



Natural Resources Committee Beaufort County, SC

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

**Monday, November 07, 2022
3:00 PM**

AGENDA

COMMITTEE MEMBERS:

**ALICE HOWARD, CHAIRMAN
LOGAN CUNNINGHAM
YORK GLOVER**

**GERALD DAWSON, VICE-CHAIRMAN
LAWRENCE MCELYNN**

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT
4. APPROVAL OF AGENDA
5. **CITIZEN COMMENTS - (ANYONE who wishes to speak during the Citizen Comment portion of the meeting will limit their comments to no longer than three (3) minutes (a total of 15 minutes) and will address Council in a respectful manner appropriate to the decorum of the meeting, refraining from the use of profane, abusive, or obscene language)**

AGENDA ITEMS

6. RECOMMEND APPROVAL OF A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE PURCHASE OF DEVELOPMENT RIGHTS ON TAX MAP SERIAL NUMBER R700 037 000 0131 0000 AND ALSO KNOWN AS LOBECO FARMS
7. RECOMMEND APPROVAL OF A RESOLUTION TO THE AMENDED OYSTER FACTORY PARK MASTER PLAN (2022 OYSTER FACTORY PARK MASTER PLAN) AND SITE LAYOUT PLAN
8. RECOMMEND APPROVAL OF A RESOLUTION TO UPDATE POLICY 19- ACQUISITION OF STORMWATER DRAINAGE EASEMENTS
9. RECOMMEND APPROVAL OF THE ARTHUR HORNE PARK STORMWATER PROJECT FUNDING OPPORTUNITY (*Fiscal Impact for this project is \$400,000 per FY23 and FY24 Stormwater Utility budget*)
10. RECOMMEND APPROVAL OF THE APPOINTMENTS TO A CULTURAL PROTECTION OVERLAY DISTRICT COMMITTEE

- [11.](#) RECOMMEND APPROVAL OF A REQUEST FOR DUE DILIGENCE ON THE PURCHASE OF DEVELOPMENT RIGHTS (PDR) FOR TMS# R600 038 000 0023 KNOWN AS THE TARVER TRACT
- [12.](#) RECOMMEND APPROVAL OF A RESOLUTION TO ADOPT A COUNTY-OWNED REAL PROPERTY LEASE POLICY *(Fiscal Impact: No immediate fiscal impact. If adopted the County would receive the monthly lease rates moving forward)*
13. ADJOURNMENT

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>



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

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| ITEM TITLE: |
| A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE PURCHASE OF DEVELOPMENT RIGHTS ON TAX MAP SERIAL NUMBER R700 037 000 0131 0000 AND ALSO KNOWN AS LOBECO FARMS |
| MEETING NAME AND DATE: |
| Natural Resources Committee, Monday, November 7 2022 |
| PRESENTER INFORMATION: |
| Ms. Kate Schaefer, Director of Land Protection, Open Land Trust 5 minutes |
| ITEM BACKGROUND: |
| Rural and Critical Land Preservation Board recommended approval for due diligence on 7/8/21, NR 8/9/21 Rural and Critical Land Preservation Board recommended approval for PDR on 10/06/22, |
| PROJECT / ITEM NARRATIVE: |
| A PDR and conservation easement is recommended for Lobeco Farms PDR; 115 acres with PDR price of \$529,000. Easement terms include an easement favorable for future community farm use and agricultural activity. Recommended for the County to execute a right of first refusal at closing for the parcel including farm buildings and Highway 21 frontage in the event the County would like to operate a community farm in the future. |
| FISCAL IMPACT: |
| \$529,000 purchase from Beaufort County Rural and Critical Land Preservation Program Bond Referendum (Account # 45000011-54400) |
| STAFF RECOMMENDATIONS TO COUNCIL: |
| Staff recommends approval |
| OPTIONS FOR COUNCIL MOTION: |
| Motion to approve PDR for Lobeco Farms Motion to modify PDR for Lobeco Farms Motion to reject PDR for Lobeco Farms |

RESOLUTION 2022/_____

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS AND PROVIDE FUNDING FOR THE PURCHASE OF DEVELOPMENT RIGHTS ON TAX MAP SERIAL NUMBER R700 037 000 0131 0000 AND ALSO KNOWN AS LOBECO FARMS

WHEREAS, Seller wishes to sell and Purchaser wishes to purchase the development rights on properties currently identified as TMS R700 037 000 0131 0000 consisting of +/- 115 acres and also known as Lobeco Farms PDR; collectively hereinafter “Lobeco Farms” and

WHEREAS, the purchase of development rights of Lobeco Farms has been demonstrated to meet the Critical Lands Criteria of the Rural and Critical Lands Program (“RCLP”); and

WHEREAS, the proposal to purchase development rights for Lobeco Farms for a purchase price of \$529,000.00 plus closing costs will be protected with a conservation easement; and

WHEREAS, the conservation easement for Lobeco Farms is enclosed as Exhibit A and purchase agreement as exhibit B; and

WHEREAS, the proposed purchase development rights associated with Lobeco Farms was presented to the Rural and Critical Land Preservation Board (RCLPB) at the October 06, 2022 meeting and the RCLPB unanimously recommended approval of the purchase; and

WHEREAS, the proposed purchase of development rights of Lobeco Farms was presented to the Natural Resources Committee at the November 7, 2022 meeting at which time it was referred to County Council; and

WHEREAS, County Council finds that it is in the best interest of the citizens and residents of Beaufort County for the County Administrator to execute the necessary documents for the purchase of development rights on Village Creekside;

NOW, THEREFORE, BE IT RESOLVED that Beaufort County Council, duly assembled, does hereby authorize the County Administrator to execute the necessary documents and provide funding in the amount of \$529,000.00 plus closing costs for the purchase of development rights identified as TMS R700 037 000 0131 0000 and also known as Lobeco Farms PDR.

Adopted this ____ day of _____, 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

EXHIBIT A

| | | |
|---|------------------|---|
| STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT |)))) | AGREEMENT TO SELL AND PURCHASE DEVELOPMENT RIGHTS BY GRANT OF CONSERVATION EASEMENT |
|---|------------------|---|

THIS AGREEMENT TO SELL AND PURCHASE DEVELOPMENT RIGHTS BY GRANT OF CONSERVATION EASEMENT is made and entered into this _____ day of November 2022, by and between **YIP, LLC** (the "Seller") and the **BEAUFORT COUNTY**, a subdivision of the State of South Carolina (the "Purchaser"); hereinafter collectively referred to as the "Parties".

WITNESSETH:

WHEREAS, the Parties hereto have had preliminary discussions with regard to the sale and purchase of certain development rights of real property located on St. Helena Island in Beaufort County, South Carolina, and it is their desire to document their understandings with respect to said development rights.

NOW THEREFORE, in consideration of the premises and of the mutual promises and covenants herein contained the Seller and Purchaser agree as follows:

1. **Development Rights of Real Property.** The Seller agrees to sell and the Purchaser agrees to purchase certain development rights on certain real property containing approximately one hundred and fifteen (115) acres (Beaufort County TMS# R700 037 000 0131 0000) commonly known as "Lobeco Farms" and as further described in Exhibit A attached hereto and incorporated herein by reference, (the "Development Rights").

2. **Consideration / Purchase Price.** The purchase price of the Development Rights shall be FIVE HUNDRED AND TWENTY NINE THOUSAND AND XX/100 Dollars (\$529,000.00) (the "Purchase Price").

