible for determining that its insurance is current and adequate prior to providing assistance under this Agreement.

SECTION 4 – LIABILITY

Each Party to this Agreement shall be responsible for any and all claims, demands, suits, actions, damages, and causes of action related to or arising out of or in any way connected with its own actions, and the actions of its personnel, in providing mutual aid assistance rendered or performed pursuant to the terms and conditions of this Agreement.

SECTION 5 – TERM

This Agreement shall run through completion of the project or December 31, 2024, whichever comes first. This agreement may be terminated upon thirty (30) days advance written notice by the Parties to this agreement. Notice of termination shall not relieve the withdrawing Party from obligations incurred hereunder prior to the effective date of the withdrawal.

SECTION 6 – SEVERABILITY: EFFECT ON OTHER AGREEMENTS

Should any portion, section, or subsection of this Agreement be held to be invalid by a court of competent jurisdiction, that fact shall not affect or invalidate any other portion, section or subsection; and the remaining portions of this Agreement shall remain in full force and affect without regard to the section, portion, or subsection or power invalidated.

In the event that any parties to this Agreement have entered into other mutual aid agreements or inter-local agreements, those parties agree that said agreements are superseded by this Agreement only for emergency management assistance and activities performed in major disasters, pursuant to this Agreement. In the event that parties of this Agreement have not entered into another mutual aid agreement, and the parties wish to engage in mutual aid, then the terms and conditions of this Agreement shall apply unless otherwise agreed between those parties.

IN WITNESS WHEREOF, the Town of Hilton Head Island, South Carolina and Beaufort County, South Carolina, by and through their duly authorized officers have set their hands and seals on this ____ day of _____, 2024.

WITNESSES:

WITNESSES:

BEAUFORT COUNTY

By: _____

Its: _____

TOWN OF HILTON HEAD ISLAND

By: _____

Its: _____



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Recommend approval of a Resolution and an Intergovernmental Agreement between Beaufort County and Hilton Head Island for William Hilton Parkway Safety and Pedestrian Improvements (\$600,000).
MEETING NAME AND DATE:
March 25, 2024 - Public Facilities and Safety Committee
PRESENTER INFORMATION:
Jared Fralix, ACA – Infrastructure <i>(5 mins)</i>
ITEM BACKGROUND:
Beaufort County and the Town of Hilton Head Island seek to establish an agreement whereby the County offers aid and assistance to the Town for safety improvements and pedestrian accommodations along sections of William Hilton Parkway (US 278) in 2024.
PROJECT / ITEM NARRATIVE:
The two safety projects are located on William Hilton Parkway: <ul style="list-style-type: none">a. William Hilton Parkway - Northridge Area Segment 3 Safety Improvements.<ul style="list-style-type: none">i. This project will update crosswalk pavement markings and replace existing pedestrian crossing signs with a push-button rectangular rapid flash beacon (RRFB), in pavement crosswalk lighting and roadway lighting.b. William Hilton Parkway and Palmetto Bay Road Intersection Safety Improvements, Signage, and Pavement Marking.<ul style="list-style-type: none">i. This project will update pavement markings, street signs, and make minor safety improvements to intersections.
FISCAL IMPACT:
A not to exceed amount of \$600,000 to be funded from the Hilton Head Island/Daufuskie Island Road Impact Fees account 2300-30-0000-54500-12300 with a remaining balance of \$800,000. The Town shall submit paid invoicing documentation to the County for reimbursement.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of an Intergovernmental Agreement between Beaufort County and Hilton Head Island for William Hilton Parkway Safety and Pedestrian Improvements.
OPTIONS FOR COUNCIL MOTION:
Recommendation to approve/deny an Intergovernmental Agreement between Beaufort County and Hilton Head Island for William Hilton Parkway Safety and Pedestrian Improvements. <i>Next Steps: Move forward to County Council to approve/deny an Intergovernmental Agreement between Beaufort County and Hilton Head Island for William Hilton Parkway Safety and Pedestrian Improvements.</i>



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
AN ORDINANCE TO AMEND BEAUFORT COUNTY’S BUDGET ORDINANCE FOR FISCAL YEAR 2024 (ORDINANCE NO. 2023/22) TO APPROPRIATE AND TRANSFER \$250,000 FROM FUND BALANCE OF THE GENERAL FUND TO THE SPECIAL REVENUE FUND (FUND 2546) TO COVER UNBUDGETED COSTS FOR THE DAUFUSKIE ISLAND FERRY OPERATIONS; TO APPROPRIATE AND TRANSFER \$3,600,000 FROM FUND BALANCE OF THE GENERAL FUND FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 333 AND 335 BUCKWALTER PARKWAY PURSUANT TO ORDINANCE 2023/14; TO INCLUDE THREE SPECIAL REVENUE FUNDS' BUDGETS (FUNDS 2230, 2252, AND 2255) IN AN AGGREGATE AMOUNT OF \$402,918 WHICH WERE CONVERTED TO THE GENERAL FUND DURING THE CHART OF ACCOUNTS CONVERSION PROCESS. TOTAL AMENDMENT OF BUDGET ORDINANCE 2023/22 IS \$4,252,918.
MEETING NAME AND DATE:
FINANCE COMMITTEE MEETING – FEBRUARY 26, 2024
PRESENTER INFORMATION:
Denise Christmas, CFO <i>15 minutes</i>
ITEM BACKGROUND:
Appropriation of the \$250,000 for Daufuskie Ferry operations was approved at the December 11, 2023 Beaufort County Council meeting. Council appropriated \$3.6MM in funds and authorized the County Administrator to execute the documents necessary to purchase 333 and 335 Buckwalter Parkway in 2023 (Ord. 2023/14) but these funds did not roll-over to this year’s budget.
PROJECT / ITEM NARRATIVE:
Amending Budget Ordinance 2023/22 for Fiscal Year 2024 to appropriate \$250,000 from the General Fund’s Fund Balance for unbudgeted costs of Daufuskie Ferry operations, to roll-over funds to purchase property, and to reclassify three special revenue funds as general funds.
FISCAL IMPACT:
An increase in the County’s operating budget of \$4,252,918
STAFF RECOMMENDATIONS TO COUNCIL:
Approval of the budget amendment and move to county council meeting for first reading.
OPTIONS FOR COUNCIL MOTION:
Motion to approve/deny the budget amendment

Move forward to Council for First Reading on March 11, 2024.

ORDINANCE 2024/ _____

AN ORDINANCE TO AMEND BEAUFORT COUNTY’S BUDGET ORDINANCE FOR FISCAL YEAR 2024 (ORDINANCE NO. 2023/22) TO APPROPRIATE AND TRANSFER \$250,000 FROM FUND BALANCE OF THE GENERAL FUND TO THE SPECIAL REVENUE FUND (FUND 2546) TO COVER UNBUDGETED COSTS FOR THE DAUFUSKIE ISLAND FERRY OPERATIONS; TO APPROPRIATE AND TRANSFER \$3,600,000 FROM FUND BALANCE OF THE GENERAL FUND FOR THE PURCHASE OF REAL PROPERTY LOCATED AT 333 AND 335 BUCKWALTER PARKWAY PURSUANT TO ORDINANCE 2023/14; TO INCLUDE THREE SPECIAL REVENUE FUNDS' BUDGETS (FUNDS 2230, 2252, AND 2255) IN AN AGGREGATE AMOUNT OF \$402,918 WHICH WERE CONVERTED TO THE GENERAL FUND DURING THE CHART OF ACCOUNTS CONVERSION PROCESS. TOTAL AMENDMENT OF BUDGET ORDINANCE 2023/22 IS \$4,252,918.