3. **Conveyance of Development Rights by Grant of Conservation Easement / Title.** The Development Rights to the above described Property shall be conveyed to the Beaufort County Open Land Trust by Seller's Grant of Conservation Easement attached hereto and incorporated herein by reference as Exhibit B. Seller agrees to convey the Development Rights by Grant of Conservation Easement by marketable title, free and clear of all liens and encumbrances whatsoever and those agreed upon to be assumed by Purchaser (the "Permitted Exceptions"). Purchaser shall have the responsibility to examine the title to the Property. Purchaser shall notify Seller in writing of any title defects during the Inspection Period. Seller shall have twenty (20) days from the date of such notification in which to cure such defects at its own expense or to decline to cure such defects noted by Purchaser. Seller shall notify Purchaser in writing of Seller's election to cure or decline to cure such defects noted by Purchaser within ten (10) days of receipt of Purchaser's notice. Purchaser shall then have five (5) days from the date of Seller's notice within which to notify Seller

of Purchaser's termination of this Agreement for lack of sufficient cure to such defects. Absent Seller's receipt of notice from Purchaser within said five (5) day period, all of Purchaser's outstanding defects shall be deemed Permitted Exceptions, and the Closing shall be held on or before the date provided for Closing in this Agreement.

4. **Plat.** Purchaser shall at its sole cost and expense engage a surveyor licensed in South Carolina to prepare a Boundary Plat of the Property (the "Plat"), which shall be certified to Purchaser and the title insurers.

5. **Inspection.** Purchaser hereby acknowledges and agrees that Purchaser has or will thoroughly inspect and examine the property prior to closing. Purchaser is responsible for obtaining inspection reports from qualified professionals to assess the Property.

a) Inspection Period. It is understood by the Parties that this Agreement is subject to a due diligence period until 5:00 P.M. on November 30, 2022. For that reason the Parties have agreed as follows:

Purchaser may cancel this contract at any time prior to November 30, 2022 (the "Inspection Period"). Purchaser shall notify Seller in writing of its desire to cancel this Agreement. This Agreement shall be cancelled immediately upon Seller's receipt of written cancellation notice as set forth in this Section, and neither party shall have any further obligations hereunder.

b) Right of Access for Inspection. Purchaser and/or its agents shall have the privilege of going upon the Property at any time during the existence of this Agreement to inspect, examine, survey and to make test borings, soil boring tests and any other tests which the Purchaser may deem necessary, at Purchaser's expense. Purchaser assumes all responsibility for the acts of itself, its agents or representatives in exercising its rights under Agreement.

6. **Closing.** The Closing occurs when Purchaser transfers the Purchase Price to Seller and Seller conveys the Development Rights by Grant of Conservation Easement to Purchaser.

a) Closing. The Closing shall occur forty-five (45) days subsequent to the due diligence period ("Closing Date") at the offices of Purchaser's attorney, or on such other date, place and/or time as the Parties may mutually agree.

b) Closing Costs and Prorations. All current real estate taxes, assessments, dues and other proratable items, if any, shall be apportioned pro rata on a per diem basis as of the date of closing. All taxes for any years prior to 2022 shall be the responsibility of the Seller. Seller shall be responsible for paying the South Carolina recording fee (formerly referred to as documentary stamps), transfer tax to be affixed to the deed and related transfer documents, if any such fee or tax be applicable to this transaction. Purchaser shall be responsible for any other fees for recording the deed and for any of its financing costs. Each party shall be responsible for its own legal fees.

7. **Brokerage Fees.** Seller represents that the Property is not subject to a listing contract with any real estate broker. Purchaser shall be responsible for any real estate commissions owed for real estate services provided to Purchaser. The Parties agree to indemnify and hold each other harmless from any claim of commission by others arising by, through or on account of the acts of the Parties.

8. **Seller's Delivery of Documentation.** Seller shall deliver to Purchaser at or before the Closing (at such times as Purchaser may reasonably request) all of the following documents, the delivery and accuracy of which shall be a condition to Purchaser's obligation to consummate the purchase and sale herein contemplated:

a) Grant of Conservation Easement. A grant of conservation easement to the Beaufort County Open Land Trust substantially in form and substance to that shown in Exhibit B and counsel for Purchaser, conveying certain development rights to the Property, free and clear of all liens, encumbrances, easements and restrictions of every nature and description, except those Permitted Exceptions referenced herein.

9. **Conditions Precedent.** Notwithstanding anything to the contrary stated herein, the obligations of Purchaser to purchase the property are expressly made subject to the Seller's representation that as of the Closing Date the warranties and representations of Seller shall be true and correct. The foregoing conditions are for the sole benefit of and may be waived by Purchaser by written notice to Seller.

10. **Default.** If Purchaser or Seller fails to perform any provision of this Agreement, the other party may elect to seek any remedy provided in equity (but not at law for money damages) as a result of such failure to perform, including an action for specific performance of Seller's obligations under this Agreement, or terminate this Agreement with a five (5) day written notice. If terminated, both Parties agree to cooperatively pursue their obligations set forth herein in good faith.

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

TO PURCHASER: Beaufort County
 Attn: Amanda Flake
 Post Office Drawer 1228
 Beaufort, SC 29901-1228
 E-mail: aflake@bcgov.net
 (843) 255-2140

Copy to: Beaufort County
 Post Office Box 1228
 Beaufort, SC 29901
 Attn: Brittany Ward Beaufort County Attorney
 Email: bward@bcgov.net
 (843) 255-2025

Thomas A. Bendle, Jr.
 Howell, Gibson and Hughes PA
 Post Office Box 40
 Beaufort, SC 29901
 (843) 522-2400
tbendle@hghpa.com

TO SELLER: YIP, LLC
 Attn: Mike McShane
 328 East Bay Street
 Charleston, SC 29401
 E-mail: ravenpoint@gmail.com

12. **Assignment by Purchaser.** Purchaser shall have the right to assign this Agreement to a related entity by giving Seller notice of such assignment (which shall include the name and address of the Assignee) together with an executed counterpart of the assignment wherein such Assignee assumes the performance of all of the terms and conditions of this Agreement on the part of the Purchaser to be performed.

13. **Condemnation.** In the event that at the time of Closing all or any part of the Property is acquired, or is about to be acquired, by authority of any governmental agency in the exercise of its power of eminent domain or by private purchase in lieu thereof (or in the event that at such time there is any threat or imminence of any such acquisition by any such governmental agency), Purchaser shall have the right, at its option, to terminate this Agreement and recover its deposit hereunder, or to purchase only so much of the Property not condemned or under threat of condemnation, in which event the purchase price and terms shall be adjusted accordingly.

14. **No Joint Venture.** It is understood and agreed between the Parties hereto that this is an agreement for the sale of real estate and is in no way to be considered a joint venture between Seller and Purchaser. It is further understood and agreed that Purchaser is assuming no liabilities, whether fixed or contingent, of Seller, and that this is a purchase of real estate assets.

15. **Entire Agreement.** This Agreement incorporates any and all prior agreements, covenants, and understandings between the Parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this agreement. No prior agreement or understandings, verbal or otherwise, of the Parties or their agent shall be valid or enforceable unless embodied in this Agreement.

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

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

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

19. **Authority.** Each individual and entity executing this Agreement hereby represents and warrants that he, she or its has the capacity set forth on the signature pages hereof with full power and authority to bind the party on whose behalf he, she or it is executing this Agreement to terms hereof.

20. **Governing Law.** The laws of the State of South Carolina shall govern the interpretation, validity, performance and enforcement of this Agreement, and, of any personal guarantees given in connection with this Agreement.

21. **Time is of the Essence.** The time and dates specified in this Agreement shall be enforced; however, the time and dates may be modified for reasonable cause when both Parties agree in writing to a reasonable extension.

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

WITNESSES:

PURCHASER:

Eric L. Greenway
Beaufort County Administrator

WITNESSES:

SELLER:

By: _____
Its: _____

Exhibit A

PROPERTY DESCRIPTION

A conservation easement is over and across:

All that certain piece, parcel or tract of land, together with buildings and improvements thereon, situate, lying and being in Sheldon Township, in the County of Beaufort, State of South Carolina, containing 115.13 acres, more or less, and being fully shown and delineated on a plat prepared for Beaufort County Open Land Trust, entitled "BOUNDARY SURVEY R700 037 000 0131 0000" by Gasque and Associates Inc Land Surveyors, dated June 16, 2022 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book ___ at Page ___. For a complete description as to metes and bounds, reference is had to said plat.

DMP References:

TMS#: R700 037 000 0131 0000

WHEREAS, the Protected Property is within the ACE Basin, a focal area including parts of the Salkehatchie/Combahee 8-digit HUC Watershed, as recognized by the Edisto River Basin Resource Assessment, sponsored by the National Oceanic and Atmospheric Administration, and is part of a system supporting numerous high-quality wetland plant communities and highly intact, extensive riparian habitats;

WHEREAS, The ACE Basin is one of the largest relatively undeveloped wetland ecosystems remaining along the Atlantic Coast. It has been identified as a unique coastal ecosystem of national and regional significance under the National Wetlands Priority Conservation Plan, including exceptionally diverse and rich habitats supporting more than 267 species of terrestrial and aquatic birds, 83 species of reptiles and amphibians, 20 species of mammals, and 130 species of fish and shellfish, nesting, foraging, and wintering habitat for a number of endangered and threatened species; and

WHEREAS, the Protected Property will provide critical habitat linkages to adjacent protected lands; and

WHEREAS, Preservation of the Protected Property is pursuant to federal, state and local governmental conservation policy and may achieve a significant public benefit towards the fulfillments of these conservation policies, specifically:

- i. South Carolina Code Annotated 12-43-220(d) grants a special agricultural use value for real property which is “actually used for agricultural purposes.” Section 12-43-230(a) defines agricultural real property as “...any tract of real property which is used to raise, harvest or store crops, feed, breed or manage livestock, or to produce plants, trees, fowl or animals useful to man, including the preparation of the products raised thereon for man’s use and disposed of by marketing or other means....”
- ii. The Conservation Area helps to fulfill the goals of the South Carolina Forest Legacy Program, including the following specified goals: “protect river systems, wetlands, and their associated upland habitats; reduce forest fragmentation caused by development; provide buffer areas and connectivity to already protected areas; and promote Best Management Practices for forestry”;
- iii. South Carolina House Bill 4727 Section 48-59-50, B(5) identifies areas suitable for land protection according to conservation connectivity, ecological conservation priorities, and sustainable forestry and agriculture among other categories,
- iv. Beaufort County Comprehensive Plan and Greenprint Plan, adopted in 2020, identifying properties in rural areas, including the Protected Property, as important for the agricultural value, soil health, and contribution to a working rural landscape; and

WHEREAS, the specific Conservation Values, as detailed in the Recitals above and outlined in Paragraph 1 below, are summarized hereunder and documented in a report on file at the **Grantee’s** office and incorporated herein by this reference (hereinafter the “Baseline Documentation”), which consists of maps, reports and photographs (including aerial imagery and on-site photographs taken by a representative of the **Grantee**), and property review occurs prior to easement, and the parties agree that the Baseline Documentation provides, collectively, an accurate representation of the Protected Property

at the time of this Easement and is intended to serve as an objective point of reference from which **Grantee** shall monitor and enforce compliance with the terms of this Easement; and

WHEREAS, **Grantor** believes that through this Easement, the natural resources, habitat, beauty and unique ecological character of the Protected Property can be protected in a manner that permits continuing private ownership of land and its continued use and enjoyment; and

WHEREAS, **Grantor** intends to preserve and protect the Conservation Values, as detailed in the Recitals above and outlined in Paragraph 1 below, in perpetuity; and

WHEREAS, **Grantor** is willing to forego forever the right to fully exploit the financial potential of the Protected Property by encumbering the Protected Property with this Easement; and

WHEREAS, by act of the General Assembly of the State of South Carolina, as enacted in South Carolina Code Ann. (1976, as amended) (hereinafter the "SC Code") §27-8-10, et. seq. (The South Carolina Conservation Easement Act of 1991) (hereinafter the "Act"), South Carolina recognizes and authorizes the creation of conservation restrictions and easements; and

WHEREAS, this Easement contains the conservation purposes pursuant to the Act, as outlined therein and stated below:

- (A) "retaining or protecting natural, scenic, or open-space aspects of real property";
- (B) "ensuring the availability of real property for agricultural, forest, recreational, educational, or open-space use";
- (C) "protecting natural resources";
- (D) "maintaining or enhancing air or water quality" and

WHEREAS, **Grantor** and **Grantee** recognize the natural, scenic, aesthetic, and special character and opportunity for enhancement of the Protected Property, and have the common purpose of the conservation and protection in perpetuity of the Protected Property pursuant to Code §170(h) and in the regulations promulgated thereunder by the United States Department of the Treasury (hereinafter "Treasury Regulations") as follows:

(I) Preservation of open space (including farmland and forest land) within the meaning of Code §170(h)(4)(A)(iii)(I) for the scenic enjoyment of the general public which will yield a significant public benefit, including the opportunities for scenic enjoyment and the public benefits described in the recitals to this Easement; and

(II) Preservation of open space (including farmland and forest land) within the meaning of Code §170(h)(4)(A)(iii)(II) pursuant to clearly delineated Federal, state, or local governmental conservation policies which will yield a significant public benefit, including the policies and public benefits described in the recitals to this Easement;

WHEREAS, **Grantor** and **Grantee** agree these purposes can be accomplished by

the **Grantor** voluntarily placing perpetual restrictions upon the use of the Protected Property and by providing for the transfer from the **Grantor** to the **Grantee** of affirmative rights for the protection of the Protected Property so as to be considered a “qualified conservation contribution” as such term is defined in Code §170(h) and the Treasury Regulations promulgated thereunder; and

WHEREAS, the **Grantee** is a corporation of which its purposes and powers include one or more of the purposes set forth in SC Code §27-8-20(1); and **Grantee** is a holder of conservation easements as conservation easements are defined by the Act; and, **Grantee** is a publicly supported, tax-exempt, nonprofit corporation organized and operated under Code §501(c)(3) dedicated to the preservation of the irreplaceable natural and historical resources of the South Carolina Lowcountry landscape by protecting significant lands, waters and vistas and is not a private foundation under Code §509;

NOW, THEREFORE, in consideration of payment to Grantor of the sum of Five Hundred twenty nine thousand and no cents (\$529,000.00) Dollars and the above and in further consideration of the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to §§170(h) and 2031(c) of the Code and pursuant to the laws of the State of South Carolina, the **Grantor** hereby voluntarily grants and conveys to **Grantee** this Easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth. **Grantor** herein declares that the Protected Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, and restrictions hereinafter set forth, which covenants, conditions, and restrictions shall be deemed to run with the land in perpetuity and to be a burden on the Protected Property in perpetuity.

1. Purpose. The purpose of this Easement (hereinafter the “Purpose”) is to protect the Conservation Values (detailed in the Recitals above and outlined below) and to preserve the Protected Property for the continuation of historic and traditional uses and activities, as well as other limited uses, provided no such uses significantly impair or degrade the Conservation Values. The Conservation Values of the Protected Property include the following:

- 1) Relatively natural habitat and biological diversity,
- 2) Open space for agricultural or forestry use,
- 3) Preservation or enhancement of downstream water quality in the Whale Branch River,
- 4) Scenic views of the Protected Property from Highway 21.

The protection of these Conservation Values by stewardship, enforcement, and monitoring in perpetuity is set forth in this Easement.