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 as set forth herein.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that the FY 2023-2024 Beaufort County Budget Ordinance 2023/22 is hereby amended as set forth above.

Done this _____ day of _____, 2024.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah Brock, Clerk to Council

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



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
An Ordinance amending Chapter 66 Taxation, Article V Hospitality Tax of the Beaufort County Code of Ordinances.
MEETING NAME AND DATE:
Finance, Administration, Economic Development Committee February 20, 2024
PRESENTER INFORMATION:
(Deputy County Attorney Brian Hulbert) (5 minutes)
ITEM BACKGROUND:
<p>The South Carolina Legislature ratified Act 146 on September 25, 2020. The Governor approved and signed it on September 28, 2020, and it became effective on September 28, 2020. Act 146 amended South Carolina Code of Laws Section 6-1-730 (A) relating to the use of revenue from Local Hospitality Tax to add two additional purposes in subparagraphs (7) and (8). The new purposes provide that the funds could be used for: A (7) control and repair of flooding and drainage within or on tourism-related lands or areas; and (8) for site preparation for items in this section including, but not limited to, demolition, repair, or construction."</p> <p>Additionally, the Act added a new paragraph (c) which provides that funds used for subsection (A)(7) the revenues must be expended exclusively on public works projects designed to eliminate or mitigate the adverse effects of recurrent nuisance flooding, including that which is attributable to sea-level rise, or other recurrent flooding. The public works projects must be within or on tourism-related lands or areas.</p>
PROJECT / ITEM NARRATIVE:
Amend the Local Hospitality Tax ordinance to it in compliance with current state code.
FISCAL IMPACT:
<i>There would be no direct fiscal impact on the County.</i>
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends approval of the Ordinance Amendments.
OPTIONS FOR COUNCIL MOTION:
(Move forward to Council for Approval/Adoption or to not Approve on March 11, 2024)

ORDINANCE 2024/ ____

AN ORDINANCE AMENDING CHAPTER 66 TAXATION, ARTICLE V LOCAL HOSPITALITY TAX

WHEREAS, In 2005 Beaufort County enacted Chapter 66 Article V Hospitality Tax pursuant to the authority granted by South Carolina Code of Laws, 4-9-30 (1976, as amended) which provides that the county may adopt all ordinances which appear necessary and proper for the security, general welfare and convenience of the county and for the preservation of the general health, peace and order in the county; and pursuant to the laws enumerated in Title 6-1-700 et seq.; and

WHEREAS, by enacting Chapter 66 Article V Hospitality Tax, Beaufort County imposed a local hospitality tax of two percent on the gross proceeds derived from the sale of prepared meals and beverages sold in establishments located in unincorporated areas of Beaufort County; and

WHEREAS, The South Carolina General Assembly ratified Act 146 on September 25, 2020 and the Governor approved and signed it on September 28, 2020. The Act became effective on September 28, 2020, whereby South Carolina Code of Laws Section 6-1-730 relating to the use of revenue from Local Hospitality Tax was amended to add additional purposes for the expenditure of revenue from the tax; and

WHEREAS, staff now wishes to amend Chapter 66, Article V to bring it into compliance with the South Code of Laws (as amended) to reflect the language found within Chapter 66, Article V contained here within as exhibit A.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL THAT:

Chapter 66, Taxation, Article V Hospitality Tax which appears in Beaufort County Code of Ordinances is hereby amended to reflect the language as depicted in exhibit A.

Adopted this _____ day of _____ 2024.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah w. Brock, JD, Clerk to Council

EXHIBIT A

ARTICLE V. LOCAL HOSPITALITY TAX

Sec. 66-531. Authority.

This article is enacted pursuant to the authority S.C. Code § 4-9-30 (1976, as amended) which provides that the county may adopt all ordinances which appear necessary and proper for the security, general welfare and convenience of the county and for the preservation of the general health, peace and order in the county and S.C. Code § 6-1-700 et seq. (1976, as amended) which expressly provides authorization for the imposition of a hospitality tax.

(Ord. No. 2005/9, § 1, 3-28-2005)

Sec. 66-532. Hospitality tax—Definitions.

- (a) *Local hospitality tax* is a tax imposed within the unincorporated areas of Beaufort County on the sales of prepared meals and beverages sold in establishments or sales of prepared meals and beverages sold in establishments licensed for on-premises consumption of alcoholic beverages, beer, or wine. In addition, the tax shall be imposed for all food and beverages prepared or modified by convenience stores or grocery stores within the unincorporated areas of Beaufort County.
- (b) ~~A hospitality tax equal to two percent is hereby imposed on the gross proceeds derived from the sale of prepared meals and beverages sold in establishments located in unincorporated areas of Beaufort County.~~
- (c) *Beverages* shall include all beverages, including, but not limited to, alcoholic beverages, beer, wine, and any nonalcoholic beverage.
- (d)(c) *Establishments* shall mean any individual, partnership, corporation or business entity, regardless of form which, as a part of its business offers prepared meals, whether for consumption on the premises or off.
- (e)(d) *Establishments licensed for on-premises consumption of alcoholic beverages, beer or wine* shall mean any individual, partnership, corporation or business entity, regardless of form, which is licensed by the State of South Carolina alcoholic beverage commission to offer alcoholic beverages, beer or wine for sale or consumption on its premises.
- (f)(e) *Gross sales price* shall mean the total charge for any prepared meal or beverage, exclusive of any other taxes, fees or gratuity.
- (g)(f) *Prepared meals* shall mean any prepared food item prepared or offered for sale by any establishments or establishments licensed for on-premises consumption of alcoholic beverages, beer or wine, whether consumed on the premises or off.

(Ord. No. 2005/9, § 2, 3-28-2005; Ord. No. 2009/35, 10-12-2009 ; Ord. No. 2012/1, 2-13-2012)

Sec. 66-533. Payment of hospitality tax.

- (a) ~~A hospitality tax equal to two percent is hereby imposed on the gross proceeds derived from the sale of prepared meals and beverages sold in establishments located in unincorporated areas of Beaufort County.~~
- (b) Payment of the local hospitality tax shall be the liability of the consumer of prepared meals and beverages as described in section 66-532. The local hospitality tax shall be paid at the time of the purchase of the

EXHIBIT A

prepared meals and beverages and shall be collected by the establishments or establishments licensed for on-premises consumption of alcoholic beverages, beer or wine selling the prepared meals and beverages.

~~(b)~~(c) The county shall provide a hospitality tax return, which shall be utilized by the provider of the services to calculate the amount of hospitality taxes collected and due. Payment shall be made to Beaufort County and shall be made at the same time as the return is required to be filed as provided below.

~~(e)~~(d) The hospitality tax collected by the provider of the services as required herein shall be remitted to the County of Beaufort, South Carolina, as follows:

- (1) Payment shall be collected and remitted monthly starting January 1, 2010 and each month thereafter.
- (2) Payments are due on or before the twentieth day following the end of the filing period.

~~(d)~~(e) An interest-bearing restricted account, kept in a separate fund segregated from the county's general fund and to be known as "The County of Beaufort, South Carolina, Local Hospitality Tax Account" is hereby established. All revenue and interest generated by the local hospitality tax shall be deposited into this account. The County of Beaufort, South Carolina, Hospitality Tax Account, shall be controlled by the county administrator for the County of Beaufort, South Carolina. The principal and any accrued interest thereon shall be spent only as provided herein.

~~(e)~~(f) Deposits into "The County of Beaufort, South Carolina, Hospitality Tax Account" may also include appropriations from the general fund by the county council and voluntary contributions of money and other liquid assets from any source. Once any such funds are so deposited, the funds become dedicated funds and may only be spent as provided herein.