This Purpose is to ensure that the Protected Property will be retained in perpetuity predominantly in its relatively natural and scenic condition for conservation purposes and to prevent any use of the Protected Property that would significantly impair or interfere with the Conservation Values of the Protected

Property, while allowing for limited low-impact rural residential, recreational, agricultural, forestry and other open-space uses of the Protected Property that are compatible with and not destructive of those Conservation Values. It is the intent of the parties that Grantor will not perform, nor knowingly allow others to perform, any act on or affecting the Protected Property that is inconsistent with the Purpose of this Easement. Grantor understands that nothing in this Easement relieves Grantor of any obligation or restriction on the use of the Protected Property imposed by law.

2. Definitions. For the purposes of this Easement, **Grantor** and **Grantee** agree that those bold-faced terms that appear throughout this Easement shall be defined as follows:

Agricultural Activities shall be defined as activities directly related to the production of plant or animal products on the Protected Property including crop production, crop storage, refrigeration, packing operations, animal husbandry, floriculture and horticulture, and **community gardens** in a manner that preserves the long-term productivity of the soil. Permitted activities shall not include **Feedlots**, intensive livestock production facilities nor any type of large-scale operation where animals are unnecessarily confined to maximize intensive large-scale production; however, non-intensive small-scale farming uses for the benefit of **Grantor, Grantor's** family or local agriculture shall be allowed which may include fences, pens and similar containment methods. Notwithstanding the above, commercial aquaculture and/or mariculture activities must have **Approval**.

Agricultural Structure shall be defined as any building designed to be used or currently used in conjunction with permitted **Agricultural Activities** or **Forest Management Practices**, not including any structure used as a dwelling for human beings.

Approval shall be defined as the prior written consent of the **Grantee** to permit **Grantor** to exercise certain rights described in Paragraphs 4 and 5, or to undertake any activity otherwise permitted as described in Paragraph 10. The rationale for requiring the **Grantor** to receive **Approval** is to afford **Grantee** an adequate opportunity to evaluate the activities in question to confirm if they are designed and will be carried out in a manner that is not inconsistent with the Purpose of this Easement. **Approval** does not relieve **Grantor** of the obligation to obtain all other necessary permits, consents and approvals.

Building Height shall be measured, for the purposes of any permitted structure, from ground elevation or the legal building elevation within a Federal Emergency Management Agency (or successor agency) flood zone, whichever is greater, to the top of the highest structural component, excluding chimneys, antennas and weather vanes.

Conservation Values shall mean those values outlined in recitals to this Easement.

Community Garden shall mean the operation of community garden plots and/or many individual plots, owned, leased or managed by the community for

purposes of growing food for home consumption, food banks, or education. Gardens can include herbs, flowers, native plants, and may include gathering places, children's gardens, and demonstration sites. United States Department of Agriculture provides best practices for managing a community garden.

Designated Building Area shall be defined as those eight (8) areas, each no larger than approximately three (3) acres in size, designated for the siting of all **Residential Structures, Related Outbuildings, and Agricultural Structures**, the location and configuration of which shall be as set forth in the Baseline Documentation Report to this Conservation Agreement.

Feedlot shall be defined as any confined area or facility for feeding livestock for commercial purposes, or within which the land is not grazed or cropped at least annually, or which is used to receive livestock that have been raised off the Protected Property for feeding and fattening for market.

Forest Management Plan shall be defined as a written plan subject to periodic updates, on file with the **Grantee** and agreed upon by both **Grantor** and **Grantee**, which outlines **Forest Management Practices** on the Protected Property. The **Forest Management Plan** shall be compatible with the terms of this Easement and shall not significantly impair or degrade any of the Conservation Values of the Protected Property at the property level.

Forest Management Practices shall be defined as the production, improvement and maintenance of pine and hardwood forest lands for timber production and commercial harvesting, wildlife management, aesthetics or any other purpose. **Forest Management Practices** include silvicultural practices, which are used to control the establishment, growth, composition, health, quality and utilization of forestlands for multiple-use purposes and include, but are not limited to, harvesting, thinning, reforestation, competition control, prescribed fire or fire breaks. **Forest Management Practices** shall follow best management practices of the SC Forestry Commission or successor agency and be compatible with the terms of this Easement and shall not significantly impair or degrade any of the Conservation Values of the Protected Property at the property level.

Grantee shall be defined as the above-named §501(c)(3) South Carolina charitable corporation, designated as the holder of this Easement, and its successors and assigns.

Grantor shall be defined as the original donor of this Easement and his (or her, their or its) personal representatives, heirs, successors, assigns, and subsequent owners of record.

Impervious Surface shall be defined as a hard surface area which either prevents or significantly retards the entry of water into the soil mantle at a rate lower than that present under natural conditions prior to development. Impervious surfaces can include, but are not limited to, roof tops, walkways, patios and decking, enclosed and unenclosed porches, paved driveways, paved parking lots, covered

storage areas, concrete or asphalt paving, swimming pools, or other surfaces which similarly impede the natural infiltration of surface and stormwater runoff. **Impervious Surface** specifically excludes ground surfaces covered with sand, gravel, shell sand, crushed stone, or other similar traditional permeable materials.

Notice shall be defined as a written communication, not a request for **Approval**, prior to undertaking a permitted activity, as defined in Paragraph 27.

Recreational Structure shall be defined as any building designed or used in conjunction with recreational activities on the property, and shall not include any structure used as a permanent or temporary **Residential Structure**.

Related Outbuilding shall be defined as any auxiliary structure customarily used as an accessory to a private **Residential Structure** in the South Carolina Lowcountry.

Request for Approval shall be defined as a written request by **Grantor** for **Approval** by **Grantee** of a defined activity proposed by the **Grantor**.

Residential Structure shall be defined as any dwelling having sleeping quarters, sanitary facilities, and cooking facilities, all three of which must be present, which permanent residential use or occupancy on the Protected Property by the **Grantor**, permitted lessee, and guests or employees of the **Grantor** or permitted lessee.

Significant Tree shall be defined as any *cypress or live oak* having a diameter at breast height of twelve (12) inches or greater and any tree protected by Beaufort County Development Code.

Subdivided Tract shall be defined as a legally divided, transferable parcel of land having a unique tax identification number according to Beaufort County real property tax records.

Subdivision shall be defined as the permitted creation of a **Subdivided Tract** after the date of this Easement.

Water Line shall be defined as the edge of a waterway or waterbody which is either the critical line as defined by S.C Office of Ocean and Coastal Resource Management or, if no critical line has been established, the mean high water line as defined by the Army Corps of Engineers or established by a surveyor employing the regulatory standards then in effect for its determination. If the critical line or the mean high water line cannot be established or are no longer used to define the edge of a waterway or waterbody, then the comparable defining line as defined by successor entities of the above named agencies shall be used.

Wetlands shall be defined as “those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically

adapted for life in saturated soil conditions,” as stated in the United States Army Corps of Engineers Wetlands Delineation Manual (1987, or as amended).

3. **Rights of Grantee.** **Grantor** hereby conveys the following rights to the **Grantee**:

(A) **Right of Visual Access.** To have visual access to the Protected Property, provided that such right shall not be construed to permit general public access over or upon the Protected Property;

(B) **Right to Monitor.** To enter upon the Protected Property in a reasonable manner, at reasonable times, with reasonable notice, to monitor compliance with this Easement and to further document natural and manmade features of the Protected Property. The **Grantee** shall limit entry to annual visits (after completion of the Baseline Documentation) unless the **Grantee** has reason to believe there is a violation of the terms of this Easement. **Grantee** shall not unreasonably interfere with **Grantor’s** quiet use and enjoyment of the Protected Property;

(C) **Right to Prevent Inconsistent Uses.** To prevent **Grantor** or third parties from conducting any activity or use inconsistent with the Purpose;

(D) **Right to Require Restoration.** To require **Grantor** to restore such Conservation Values that may be damaged by any uses or activities prohibited by this Easement, or any activity or use inconsistent with the Purpose to include third party activities.

4. **Reserved Rights.** **Grantor** reserves all the rights, uses and activities (collectively, the “Reserved Rights”) inherent in fee simple ownership of the Protected Property in its entirety, subject to the specific Restrictions and Limitations of Paragraph 5, which are included to accomplish the Purpose of this Easement stated in Paragraph 1. In addition, the exercise of all Reserved Rights shall be in full accordance with all applicable local, state and federal laws and regulations, as well as in accordance with the Purpose of this Easement stated in Paragraph 1.

5. **Restrictions and Limitations.** **Grantor** will not perform or permit or will perform or permit, as specified below, the following acts or uses on, over or under the Protected Property:

(A) **Subdivision.** The Protected Property is currently composed of one (1) tract, which is Beaufort County TMS# R700 037 000 0131 0000.

Subdivision is limited to the reconfiguration and division of the Protected Property into a maximum of four (4) tracts. The configuration of each such **Subdivided Tract** shall be at the **Grantor’s** discretion, however no tract shall be smaller than twenty (20) acres in size. **Grantor** shall allocate Reserved Rights among such **Subdivided Tracts** at the time of each **Subdivision** with such allocation being specifically described and noted in the deed transferring ownership of any **Subdivided Tract**, specifically quantitative Reserved Rights including allowances for **Impervious Surface, Residential Structures, Docks**, or any other Reserved Rights as applicable within this Easement. **Grantor** shall give **Notice** to

Grantee of any **Subdivision** or reconfiguration of a **Subdivided Tract**.

(B) Structural Limitations. The construction, enlargement, removal and replacement of **Residential Structures, Related Outbuildings, Recreation/Education Structures, Agricultural Structures** and all other structures are subject to the following limitations:

I. Total **Impervious Surface** on the Protected Property shall not exceed a maximum of sixty thousand (60,000) square feet in the aggregate.

II. No **Residential Structure, Related Outbuilding, Recreational Structure** or **Agricultural Structure** shall exceed thirty-five (35) feet in **Building Height**.

III. **Residential Structures** shall be limited to one (1) structure per subdivision. **Grantor** is required to obtain **Approval** from **Grantee** prior to the construction, enlargement, removal and replacement of any permitted **Residential Structures**.

IV. **Related Outbuildings, Recreational Structures** and **Agricultural Structures** shall be permitted, provided that the square footage of all **Impervious Surface** on the Protected Property does not exceed the allowance stated in Paragraph 5(B)(I). All permitted **Residential Structures and Related Outbuildings**, shall be located within a permitted **Designated Building Area** to be consistent with Baseline Documentation Report.

V. Other than permitted **Residential Structures and Related Outbuildings**, no other structure on the Protected Property shall be used as a temporary or permanent dwelling for human beings.

VII. Towers. There shall be no towers on the Protected Property, including, but not limited to, radio, microwave, broadcast, communication and cellular towers.

Notwithstanding the above, **Grantor** retains the right to construct, maintain, improve, repair and replace wildlife observation towers; such towers shall not exceed 35 feet in height and shall not be visible from off the Protected Property when viewed from ground elevation.

(C) Buffers. Buffer Areas, as shown in the Baseline Documentation, shall be subject to the following restrictions:

Buffer requirements acknowledge the current utility easement as shown in the Property survey as recorded.

“Setback” Road Buffer. In order to protect the scenic view along public roadways, there shall be no **Impervious Surface**, structures (other than mailboxes,

fencing and gates, utility and service lines for any permitted use under the terms of this Easement, boardwalks, or other structures existing at the time of this Easement as documented in the Baseline Documentation), nor new roads (other than those necessary to access the permitted **Subdivided Tracts**) on that portion of the Protected Property within one hundred (100) feet of the legal or established right-of-way along Highway 21 and Morgan Road and former railroad right of way. **Grantor** reserves the right to engage in **Agriculture Practices** and **Forest Management Practices** within the setback road buffer, provided there shall be no clearcutting and no activities that endanger the health or survival of **Significant Trees** without **Approval**.

Notwithstanding the above, **Grantor** reserves the right to cut any tree, in accordance with applicable governmental laws and regulations, when it is necessary to salvage timber damaged by natural causes, when cutting is necessary to prevent further such damage or personal injury, or when a permitted structure is in danger.

(D) Industrial Uses. There shall be no industrial uses, activities, or structures. No right of passage across or upon the Protected Property shall be allowed or granted if that right of passage is used in conjunction with any industrial uses or activities.

(E) Commercial Uses. There shall be no commercial uses, activities or structures permitted with exceptions to include home-based business that do not impair the Conservation Values. Any such home-based business requires prior **Approval** by the **Grantee**. No right of passage across or upon the Protected Property shall be allowed or granted if that right of passage is used in conjunction with any commercial uses or activities not permitted in this Easement. For the purposes of this Easement, **Agricultural Activities**, **Forest Management Practices** and the leasing of agriculture, hunting, trapping and fishing rights, and seasonal daily “pay-to-hunt” activities traditional to the Lowcountry shall not be considered commercial uses. However, to qualify this Easement for treatment under §2031(c)(8)(B) of the Code, any use of the Protected Property for more than a de minimus use for a commercial recreational activity is prohibited.

(F) Services. Construction of water wells, septic systems, and utility services is limited to serve the allowed uses in Paragraph 4, subject to the Restrictions and Limitations of Paragraph 5, and subject to all applicable governmental laws and regulations.

Fuel storage tanks are limited to aboveground or underground gaseous (not liquid) fuel storage tanks and/or aboveground liquid fuel storage tanks to serve the allowed uses in Paragraph 4, subject to the Restrictions and Limitations of Paragraph 5, subject to all applicable governmental laws and regulations.

(G) Roads and Driveways. Roads and driveways shall be limited to those required to facilitate the uses permitted by this Easement, provided there shall be no road or driveway constructed or covered with **Impervious Surface**. Maintenance of driveways, roads and roadside ditches shall be limited to standard practices for non-paved roads.

(H) Landscaping. Landscaping shall be limited to the management of native vegetation associated with the uses allowed by this Easement, including but not limited to, mowing, pruning, trimming, and gardening. Structural elements of landscaping, including but not limited to walkways and patios, shall be subject to **Impervious Surface** restrictions and limitations as provided for in this Easement.

(I) Lighting. There shall be limited exterior lighting of which the light source is visible from off the Protected Property at ground level; lights shall employ an opaque shield so as to prevent direct visibility of the light source from off the Protected Property. The purpose of this provision is to allow lighting on the property for safety and security and to minimize the impact of lighting on the relatively natural and scenic views of the Protected Property.

(J) Signs. Signs visible from off the Protected Property shall be limited to a maximum of eight (8) square feet in size, individually and billboards are expressly prohibited. Signs shall be placed so as to minimally impact the scenic view as seen from the public roadway.

(K) Archeological and Paleontological Excavations. **Grantor** shall give **Notice** to **Grantee** prior to undertaking archeological or paleontological excavation. Any archeological or paleontological site shall, upon completion of any excavation, be returned to, or as close as possible to, its previous state, unless the site is to be maintained in an excavated condition for interpretive purposes related to education.

(L) Forestry Uses. A **Forest Management Plan** is recommended for the Protected Property when deemed appropriate by the **Grantee**. Forestry Uses are limited to those **Forest Management Practices** defined in the **Forest Management Plan** or recommended by the South Carolina Forestry Commission or successor agency. **Grantor** shall provide **Notice** to **Grantee** of timber harvests. **Forest Management Practices** specifically permitted under the terms of this easement include clearing small patch openings and wildlife food plots.