(Ord. No. 2005/9, § 3, 3-28-2005; Ord. No. 2009/35, 10-12-2009)

Sec. 66-534. Permitted uses of hospitality tax funds.

(a) The county council is hereby authorized to utilize the funds collected from the imposition and collection of the hospitality tax and other funds deposited into "The County of Beaufort, South Carolina, Hospitality Tax Account." The revenue generated by the hospitality tax must be used exclusively for the following purposes:

- (1) Tourism-related buildings, including, but not limited to, civic centers, coliseums, and aquariums;
- (2) Tourism-related cultural, recreational, or historic facilities, or land acquisition;
- (3) River/Beach access and renourishment;
- (4) Highways, roads, streets, bridges and boat ramps providing access to tourist destinations;
- (5) Advertisements and promotions related to tourism development;
- (6) Water and sewer infrastructure to serve tourism-related demand;

(7) Control and repair of flooding and drainage within or on tourism-related lands or areas; or

(8) Site preparation for items in this section including, but not limited to, demolition, repair, or construction;

~~(7)~~(b) The operation and maintenance of those items provided in (a)(1) through (a)(6) above, including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.

~~(8)~~ For all other proper purposes including those set forth herein.

(C) If applying the provisions of subsection (a)(7), then the revenues must be expended exclusively on public works projects designed to eliminate or mitigate the adverse effects of recurrent nuisance flooding, including that which is attributable to sea-level rise, or other recurrent flooding. Such adverse effects include road closures and other transportation disruptions, stormwater drainage issues, and compromised public infrastructure. The public works

projects must be within or on tourism-related lands or areas. Revenues must not be used to pay claims or otherwise settle litigation that may arise from time to time due to the harmful impacts of nuisance or other flooding.

~~(b)~~(d) Authorization to utilize any funds from the "County of Beaufort, South Carolina, Hospitality Tax Account," shall be by ordinance duly adopted by the county council for the County of Beaufort, South Carolina.

(Ord. No. 2005/9, § 4, 3-28-2005)

Sec. 66-~~535~~ 536. Inspections and audits.

- (a) For the purpose of enforcing the provisions of this article, the license official or other authorized agent of the County of Beaufort, South Carolina, is empowered to enter upon the premises of any person or establishment subject to this article to make inspections, examine and audit books and records of such person or establishment.
- (b) It shall be unlawful for any person to fail or refuse to make available the necessary books and records during normal business hours upon 24 hours' written notice. In the event that the audit reveals that false information has been filed by the remitter, the costs of the audit shall be added to the correct amount determined to be due in addition to the penalties provided herein. The license official may make systematic inspections of all businesses within the unincorporated areas of the County of Beaufort, South Carolina, to ensure compliance with this chapter.

(Ord. No. 2005/9, § 5, 3-28-2005; Ord. No. 2009/35, 10-12-2009)

Sec. 66-~~536~~ 537. Violations and penalty.

- (a) It shall be a violation of this chapter to:
 - (1) Fail to collect the hospitality tax in connection with the sale of prepared meals and beverages sold in establishments in the unincorporated areas of Beaufort County.
 - (2) Fail to remit to the County of Beaufort, South Carolina, any hospitality taxes collected pursuant to this article by the twentieth day of the following month, as set forth herein.
 - (3) Knowingly provide false information on a return submitted to the County of Beaufort, South Carolina, as set forth herein.
 - (4) Fail or refuse to provide books and records to an authorized agent of the County of Beaufort, South Carolina, for the purpose of an examination or audit upon 24 hours' written notice as provided herein.
- (b) In the event that hospitality taxes are not timely remitted to the County of Beaufort, South Carolina as provided herein, the person or establishment failing to remit shall also pay a penalty equal to one and one-half percent of the unpaid amount for each month or portion thereof that such taxes remain unpaid.
- (c) A person or establishment failing or refusing to timely file a return and make appropriate payment and/or provide books and records as provided herein may be subject to a conviction for a violation hereof. The violator shall be guilty of a misdemeanor and subject to the penalties provided in section 1-6 of the Code of the County Council of Beaufort County, South Carolina.
- (d) Upon identification of a delinquent account, the director of business license or his/her designee has the authority to establish payment plans, revenue procedures, and reduce or waive penalties based on the revenue procedures as adopted with this amendment.

(Ord. No. 2005/9, § 6, 3-28-2005; Ord. No. 2009/35, 10-12-2009)

Sec. 66-537 535. Management and use of hospitality tax.

- (a) ~~Fund the approved annual operating expenditures of the program at an amount not to exceed eight percent of the funds collected;~~
- (b) ~~All hospitality tax funds shall be allocated~~ Allocate the remaining balance through the county's annual budget ordinance process; except
- (c) ~~(b)~~ County council may make emergency appropriations as provided in 2020 Ordinance number 2020/46 by approval of a resolution.
- (Ord. No. 2005/9, § 7, 3-28-2005; Ord. No. 2020/46, § 3, 10-26-2020)

Sec. 66-538. Applicability and effective date.

- (a) This article shall become effective upon adoption by county council. ~~on October 12, 2009.~~
- (b) The director of business license department is authorized to adopt guidelines, policies and procedures to implement this article.
- (Ord. No. 2009/35, 10-12-2009)

Sec. 66-539. Severability.

If any part of the ordinance is held by a court of competent jurisdiction be unconstitutional, illegal, or invalid for any reason, it shall be construed to have been the legislative intent of the County Council of Beaufort County, South Carolina, to pass this Ordinance [Ord. No. 2009/35] without such unconstitutional, illegal or invalid provision, and the remainder of this Ordinance shall be deemed and held to be constitutional, lawful and valid as if such portion had not been included. If this article or any provision thereof is held by a court of competent jurisdiction to be inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holding shall not affect the applicability thereof to any other persons, property or circumstances.

(Ord. No. 2009/35, 10-12-2009)

ARTICLE 7
Local Hospitality Tax

SECTION 6-1-700. Short title.

This article may be cited as the "Local Hospitality Tax Act".

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-710. Definitions.

As used in the article:

- (1) "Local governing body" means the governing body of a county or municipality.
- (2) "Local hospitality tax" is a tax on the sales of prepared meals and beverages sold in establishments or sales of prepared meals and beverages sold in establishments licensed for on-premises consumption of alcoholic beverages, beer, or wine.
- (3) "Positive majority" means a vote for adoption by the majority of the members of the entire governing body, whether present or not. However, if there is a vacancy in the membership of the governing body, a positive majority vote of the entire governing body as constituted on the date of the final vote on the imposition is required.

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-720. Imposition of local hospitality tax.

(A) A local governing body may impose, by ordinance, a local hospitality tax not to exceed two percent of the charges for food and beverages. However, an ordinance imposing the local hospitality tax must be adopted by a positive majority vote. The governing body of a county may not impose a local hospitality tax in excess of one percent within the boundaries of a municipality without the consent, by resolution, of the appropriate municipal governing body.

(B) All proceeds from a local hospitality tax must be kept in a separate fund segregated from the imposing entity's general fund. All interest generated by the local hospitality tax fund must be credited to the local hospitality tax fund.

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-730. Use of revenue from local hospitality tax.

(A) The revenue generated by the hospitality tax must be used exclusively for the following purposes:

- (1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;
- (2) tourism-related cultural, recreational, or historic facilities;
- (3) beach access and renourishment;
- (4) highways, roads, streets, and bridges providing access to tourist destinations;
- (5) advertisements and promotions related to tourism development;
- (6) water and sewer infrastructure to serve tourism-related demand;
- (7) control and repair of flooding and drainage within or on tourism-related lands or areas; or
- (8) site preparation for items in this section including, but not limited to, demolition, repair, or construction.