Notwithstanding the above, **Grantor** reserves the right to cut any tree, in accordance with applicable governmental laws and regulations, when it is necessary to salvage timber damaged by natural causes, when cutting is necessary to prevent further such damage or personal injury, or when a permitted structure is in danger.

(M) Agricultural Uses. **Agricultural Activities** are restricted to the recommended or accepted practices recommended by the South Carolina Cooperative Extension Service, the United States Natural Resources Conservation Service, their successors or other entities mutually acceptable to the **Grantor** and **Grantee**. **Grantor** shall have the right to utilize Pond(s), center pivot irrigation and wells to irrigate for Agricultural Uses. **Grantor** and **Grantee** recognize that changes in agricultural technologies, including accepted management practices, may result in an evolution of **Agricultural Activities**. Such evolution shall be permitted so long as it is consistent with the Purpose of this Easement.

Community Gardens are included as **Agricultural Activities**. Leases for

agriculture are permitted.

(N) Significant Trees. There shall be no activities that endanger the health or survival of **Significant Trees** without **Approval** and all activities are subject to the Beaufort County Community Development Code.

(O) Pond(s). One (1) new pond is permitted in the aggregate not to exceed more than five (5) acres in size. The sale of extracted soil, sand, gravel or other materials produced in connection with the enlargement or construction of pond(s), or any other permitted or non-permitted use, is strictly prohibited in accordance with Paragraph 5(P) Mining. However, any extracted soil, sand, gravel or other materials from enlargement or construction of pond(s) may be used on the Protected Property for improvement or maintenance of roads, development of permitted structures or any other permitted use.

(P) Mining. Mining and recovery of any oil, gas or minerals are restricted to extraction methods in accordance with Code §170(h)(5)(B) prohibiting surface mining provided that following the mining activity, the site is returned to, or as closely as possible to, its previous state.

(Q) Topography and Hydrology. There shall be no adverse material alteration of the topography or hydrology, unless otherwise provided for in Paragraphs 4 or 5. Exceptions for wildlife management, as permitted by local, state, and federal authorities, are allowed.

(R) Refuse. There shall be no placing of refuse on the Protected Property of vehicle bodies or parts or refuse not generated on the Protected Property. Temporary piles for collection of refuse generated on the Protected Property established between regular removals are permitted provided such piles do not contain hazardous substances, pollutants, or wastes and do not impair the Conservation Values of the Protected Property.

(S) Right to Lease. Subject to the other provisions of this Conservation Easement, Grantor reserves the right to lease all or a portion of the Protected Property for any purpose permitted under this Conservation Easement, including permitted Commercial Uses.

(T) Eligibility for Conservation Programs. **Grantor** reserves the right to participate in conservation, preservation, or mitigation programs existing now or permitted in the future for any activity or use permitted (or restricted, as the case may be) on the Protected Property under this Easement, including but not limited to carbon sequestration credits and greenhouse gas credits.

(U) Adverse or Inconsistent Uses. There shall be no other use or activity that is inconsistent with the Purpose of this Easement as stated in Paragraph 1.

6. Third Party Activities. The **Grantor** shall keep the **Grantee** reasonably informed as to activities being conducted on the Protected Property which are within the scope of this Easement and as to the identity of any third parties who are conducting or managing such activities. The **Grantor** shall ensure that all third parties who are conducting activities

relating to permitted uses of the Protected Property are fully and properly informed as to the restrictions and covenants contained within this Easement which relate to such uses, including without limitation, the provisions of this Paragraph and of Paragraphs 4 and 5.

7. **Grantee's Remedies.** If **Grantee** determines that **Grantor** is in violation of the terms of this Easement or that a violation is threatened, the **Grantee** shall notify the **Grantor** of the violation (hereinafter, "First Notice") and request voluntary compliance. In the event that voluntary compliance is not agreed upon within ninety (90) days of receipt of First Notice, the **Grantee** shall give written notice to **Grantor** of such violation (hereinafter, "Second Notice") and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the Purpose, to restore the portion of the Protected Property so injured.

If **Grantor** fails to cure the violation within sixty (60) days after receipt of Second Notice thereof from **Grantee** (or under circumstances where the violation cannot reasonably be cured within a sixty (60) day period, if **Grantor** shall fail to begin curing such violation within said sixty (60) day period, or shall fail to continue diligently to cure such violation until finally cured), **Grantee** may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement, including damages for the loss of the Conservation Values, and to require the restoration of the Protected Property to the condition that existed prior to any such injury. Without limiting **Grantor's** liability therefore, **Grantee**, in its sole discretion, may either apply any damages recovered to the cost of undertaking any corrective action on the Protected Property or may apply any damages recovered towards activities relating to monitoring and enforcing compliance with the terms of this Easement and other similar conservation easements.

If **Grantee**, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values, **Grantee** shall give immediate notice of the circumstances to **Grantor**, as described in Paragraph 28, and may immediately pursue its legal and equitable remedies under this Paragraph without waiting for the period provided for cure to expire. **Grantor** agrees that if such emergency arises, **Grantee** may obtain injunctive relief without the necessity of posting a bond.

Grantee's rights under this Paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement. **Grantor** agrees that if **Grantee's** remedies at law for any violation of the terms of this Easement are inadequate, the **Grantee** shall be entitled to seek the injunctive relief described in this Paragraph, both prohibitive and mandatory in addition to such other relief to which **Grantee** may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, and without the necessity of posting a bond. **Grantee's** remedies described in this Paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

8. **Costs of Enforcement.** If **Grantee** prevails in any action to enforce the terms of this

Easement, any costs incurred by **Grantee** in enforcing the terms of this Easement against **Grantor**, including without limitation, costs of suit (which includes reasonable attorneys' fees), and any reasonable costs of restoration necessitated by **Grantor's** violation of the terms of this Easement, shall be borne by **Grantor**. If **Grantor** prevails in any action to enforce the terms of this Easement, any costs incurred by **Grantor**, including without limitation **Grantor's** cost of the suit (which includes reasonable attorneys' fees) shall be borne by **Grantee**.

9. Successors; Benefits and Burdens. The covenants, terms, conditions, easements, benefits, and burdens of this Easement shall be binding upon and inure to the parties hereto and their respective successors, personal representatives, heirs, and assigns and shall continue as a restriction running in perpetuity with the Protected Property. An owner of the Protected Property shall only be responsible for those violations first occurring on the Protected Property during such owner's ownership, and while still an owner of the Protected Property (although notwithstanding the foregoing, a subsequent owner may also be held responsible for those violations first occurring during another's prior ownership of the Protected Property unless an estoppel certificate or compliance certificate was obtained from **Grantee** prior to or at the time of the transfer of the Protected Property's ownership to such subsequent owner). Any of the rights herein reserved to **Grantor** may be exercised by any owner of the Protected Property.

10. Compliance Certificates. Upon request by **Grantor**, **Grantee** shall within thirty (30) days execute and deliver to **Grantor** any document that may be requested by **Grantor**, including an estoppel certificate or compliance certificate, to certify to the best of **Grantee's** knowledge **Grantor's** compliance with any obligation of **Grantor** contained in this Easement or otherwise to evidence the status of this Easement.

11. Representation of Authority. Each signatory to this Easement represents and warrants that he or she is duly authorized to enter into and execute the terms and conditions of this Easement and to legally bind the party he or she represents.

12. Forbearance Not a Waiver. Any forbearance by **Grantee** to exercise its rights under this Easement in the event of any breach of any terms of this Easement by **Grantor** shall not be deemed or construed to be a waiver by **Grantee** of such term or of any subsequent breach of the same or any other term of this Easement or of any of **Grantee's** rights under this Easement. No delay or omission by **Grantee** in the exercise of any right or remedy upon any breach by **Grantor** shall impair such right or remedy or be construed as a waiver.

13. Reasonableness Standard. **Grantor** and **Grantee** shall follow a reasonableness standard and shall use their best efforts to make any determinations that are necessary or are contemplated to be made by them (either separately or jointly) under this Easement in a timely manner, and shall cooperate with one another and shall take all other reasonable action suitable to that end.

14. **Grantor's Environmental Warranty.** The **Grantor** warrants that **Grantor** has no knowledge of the existence or storage of hazardous substances, pollutants, or wastes on the Protected Property or a release or threatened release of hazardous substances, pollutants or wastes on the Protected Property and promises to defend and indemnify the **Grantee** against

all litigation, claims, demands, penalties, and damages, including reasonable attorney's fees, arising from breach of this warranty.

15. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle **Grantee** to bring any action against **Grantor** for any injury to or change in the Protected Property resulting from causes beyond **Grantor's** control, including but not limited to trespass, fire, hurricane, flood, storm and earth movement, or from any prudent action taken by **Grantor** under emergency conditions to prevent, abate or mitigate significant injury to the Protected Property resulting from such causes.

16. Access. No right of public access to any portion of the Protected Property is conveyed by this Easement, except as expressly provided herein.

17. Costs, Liabilities, and Taxes. **Grantor** retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including, but not limited to, clean up or remediation costs due to chemical contamination and payment of taxes. Furthermore, if the **Grantor** maintains general liability insurance coverage for the Protected Property, **Grantor** will be responsible for such costs.

Each party agrees to release, hold harmless, defend and indemnify the other from any and all liabilities including, but not limited to, injury, losses, damages, judgments, costs, expenses and fees that the indemnified party may suffer or incur as a result of or arising out of wrongful or negligent activities of the indemnifying party on the Protected Property.

18. Transfer Fee. There shall be assessed by the **Grantee** a transfer fee equal to one (1) percent of the sales price and/or other consideration paid in connection with the transfer of any freehold or fee simple interest in the Protected Property, including but not limited to any conveyance by warranty deed, limited warranty deed, or quitclaim deed, sale, mortgage foreclosure, or conveyance in lieu of foreclosure. The transfer fee shall be paid to the **Grantee** on the date of the closing of the transfer.

Exemptions from assessment of transfer fee:

- (A) The sale of timber rights or products produced from permitted **Forest Management Practices** and/or permitted **Agricultural Activities** of such Protected Property.
- (B) Any transfer subsequent to the conveyance of this Easement:
 - I. Without consideration, or
 - II. To a spouse, a lineal descendant, an ancestor or ancestors, a spouse of a lineal descendent (collectively, "Immediate Family Members"), or
 - III. To or from a trust whose beneficiaries or presumptive beneficiaries are the **Grantor** or Immediate Family Member, or both, or
 - IV. To an entity at least 50% of the equity interest of which is owned by **Grantor** or Immediate Family Member, or
 - V. If the **Grantor** of this Easement is a corporation, limited liability company or a partnership, to an owner/partner/member of such entity or to an Immediate Family Member thereof, or

- VI. To a charitable organization which is tax exempt under §501(c)(3), or
- VII. Any transfer under a will, or
- VIII. Any transfer implemented or effected by court order, except foreclosure, or
- IX. Any transfer that corrects, modifies, or confirms a transfer previously made, or
- X. A transfer to Beaufort County.

(C) If a creditor purchases the Protected Property at a foreclosure sale or takes title to the Property in lieu of foreclosure, the transfer fee shall be due and paid at the time the creditor takes title. The transfer fee shall be based on the total bid for the Protected Property if purchased at a foreclosure sale or on the amount of the accrued indebtedness if the creditor accepts a deed in lieu of foreclosure. An additional transfer fee shall be due if the creditor who takes title through foreclosure or a deed in lieu of foreclosure sells the Protected Property for an amount higher than the amount subject to the transfer fee at the time the creditor took title; the additional transfer fee due shall be based on the additional amount alone, not the entire sales price. Creditor for purposes of this Paragraph shall include an assignee of the creditor who purchases the Protected Property at a foreclosure sale or takes a deed in lieu of foreclosure.

An exchange of properties pursuant to Code §1031, or similar statute, shall be deemed to be for consideration based on the market value of the property plus boot, if applicable, received at the time of such transfer. Market value of the Protected Property shall be determined by agreement of the **Grantor** and the **Grantee**, or in the absence of such agreement by a South Carolina certified appraiser selected by the **Grantee**, whose appraisal fee shall be paid by the **Grantee**.

Grantor grants **Grantee** a lien against the Protected Property for all or any part of the transfer fee that is unpaid at the time of the conveyance or assignment triggering the transfer fee. **Grantee's** lien shall be subordinate to this Easement and to the lien of any first mortgage on the Protected Property. **Grantee** shall have the right to record a notice of lien for such unpaid transfer fee. Any such lien may be enforced and/or foreclosed in accordance with the laws of the State of South Carolina. **Grantee** may require the **Grantor** and/or any subsequent purchaser to provide reasonable written proof of the applicable sales price, such as executed closing statements, contracts of sale, copies of deeds or other such evidence.

19. Extinguishment, Condemnation and Fair Market Value. If circumstances arise in the future that render the Purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. As required by §1.170A-14(g)(6)(ii) of the Treasury Regulations, in the event of any extinguishment or termination of this Easement, any sale, exchange, or involuntary conversion of the Protected Property entitles **Grantee** to a percentage of the gross sale proceeds, equal to the ratio of the appraised value of this Easement to the unrestricted fair market value of the Protected Property established as of the date donated.

If all or a part of the Protected Property is taken by exercise of the power of eminent domain, **Grantor** and **Grantee** shall be respectively entitled to compensation in accordance with applicable law and as provided in this Paragraph. **Grantor** and **Grantee** shall divide the net proceeds after the payment of all expenses of the condemnation in accordance to the ratio of the appraised value of this Easement to the fair market value of the Protected Property unrestricted by the Easement established as of the date conveyed.

For the purpose of the above Paragraphs, the parties hereto stipulate that the value of this Easement and the value of the restricted fee interest in the Protected Property each represent a percentage interest in the fair market value of the Protected Property. The percentage interests shall be determined by the ratio of the value of this Easement to the value of the Protected Property, without reduction for the value of this Easement. All such proceeds received by **Grantee** shall be used in a manner consistent with **Grantee's** mission. This provision is not intended to violate the provision required by Code §170(h)(2)(C) that requires this Easement to be granted in perpetuity.

20. Limitations on Extinguishment. If a sudden or unexpected change in the conditions surrounding the Protected Property have made impossible or impractical the continued use of the Protected Property for conservation purposes, this Easement can only be terminated or extinguished, whether with respect to all or part of the Protected Property, by judicial proceedings in a court of competent jurisdiction. Unless otherwise required by applicable law at the time, in the event of any sale of all or a portion of the Protected Property (or any other property received in connection with an exchange or involuntary conversion of the Protected Property) after such termination or extinguishment, and prior to the payment of any costs or expenses associated with such sale, **Grantee** shall be entitled to an amount no less than **Grantee's** proportionate share of the gross proceeds of such sale, as such proportionate share is determined under the provisions of Paragraph 21, adjusted, if necessary, to reflect a partial termination or extinguishment of this Easement. If sufficient funds are not available for **Grantee** to be paid its entire proportionate share out of such proceeds, or if for any other reason **Grantee** is not paid its entire proportionate share, **Grantee** has the right to recover such deficiency (including the right to record a lien to secure its recovery of such deficiency) from the record owner of the Protected Property at the time of such sale. All such proceeds received by **Grantee** shall be used by **Grantee** in a manner consistent with the conservation purposes of this Easement as of the effective date of this grant. In the event of extinguishment of this Easement in whole or in part, the provisions of this Paragraph 20 shall survive such extinguishment.