(B)(1) In a county in which at least nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, the revenues of the hospitality tax authorized in this article may be used for the operation and maintenance of those items provided in (A)(1) through (6) including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities.

(2) In a county in which less than nine hundred thousand dollars in accommodations taxes is collected annually pursuant to Section 12-36-920, an amount not to exceed fifty percent of the revenue in the

preceding fiscal year of the local hospitality tax authorized pursuant to this article may be used for the additional purposes provided in item (1) of this subsection.

(C) If applying the provisions of subsection (A)(7), then the revenues must be expended exclusively on public works projects designed to eliminate or mitigate the adverse effects of recurrent nuisance flooding, including that which is attributable to sea-level rise, or other recurrent flooding. Such adverse effects include road closures and other transportation disruptions, stormwater drainage issues, and compromised public infrastructure. The public works projects must be within or on tourism-related lands or areas. Revenues must not be used to pay claims or otherwise settle litigation that may arise from time to time due to the harmful impacts of nuisance or other flooding.

HISTORY: 1997 Act No. 138, Section 9; 1999 Act No. 93, Section 14; 2006 Act No. 314, Section 2, eff June 1, 2006; 2010 Act No. 290, Section 36, eff January 1, 2011; 2020 Act No. 146 (S.217), Sections 1, 2, eff September 28, 2020.

Editor's Note

2020 Act No. 146, Section 3, provides as follows:

"SECTION 3. Due to interruptions and delays in local government operations caused by the COVID-19 pandemic, any local government that has a comprehensive plan due December 31, 2020, may delay submission of the plan until December 31, 2021."

Effect of Amendment

The 2006 amendment, in subsection (B), designated subparagraph (1) and added subparagraph (2).

The 2010 amendment, in subsection (B)(2), substituted "fifty" for "twenty".

2020 Act No. 146, Section 1, in (A), added (7) and (8).

2020 Act No. 146, Section 2, added (C).

SECTION 6-1-740. Cumulative rate of local hospitality tax.

The cumulative rate of county and municipal hospitality taxes for any portion of the county area may not exceed two percent, unless the cumulative total of such taxes was in excess of two percent or were authorized to be in excess of two percent prior to December 31, 1996, in which case the cumulative rate may not exceed the rate that was imposed or adopted as of December 31, 1996.

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-750. Local hospitality tax revenue upon annexation.

In an area of the county where the county has imposed a local hospitality tax that is annexed by a municipality, the municipality must receive only that portion of the revenue generated in excess of the county local hospitality tax revenue for the previous twelve months in the area annexed.

HISTORY: 1997 Act No. 138, Section 9.

SECTION 6-1-760. Ordinances prior to March 15, 1997; calculation; revenue.

(A) With respect to capital projects and as used in this section, "tourist" means a person who does not reside in but rather enters temporarily, for reasons of recreation or leisure, the jurisdictional boundaries of a municipality for a municipal project or the immediate area of the project for a county project.

(B) Notwithstanding any provision of this article, any ordinance enacted by county or municipality prior to March 15, 1997, imposing an accommodations fee which does not exceed the three percent maximum cumulative rate prescribed in Section 6-1-540, is calculated upon a base consistent with Section 6-1-510(1), and the revenue from which is used for the purposes enumerated in Section 6-1-530, remains authorized and effective after the effective date of this section. Any county or municipality is authorized to issue bonds, pursuant to Section 14(10), Article X of the Constitution of this State, utilizing the procedures of Section 4-29-68, Section 6-17-10 and related sections, or Section 6-21-10 and related sections, for the purposes enumerated in Section 6-1-530, to pledge as security for such bonds and to retire such bonds with the

proceeds of accommodations fees imposed under Article 5 of this chapter, hospitality fees imposed under this chapter, state accommodations fees allocated pursuant to Section 6-4-10(1), (2), and (4), or any combination thereof, and the pledge of such other nontax revenues as may be available for those purposes for capital projects used to attract and support tourists.

HISTORY: 1997 Act No. 138, Section 10; 2010 Act No. 284, Section 1, eff upon approval (became law without the Governor's signature on June 28, 2010).

Code Commissioner's Note

This section was classified as Section 6-1-760 at the direction of the Code Commissioner.

Effect of Amendment

The 2010 amendment rewrote this section.

SECTION 6-1-770. Remitting tax to local governing body; frequency determined by estimated average amounts.

The tax provided for in this article must be remitted to the local governing body on a monthly basis when the estimated amount of average tax is more than fifty dollars a month, on a quarterly basis when the estimated amount of average tax is twenty-five dollars to fifty dollars a month, and on an annual basis when the estimated amount of average tax is less than twenty-five dollars a month.

HISTORY: 1998 Act No. 419, Part II, Section 63B.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Recommend Approval of Request to Purchase 48 Recycling Roll-off Containers (\$408,530)
MEETING NAME AND DATE:
Public Facilities Committee - March 25, 2024.
PRESENTER INFORMATION:
Jared Fralix, Assistant County Administrator – Infrastructure Neil Desai, Public Works Director Time needed for discussion = 5 minutes
ITEM BACKGROUND:
Currently, the recycling roll-off containers are owned and leased to the County from the current vendor, Waste Management. In the fall of 2023, we issued an RFP for recycling services. I2 Recycle was awarded the contract. Included in the contract award from I2 Recycle was a fee to lease the containers from I2 as the new vendor. Upon additional review, it was determined by Solid Waste & Recycling staff that it would be more advantageous to purchase the containers versus rent them. Similar to our initial plans, we intend for I2 to source the containers through their contract. Pending approval, we will amend the I2 contract to remove the multi-year cost to lease the containers with a one-time cost to purchase the containers.
PROJECT / ITEM NARRATIVE:
Solid Waste & Recycling needs to purchase (48) roll-off containers, with recycle hip roof with sliding doors, for use by its new contractor, i2 Recycle. To place Beaufort County logos and the Rerun image on the units it is necessary to purchase the roll-off containers. In addition to the quote provided by I2 Recycle, we received two additional quotes (one being from the state contract vendor) and have found the quote from I2 as comparable.
FISCAL IMPACT:
Per the original ARPA ordinance (2022/06), \$2,000,000 of ARPA funds were allocated to Solid Waste & Recycling. Those funds have already been transferred to the Solid Waste Enterprise Fund and the funds have been divided into separate line items within the Solid Waste account. The quote for the purchase of these containers is for \$408,530. The remaining Solid Waste & Recycling ARPA funds will be \$1,591,470. The funding for this item is from account the Solid Waste & Recycling non-capital equipment account: 5010-90-1340-52600 with an available balance of \$408,747.01 .
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommend approving the purchase of (48) roll-off containers. This recommendation is based on the need to provide recycling containers for its new recycling contract.
OPTIONS FOR COUNCIL MOTION:
Motion to approve /deny the recommendation to approve the purchase of (48) roll-off containers. <i>(Next Step – Forward action to County Council on 3/25/2024 for approval.)</i>



Non-Competitive Purchases Form



Item 3.

This form shall be completed for any non-competitive purchase that is not exempt.

(a) A County contract may be awarded without competition when the Purchasing Director determines in writing, after conducting a good faith review of available sources, that there is only one source for the required supply, service, or construction item. The Purchasing Director shall conduct negotiations, as appropriate, as to price, delivery, and terms. A record of sole source procurements shall be maintained as public record and shall list each contractor's name, the amount and type of each contract, a listing of the items procured under each contract, and the identification of each contract file.

(b) Sole source procurement of a used item from the open market may only be considered, provided that:

(1) The using agency recommends purchase; (2) condition of the item is verified by appropriate County official; and (3) price analysis justifies purchase when the following factors are considered: (a) new acquisition price; (b) current book value; and (c) maintenance costs.

Code 1982 SS 12-19 Sec. 2-518 Sole source procurement

The County Council may by resolution, exempt specific supplies or services from the purchasing procedures required in the Code. The following supplies and services shall be exempt from the purchasing procedures required in this division; however, the Purchasing Director for just cause may limit or withdraw any exemption provided for in this section. (1) Works of art for museum and public display (2) Published books, library books, maps, periodicals, technical pamphlets (3) Copyrighted educational films, filmstrips, slides and transparencies (4) Postage stamps and postal fees (5) Professional dues, membership fees and seminar registration fees (6) Medicine and drugs (7) Utilities including gas, electric, water and sewer (8) Advertisements in professional publications or newspapers (9) Fresh fruit, vegetables, meats, fish, milk, bread and eggs (10) Oil company credit cards (11) Articles for commercial sale by all governmental bodies

Code 1982 SS 12-14 Ord. No. 2000-1 S 1, 1-1-0-2000 Sec. 2-514 Exemption from procedures (12) Legal Services, which must be approved by the County Administrator or County Council (13) Fixed Wing and Rotary Win and Aircraft Maintenance.

Notwithstanding any other section of this division, the Purchasing Director may make or authorize others to make emergency procurements of supplies, services, or construction items when there exists a threat to the functioning of county government; for the preservation or protection of property; or for the health, welfare or safety of any person, provided that such emergency procurements shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of each emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the items procured under the contract, and the identification number of the contract file.

Code 1982 SS 12-20 Sec. 2-519 Emergency procurements

Requesting Department

Public Works/Solid Waste & Recycling

Requested Account Code

5010-90-1340-54100

Item 3.

Department Head *

Desai, Neil

Description of Requested Services:

Purchase of roll off containers

Please provide a listing of the items purchased:

Beaufort County has chosen to move forward with i2 Recycling for the RFP 102423: Recyclable Materials Processing and Marketing. The contract includes a lease to own agreement for roll off containers. Beaufort County Solid Waste wishes to request PFC and CC approval to purchase the roll off containers outright from i2 so they can be wrapped with Beaufort County logos and the Rerun image upon arrival. Funds in the account are from ARPA and have been approved by ACA to use for this purpose. Roll off recycling containers: QTY 48 Price for purchase: \$408,530

Requested Vendor Name:

i2 Recycle

Requested Vendor Address:

12 Wingshell lane, Hilton Head Island, SC 29926

Requested Vendor Phone Number:

843-785-4222

Requested Vendor Email Address:

mbennet@i2recycle.com

Type of Service Requested (Please choose one)

- Construction
- Service
- Supply/Good

Attachments

-  Recyclables Processing and Marketing Final.pdf
-  i2RecycleLLCresponseRFP102423 (1).pdf
-  BC container estimate Estimate 1035.pdf

Please select a reason below as to why this is a non-competitive purchase and provide a brief explanation.

- It is not possible to obtain competition. There is only one source available for the supply; service; or construction item.
- The procurement is for a used item from the open market. The item may only be considered if; (1) the using agency recommends purchase; (2) condition of the item is verified by appropriate County official; (3) Price analysis justifies purchase when the following factors are considered; (a) new acquisition price; (b) current book value; and (c) maintenance costs.
- An emergency exists that threatens the functioning of County government.
- An emergency exists that threatens the preservation or protection of County property.
- The item is a single source purchase. Other sources may be available but purchases are directed to one source because of factors unique to Beaufort County. Please select an option below:

- Standardization
- Warranty
- Other (please specify below)

i2 has placed the order for the containers for the purpose of the contract

What steps have been taken to verify that these features are not available elsewhere?

- Other brands/manufacturers were examined (please list names and contact information, and explain why they are not suitable for use by the County - attach additional pages as necessary):

Wastequip, Becker

- Other vendors were contacted (please list names and contact information and explain why those contacted did not meet the needs of the County - attach additional pages as necessary):

Submitter Reviewed Hoffman, Victoria Mar 1, 2024 3:01 PM

***** Department Head Section *****

Department Head Approved Desai, Neil Mar 1, 2024 3:47 PM

*** Purchasing Review Section ***

Date Received in Purchasing

Department:

Mar 4, 2024

Reviewed by Purchasing Department for completeness

Reviewed by:

Thomas, Dave

Mar 4, 2024 9:39 AM

Verified that this is the only source:

Yes No

Comments:

This will need to go to committee and CC for approval.

Purchasing Director Decision:

Approve Disapprove

Thomas, Dave

Mar 4, 2024 9:39 AM

Associated Requisition Number:

Associated Contract Number:

*** Purchasing Completion Section ***

Process Complete

Moyer, Victoria

Mar 4, 2024 11:43 AM

i2recycle
 12 WING SHELL LANE
 HILTON HEAD ISLAND, SC 29926
 US
 +1 8437853083
 info@i2recycle.com
 www.i2recycle.com

Estimate



ADDRESS
Beaufort County 9 Benton Field Road Bluffton, SC 29910

SHIP TO
Beaufort County 9 Benton Field Road Bluffton, SC 29910

ESTIMATE #	DATE	EXPIRATION DATE
1035	01/23/2024	02/13/2024

SALES REP
MB

EQUIPMENT TYPE
Roll Off Containers

DATE		DESCRIPTION	QTY	RATE	AMOUNT
	Parts	Parts & Equipment - 20yd OT7-STIFF 22' Deck 43" Sides Recycle Hip Roof w/ Plastic Sliding doors 30"x30" - 3 per side White Enamel	40	7,717.50	308,700.00
	Parts	Parts & Equipment - 40 yd Octagon Container White Enamel	8	9,197.50	73,580.00
	Shipping	Shipping - Estimated Delivery to Hardeeville SC 24 Combined Loads 50% Deposit require to begin construction 6-12 weeks Lead time after receipt of deposit. ETA will be updated once construction has begun	1	26,250.00	26,250.00

Estimate is good until February 1 2024 at which time price may be subject to change.

SUBTOTAL	408,530.00
TAX	0.00
TOTAL	\$408,530.00

Accepted By

Accepted Date

CONTAINERS

Recycling Containers



12 Yard Shown

FEATURING:

- Lifetime Guarantee on Hook and Hook Plate
- Rudco Roll-Offs feature tube main rails with solid bullnose
- All containers are primed and painted in one of ten standard colors
- Formed front corner posts for added strength
- Non-Sagging Door is designed to rest on floor of container
- Large "V" notches in each vertical support column prevents moisture retention
- Vertical Lift Handle with Semi-Automatic Cam Locking System

ALL PRODUCTS ARE BUILT RUDCO TOUGH IN THE USA

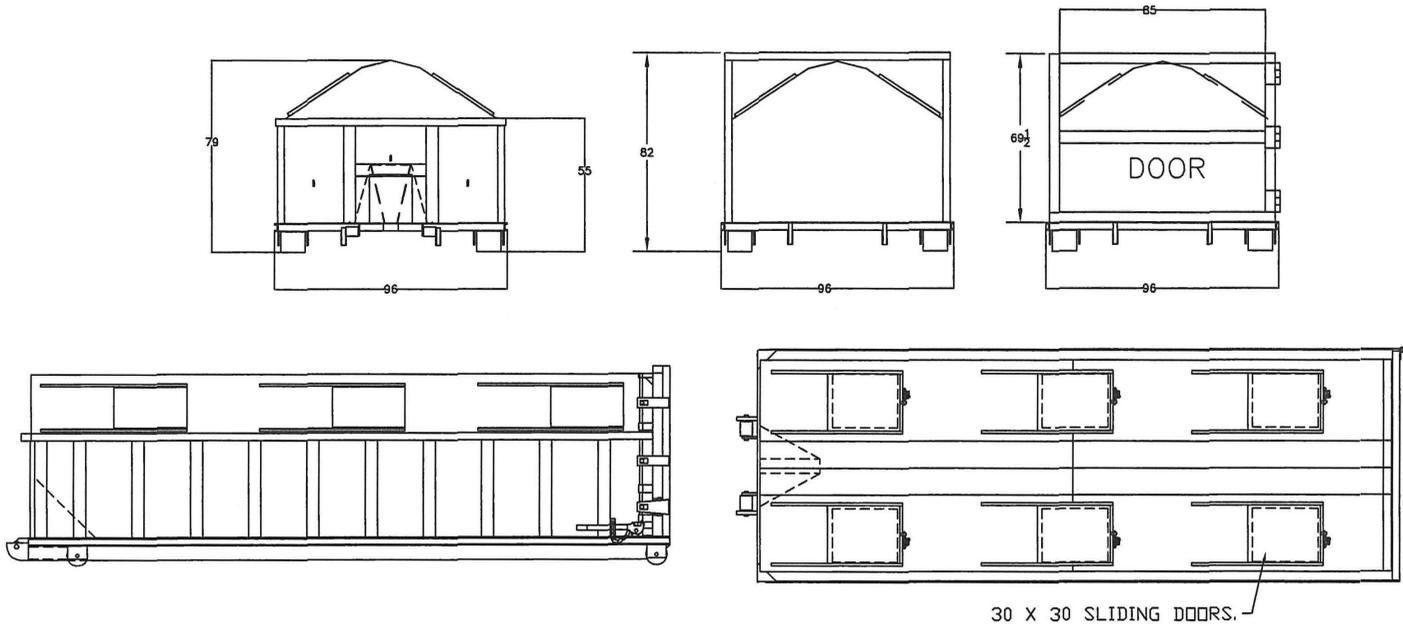
RUDCO
PRODUCTS, INC



Rental Program And Financing Available

www.rudco.com

Toll Free: 1.800.828.2234 • E-Mail: sales@rudco.com



SIZE	MAX. DOORS PER SIDE	HEIGHT INSIDE	HEIGHT OUTSIDE	WIDTH OVERALL	LENGTH OVERALL	APPROX. WEIGHT
12 YD	2	55"	78-1/2"	96"	(A) 12' 9"	3900 LBS.
18 YD	3	55"	78-1/2"	96"	(A) 16' 9"	4500 LBS.
25 YD	4	55"	78-1/2"	96"	(A) 22' 9"	5000 LBS.

STANDARD DECK

- 3/16" PL. Floor Sheet
- 3" Structural Channel on 20" Centers
- 3/16" PL. Gussets on every other Cross Member
- 6" x 2" x 3/16" Tube One Piece Main Rail
- Four 8" diameter x 8" LG. Heavy Duty Wheels
- 4" OD x 4" LG Front Roller w/1 1/2" Pin and Grease Fitting
- 1" Certified Hook Plate (w/lifetime guarantee)
- 1 1/4" Certified Plate Cable Hook (w/lifetime guarantee)
- 1 1/2" Plate Solid Bullnose

FRONT AND SIDES

- 11 Ga. Sheet
- 11 Ga. One Piece Formed Dog House
- 4" x 3" x 11 Ga. Top Tube
- Columns have notches at bottom to prevent moisture retention
- 2" x 2" Formed Angle

REAR CORNER POST

- 11 Ga. 3" x 5" Formed 4-Way Bend Side Stiffener on 24" Centers
- Hinge Side 3" x 6" x 3/16" Formed Stiffener 4-way Bend

REAR DOOR

- 11 Ga. Sheet w/ 4" x 3" x 11 Ga. Tube Frame and 3/8" Safety Chain
- Hinges 1/2" x 7" x 9" and 1/2" x 3" x 4" Plates with 2" OD Mechanical Tube Bushings with Grease Fittings and one 3/16" Cold Rolled Pin
- Non-Sagging Door is designed to rest on the floor of the container

DOOR LOCK

- Semi-automatic Cam Locking system w/3 Cams & Self-Aligning Keeper and with a Vertical Lift Handle (flat bar) to assure customer safety

ROOF

- 11 Ga. Steel With Maximum of 4 openings per side for a total of 8 per container.

DIVIDER (OPTIONAL)

- 11 Ga. Steel reinforced with 2" x 2" x 1/4" angle. Locking pins are inserted through the side of the container to lock divider in place.
- Each divider has an 11 Ga. fixed plate welded above to eliminate spillage into the next compartment. This enables you to obtain the fullest capacity of that compartment.

RUDCO RESERVES THE RIGHT TO REVISE, AMEND AND IMPROVE IT'S EQUIPMENT WITHOUT NOTICE

CORPORATE OFFICE: 114 E. Oak Rd. • Vineland, NJ 08360 • Ph: 1.856.691.0800 • Fax: 1.856.690.0556

MAILING ADDRESS: P.O. Box 705 • Vineland, NJ 08362

Toll Free: 1.800.828.2234 • E-Mail: sales@rudco.com
Phone: 1.856.691.0800 • Fax: 1.856.696.008

rudco.com



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

ITEM TITLE:
Recommend Approval of Request to Purchase Qty-13 Waste Compactor Units for Beaufort County Convenience Centers (\$624,021.42).
MEETING NAME AND DATE:
Public Facilities Committee - March 25, 2024.
PRESENTER INFORMATION:
Jared Fralix, Assistant County Administrator - Infrastructure Neil Desai, Public Works Director Time needed for discussion = 5 minutes
ITEM BACKGROUND:
Compactor units at the Convenience Centers have surpassed their recommended service life of 10 years. They experience mechanical issues and services at the Convenience Centers are negatively affected by this. The selected vendor is under a state contract. Quote prices were compared with other vendors with similar units. The state contract is preferable as it provides all services needed: installation of metal guards, removal of existing units, and installation of new units. Based on the individual needs of each center the following units are being proposed for purchase: Bluffton- RJ-450HD (5), RJ-450 (4) total: \$460,875.32, St Helena- RJ-450 (3) total: \$122,193.47, & Hilton Head- RJ-450 (1) total: \$40,952.63. The total cost of the 13 units and additional parts is \$624,021.42.
PROJECT / ITEM NARRATIVE:
Solid Waste & Recycling would like to replace compactor units that are in disrepair. Staff requests to move forward with the purchase of the compactor units under the state contract with Becker Complete Compactor Inc.
FISCAL IMPACT:
The vendor is under a state contract. The estimated cost for the purchase is \$624,021.42 and has been budgeted for FY24. A quote has been provided for the units at each center. The current funding account is 5010-90-1340-54100. Current funds remaining in the account: \$ 1,041,825.00.
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends moving forward with Becker to purchase the waste compactor units.
OPTIONS FOR COUNCIL MOTION:
Motion to accept /deny the request to purchase waste compactor units. <i>(Next Step – Forward action to County Council on April 8, 2024 for approval.)</i>



Becker Complete Compactor

Becker Complete, LLC
 2542 CHARLESTON HWY
 WEST COLUMBIA, SC 29172-3902
 Phone: 803-755-0075

Order #	Date
S4725	03/15/2024

Bill To:
County of Beaufort 100 Ribaut Rd Beaufort, SC 29902

Ship To:
County of Beaufort 100 Ribaut Rd Beaufort, SC 29902

Customer: County of Beaufort

Sales Rep	Payment Terms	FOB Point	Carrier	Date Scheduled
Devin	COD	Origin	Will Call	03/15/2024

Item #	Number	Description	Qty Ordered	Total Price
1	RJ-450	Standard Features Include: RH Side mounted Power Pack; Weather Cover for Power Pack; 3 Phase Tri-Volt; Push Button Control Station Mounted on 13' Sealtite; Ratchets with Grab Claws; External Reset Button in Panel Box Face; Driver Switch; and UL Listed NOTE: 3 PH 230;	1 ea	\$ 39,985.00
2	000444	Fullness package Includes advanced warning and container full	1 ea	\$ 1,522.00
3	000173	Side feed 3 sided Specify left hand or right hand feed Must add Hold to Run controls	1 ea	\$ 8,260.00
4	000284	Controls on 20' sealtite in lieu of 13'	1 ea	\$ 342.00
5	000005	Pressure gauge on 20' hose - Single needle & single color	1 ea	\$ 696.00
6	000014	Container guide 5' long NOTE: With Stops	1 ea	\$ 800.00
7		Subtotal		\$ 51,605.00
8	30%	30% Discount		-\$ 15,481.50
9		Subtotal		\$ 36,123.50
10	BCC Custom	BCC Custom NOTE: Metal side guards fabricated and installed for each compactor; Price per compactor;	1 ea	\$ 400.00
11	FREIGHT-01	Freight with Shipping and Handling NOTE: Delivery of (1) unit	1 ea	\$ 1,750.00



Estim Item 4.

Becker Complete Compactor

Becker Complete, LLC
2542 CHARLESTON HWY
WEST COLUMBIA, SC 29172-3902
Phone: 803-755-0075

Order #	Date
S4725	03/15/2024

Subtotal:	\$38,273.50
Sales Tax:	\$2,679.13
Total:	\$40,952.63

Approval: _____ Date: _____

March 15, 2024 11:16:31 PM EDT



Becker Complete Compactor

Becker Complete, LLC
 2542 CHARLESTON HWY
 WEST COLUMBIA, SC 29172-3902
 Phone: 803-755-0075

Order #	Date
S4726	03/15/2024

Bill To:
County of Beaufort 100 Ribaut Rd Beaufort, SC 29902

Ship To:
County of Beaufort 100 Ribaut Rd Beaufort, SC 29902

Customer: County of Beaufort

Sales Rep	Payment Terms	FOB Point	Carrier	Date Scheduled
Devin	COD	Origin	Will Call	03/15/2024

Item #	Number	Description	Qty Ordered	Total Price
1	RJ-450 HD	Standard Features Include: RH Side mounted Power Pack; Weather Cover for Power Pack; 3 Phase Tri-Volt; Push Button Control Station Mounted on 13' Sealtite; Ratchets with Grab Claws; External Reset Button in Panel Box Face; Driver Switch; and UL Listed NOTE: 3 PH 230;	5 ea	\$ 327,490.00
2	RJ-450	Standard Features Include: RH Side mounted Power Pack; Weather Cover for Power Pack; 3 Phase Tri-Volt; Push Button Control Station Mounted on 13' Sealtite; Ratchets with Grab Claws; External Reset Button in Panel Box Face; Driver Switch; and UL Listed	4 ea	\$ 159,940.00
3	000444	Fullness package Includes advanced warning and container full	9 ea	\$ 13,698.00
4	000173	Side feed 3 sided Specify left hand or right hand feed Must add Hold to Run controls	9 ea	\$ 74,340.00
5	000284	Controls on 20' sealtite in lieu of 13'	9 ea	\$ 3,078.00
6	000005	Pressure gauge on 20' hose - Single needle & single color	9 ea	\$ 6,264.00
7	000014	Container guide 5' long NOTE: With Stops	9 ea	\$ 7,200.00
8		Subtotal		\$ 592,010.00
9	30%	30% Discount		-\$ 177,603.00
10		Subtotal		\$ 414,407.00
11	BCC Custom	BCC Custom NOTE: Metal side guards fabricated and installed for each compactor; Price per compactor;	9 ea	\$ 3,600.00
12	FREIGHT-01	Freight with Shipping and Handling NOTE: Delivery of (9) units	1 ea	\$ 12,783.00



Estim Item 4.

Becker Complete Compactor

Becker Complete, LLC
2542 CHARLESTON HWY
WEST COLUMBIA, SC 29172-3902
Phone: 803-755-0075

Order #	Date
S4726	03/15/2024

Subtotal:	\$430,790.00
Sales Tax:	\$30,085.32
Total:	\$460,875.32

Approval: _____ Date: _____

March 15, 2024 11:14:17 PM EDT



Becker Complete Compactor

Becker Complete, LLC
 2542 CHARLESTON HWY
 WEST COLUMBIA, SC 29172-3902
 Phone: 803-755-0075

Order #	Date
S4728	03/18/2024

Bill To:
County of Beaufort 100 Ribaut Rd Beaufort, SC 29902

Ship To:
County of Beaufort 100 Ribaut Rd Beaufort, SC 29902

Customer: County of Beaufort

Sales Rep	Payment Terms	FOB Point	Carrier	Date Scheduled
Devin	COD	Origin	Will Call	03/15/2024

Item #	Number	Description	Qty Ordered	Total Price
1	RJ-450	Standard Features Include: RH Side mounted Power Pack; Weather Cover for Power Pack; 3 Phase Tri-Volt; Push Button Control Station Mounted on 13' Sealtite; Ratchets with Grab Claws; External Reset Button in Panel Box Face; Driver Switch; and UL Listed NOTE: 3 PH 230;	3 ea	\$ 119,955.00
2	000444	Fullness package Includes advanced warning and container full	3 ea	\$ 4,566.00
3	000173	Side feed 3 sided Specify left hand or right hand feed Must add Hold to Run controls	3 ea	\$ 24,780.00
4	000284	Controls on 20' sealtite in lieu of 13'	3 ea	\$ 1,026.00
5	000005	Pressure gauge on 20' hose - Single needle & single color	3 ea	\$ 2,088.00
6	000014	Container guide 5' long NOTE: With Stops	3 ea	\$ 2,400.00
7		Subtotal		\$ 154,815.00
8	30%	30% Discount		-\$ 46,444.50
9		Subtotal		\$ 108,370.50
10	BCC Custom	BCC Custom NOTE: Metal side guards fabricated and installed for each compactor; Price per compactor;	3 ea	\$ 1,200.00
11	FREIGHT-01	Freight with Shipping and Handling NOTE: Delivery of (3) units	1 ea	\$ 4,629.00



Estin Item 4.

Becker Complete Compactor

Becker Complete, LLC
2542 CHARLESTON HWY
WEST COLUMBIA, SC 29172-3902
Phone: 803-755-0075

Order #	Date
S4728	03/18/2024

Subtotal:	\$114,199.50
Sales Tax:	\$7,993.97
Total:	\$122,193.47

Approval: _____ Date: _____

March 18, 2024 9:45:42 AM EDT



1031 Hickstown Road, Erial, NJ, 08081
 PHONE: 800-220-2228 FAX: 856-346-9118
 WQ-10302333

Item 4.



Sell To:

Contact Name	Victoria Hoffman	Ship To Name	Beaufort County Public Works
Bill To Name	Beaufort County Public Works	Ship To	129 Shanklin Rd
Bill To	129 Shanklin Rd		Beaufort, SC 29906-8403
	Beaufort, SC 29906-8403		USA
	USA	Quick Ship	<input type="checkbox"/>
Email	victoria.hoffman@bcgov.net	Installation Location	Same as shipping address
Phone	(843) 255-2735		

Quote Information

Salesperson	Tim Pickel	Created Date	2/28/2024
Salesperson Email	tpickel@wastequip.com	Expiration Date	3/29/2024
		Quote Number	WQ-10302333
			Please Reference Quote Number on all Purchase Orders

Product	Product Description	Description	Selected Option	Quantity	Sales Price	Total Price
Compaction - 445XHD-F	Stationary Compactor Model includes a Key Start-Auto-Jog, 15HP Tri-volt T.E.F.C. motor, UL/CUL Listed, Remote Power Unit, Weather cover, Controls Mounted in Face of NEMA 4 Rated Panel, NEMA 4 Rated Control Panel, Heavy Duty Ratchet Binders, A.N.S.I Z.245.2 Compliant and WASTEC rated		Color: Dark Green Voltage: TBD-3PH Feed Side: TBD Quick Disconnect: TBD	1.00	\$16,082.59	\$16,082.59
Compaction - CO102	80% full - Advance warning light			1.00	\$338.20	\$338.20
Compaction - CO112	Hold To Run Button			1.00	\$117.83	\$117.83
Compaction - CO122	Factory Options - Controls on remote pendant in lieu of mounting in panel face on 15' cord			1.00	\$217.31	\$217.31
Compaction - CO206 - 445-395-350	Hopper / Doghouse - 4 sided 48" tapered to 42" tall hopper, 12ga. Steel			1.00	\$1,774.85	\$1,774.85
Compaction - VAF-STAT-1	Guardian Control System			1.00	\$0.00	\$0.00
Compaction - VAF-STAT-2	(AMS) Automatic Maintenance Scheduler			1.00	\$0.00	\$0.00
Compaction -	100% Full Light			1.00	\$0.00	\$0.00



VAF-STAT-3						
Compaction - VAF-STAT-4	Multicycle Timer - factory set for 2 cycles			1.00	\$0.00	\$0.00
Compaction - VAF-STAT-5	Low Temperature Oil			1.00	\$0.00	\$0.00
Compaction - VAF-STAT-6	Warranty: 3 Years Structural, 1 Years Parts and 1 Year Labor			1.00	\$0.00	\$0.00
Compactor Installation	Install requires crane rental, if necessary, to hold and mount oversized hopper			1.00	\$4,600.00	\$4,600.00
Surcharge				1.00	\$3,706.16	\$3,706.16

Payment Terms	Net 30 Days if credit has been established	Subtotal	\$26,836.94
Shipping Terms	FOB Origin	Shipping	\$1,970.83
		Tax	\$1,556.59
		Grand Total	\$30,364.36

Special Instructions

Special Instructions Customer responsible for offloading, no steel options included, receiver container not included,
 Install by JH Services

Additional Information

Additional Terms Our Quote serves as an offer to provide Products and/or services at the quantities and prices shown and is a good faith estimate, based on our understanding of your needs. By signing below, you indicate your acceptance of our offer which is expressly subject to the Wastequip Terms & Conditions of Sale ("Wastequip's Terms") located at: <https://www.wastequip.com/terms-conditions-sale>, as of the date set forth in Section 1(b) of the WQ T&C, which are made a part of this Quote. Wastequip's Terms may be updated from time to time and are available by hard copy upon request. Any changes or deviations to the terms of this Quote, including any different terms in an Order submitted by you, must be agreed upon in writing by both parties.

Additional Information Pricing is based on your anticipated Order prior to the expiration of this Quote, including product specifications, quantities and timing. Any differences to your Order may result in different pricing, freight or other costs. Due to volatility in petrochemical, steel and related Product material markets, actual prices and freight, are subject to change. We reserve the right, by providing notice to you at any time before beginning Product manufacturing, to increase the price of the Product(s) to reflect any increase in the cost to us which is due to any factor beyond our control (such as, without limitation, any increase in the costs of labor, materials, or other costs of manufacture or supply). Unless otherwise stated, materials and container sizes indicated on sales literature, invoices, price lists, quotations and delivery tickets are nominal sizes and representations – actual volume, Products and materials are subject to manufacturing and commercial variation and Wastequip's practices, and may vary from nominal sizes and materials. All prices are in US dollars; this Quote may not include all applicable taxes, brokerage fees or duties. If customer is not tax exempt, final tax calculations are subject to change.



1031 Hickstown Road, Erial, NJ, 08081
PHONE: 800-220-2228 FAX: 856-346-9118
WQ-10302333

Item 4.



Special Contract Information Canoe through partnership with Sourcewell - Pricing & Product offerings are based on the Sourcewell Co-Operative Contract with Wastequip, LLC (#040621-WQI, eff. 06/02/2021) and such Contract terms & conditions are incorporated herein by reference. Pricing & Product (& related) changes may occur at any time with proper documentation, & subject to Sourcewell approval; therefore, offerings may change without written prior notice. Wastequip Product Limited Warranties, Disclaimers, Limitation of Liability & Remedies, & Limited Warranty Provisions apply to all purchases thereunder.

Signatures

Accepted By: _____
Company Name: _____
Date: _____
Purchase Order: _____

Please Reference Quote Number on all Purchase Orders



1031 Hickstown Road, Erial, NJ, 08081
 PHONE: 800-220-2228 FAX: 856-346-9118
 WQ-10301928

Item 4.



Sell To:

Contact Name	Victoria Hoffman	Ship To Name	Beaufort County Public Works
Bill To Name	Beaufort County Public Works	Ship To	129 Shanklin Rd
Bill To	129 Shanklin Rd Beaufort, SC 29906-8403 USA		Beaufort, SC 29906-8403 USA
Email	victoria.hoffman@bcgov.net		
Phone	(843) 255-2735		

Quote Information

Salesperson	Tim Pickel	Created Date	2/9/2024
Salesperson Email	tpickel@wastequip.com	Expiration Date	3/10/2024
		Quote Number	WQ-10301928
			Please Reference Quote Number on all Purchase Orders

Product	Product Description	Selected Option	Quantity	Sales Price	Total Price
Compaction - 445XHD-F	Stationary Compactor Model includes a Key Start-Auto-Jog, 15HP Tri-volt T.E.F.C. motor, UL/CUL Listed, Remote Power Unit, Weather cover, Controls Mounted in Face of NEMA 4 Rated Panel,NEMA 4 Rated Control Panel, Heavy Duty Ratchet Binders, A.N.S.I Z.245.2 Compliant and WASTECC rated	Color: TBD-Standard Color Voltage: TBD-3PH Feed Side: TBD	1.00	\$16,082.59	\$16,082.59
Compaction - CO112	Hold To Run Button		1.00	\$117.83	\$117.83
Compaction - VAF-STAT-1	Guardian Control System		1.00	\$0.00	\$0.00
Compaction - VAF-STAT-2	(AMS) Automatic Maintenance Scheduler		1.00	\$0.00	\$0.00
Compaction - VAF-STAT-3	100% Full Light		1.00	\$0.00	\$0.00
Compaction - VAF-STAT-4	Multicycle Timer - factory set for 2 cycles		1.00	\$0.00	\$0.00
Compaction -	Low Temperature Oil		1.00	\$0.00	\$0.00



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 WQ-10301928

Item 4.



VAF-STAT-5				
Compaction - VAF-STAT-6	Warranty: 3 Years Structural, 1 Years Parts and 1 Year Labor		1.00	\$0.00
Surcharge			1.00	\$3,240.08

Payment Terms	Net 30 Days if credit has been established	Subtotal	\$19,440.50
Shipping Terms	FOB Origin	Shipping	\$1,970.84
		Tax	\$1,360.84
		Grand Total	\$22,772.18

Special Instructions

Special Instructions Customer responsible for offloading, no steel options included, receiver container not included, install not included.

Additional Information

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Signatures

Accepted By: _____
 Company Name: _____



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WQ-10301928

Item 4.



Date: _____

Purchase Order: _____

Please Reference Quote Number on all Purchase Orders