21. Percentage Interests. **Grantor** and **Grantee** hereby confirm that the donation of this Easement gives rise to a property right immediately vested in **Grantee**, with a value for purposes of this Paragraph 21 determined as follows. The parties hereto stipulate that as of the effective date of this grant the Easement and the restricted fee interest in the Protected Property each represent a percentage interest in the fair market value of the Protected Property (**Grantee's** percentage interest is referred to herein as **Grantee's** "proportionate share"). For the purposes of this paragraph, **Grantee's** proportionate share of the fair market value of the Protected Property shall remain constant.

22. Condemnation. If all or any part of the Protected Property is taken under the power

of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, **Grantor** and **Grantee** shall join in appropriate proceedings at the time of such taking to recover the full fair market value (without regard to any diminution in value attributable to the Easement) of the interests in the Protected Property subject to the taking and all incidental or direct damages resulting from the taking. Prior to the payment of any expenses reasonably incurred by the parties to this Easement in connection with such taking, **Grantee** shall be entitled to its proportionate share from the recovered proceeds in conformity with the provisions of Paragraphs 20 and 21 (with respect to the allocation of proceeds). The respective rights of **Grantor** and **Grantee** set forth in this Paragraph 22 shall be in addition to, and not in limitation of, any rights they may have at common law. All such proceeds used by **Grantee** shall be used by **Grantee** in a manner consistent with the conservation purposes of this Easement as of the effective date of this grant.

23. Assignment. The benefits of this Easement shall not be assignable by the **Grantee**, except if as a condition of any assignment, (i) the **Grantee** requires that the terms and conditions of this Easement continue to be carried out in full as provided herein, (ii) the assignee has a commitment to protect the Purpose and the resources to enforce the restrictions contained herein, and (iii) if the assignee, at the time of assignment, qualifies under §170(h) of the Code, and applicable Treasury Regulations promulgated thereunder, and under State of South Carolina law as an eligible donee to receive this Easement directly. In the event that **Grantee** ceases to exist or exists but no longer as a tax-exempt, nonprofit corporation, qualified under §§501(c)(3) and 170(h)(3) and not a private foundation under §509(a) of the Code, then this Easement shall be assigned to Beaufort County and then a tax-exempt, nonprofit organization, qualified under §§501(c)(3) and 170(h)(3) and not a private foundation under §509(a) of the Code, which has a mission of protecting open lands or natural resources in the South Carolina Lowcountry.

24. No Extinguishment Through Merger. **Grantor** and **Grantee** herein agree that should **Grantee** come to own all or a portion of the fee interest in the Protected Property, (i) **Grantee** as successor in title to **Grantor** shall observe and be bound by the obligations of **Grantor** and the restrictions imposed upon the Protected Property by this Easement; (ii) this Easement shall not be extinguished, in whole or in part, through the doctrine of merger in view of the public interest in its enforcement; and (iii) **Grantee** as promptly as practicable shall assign the **Grantee** interests in this Easement of record to another holder in conformity with the requirements of this Paragraph 24. Any instrument of assignment of this Easement or the rights conveyed herein shall refer to the provisions of this Paragraph 24 and shall contain language necessary to continue it in force.

26. Transfers. **Grantor** agrees to incorporate by reference the terms of this Easement in any deed or other legal instrument by which **Grantor** transfers any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest. The **Grantor** shall give the **Grantee Notice** of any change of possession, ownership or control of the Protected Property within thirty (30) days after such change takes place, including without limitation notice of any transfer, lease, or sale of all or a part of the Protected Property. The failure of **Grantor** to perform any act required by this Paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

27. **Approvals; Notice; Breach.**

(A) **Grantee’s Approval or Withholding of Approval.** When **Grantee Approval** is required, **Grantee** shall grant or withhold its approval in writing <within sixty (60) days of receipt> of **Grantor’s** written request therefor. In the case of withholding of **Approval**, **Grantee** shall notify **Grantor** in writing with reasonable specificity of the reasons for withholding of **Approval**, and the conditions, if any, on which **Approval** might otherwise be given. Failure of **Grantee** to respond in writing within such sixty (60) days shall be deemed to constitute denial by **Grantee** of any such **Request for Approval**.

(B) **Approval by Grantee of Sites or Activities.** The exercise of any right to engage in the specified activities permitted by the provisions of Paragraphs:

- 2 New products and technologies for pervious surfaces;
- 5(B)(III) Residential Structures;
- 5(B)(IV) Designated Building Area;
- 5(E) Commercial Uses;
- 5(G) Roads;
- 5(L) Forestry Uses;
- 5(N) Significant Trees;
- 5(O) Ponds;

shall be subject to the prior **Approval** by **Grantee** of the activity and/or of the site for such proposed activity, as the case may be. **Grantor** shall request such **Approval** in writing and shall include therewith information identifying the proposed site or activity with reasonable specificity, evidencing conformity with the requirements of the applicable paragraphs under which the right is reserved hereunder, and, when applicable, evidencing conformity with existing land use regulations. **Grantee’s Approval**, which shall not be unreasonably withheld, shall take into account the following criteria:

I. The extent to which use of the site and/or the proposed activity would impair the scenic qualities of the Protected Property that are visible from public roads or waterways;

II. The extent to which use of the site and/or the proposed activity would destroy an important habitat or would have a material adverse effect on the movement of wildlife;

III. The extent to which use of the site for the proposed activity would impair water quality;

IV. In the case of any proposal to build new structures or roads, the extent to which the scenic quality of the Protected Property may be adversely impacted; and

V. The extent to which the proposed activity or use of the site for the proposed activity would otherwise significantly impair the Conservation Values. **Grantor** and **Grantee** shall cooperate and shall act in good faith to arrive at

109 Carn Street
 P. O. Box 1694
 Walterboro, SC 29488

If to **Grantee**:

Beaufort County Open Land Trust
 P. O. Box 75
 Beaufort, SC 29901
 Attn: Executive Director
 info@openlandtrust.com
 (843) 521-2175 (office)
 (843) 521-1946 (fax)

With a Copy to:

Beaufort County Administrator
 100 Ribaut Road
 Post Office Box 1228
 Beaufort, SC 29901-1228

Beaufort County Attorney
 Attn: County Attorney
 100 Ribaut Road
 Post Office Box 1228
 Beaufort, SC 29901-1228

or to such other person or place as a party may designate by correspondence as aforesaid. Correspondence by mail or overnight courier service shall be deemed given on the date of receipt as shown on the return receipt, or receipt or records of the courier service, as the case may be. In the event any such correspondence is mailed via the United States Postal Service or shipped by overnight delivery service to a party in accordance with this Paragraph and is returned to the sender as undeliverable, then such correspondence shall be deemed to have been delivered or received on the third day following the deposit of such correspondence in the United States Mail or the delivery of such correspondence to the overnight delivery service. **Grantor** has the responsibility of promptly notifying **Grantee** of **Grantor's** current address and other contact information. **Grantor** shall promptly notify **Grantee** of (i) any changes of **Grantor's** address or other changes in **Grantor's** contact information, and (ii) the name, address, and contact information of any transferee of the Protected Property if **Grantor** conveys the Protected Property. Any communications or Correspondence by **Grantee** to or with **Grantor** sent to the last address provided by **Grantor** shall be deemed sufficient to provide notice to **Grantor**.

29. Recordation. **Grantor** or **Grantee** shall record this instrument in timely fashion in the Register of Deeds Office for Beaufort County, South Carolina, and may re-record it at any time as may be required to preserve its rights in this Easement.

30. Effective Date. **Grantor** and **Grantee** intend that the restrictions arising hereunder take effect on the day and year this Easement is recorded in the Register of Deeds Office for Beaufort County, South Carolina, after all required signatures have been affixed hereto.

31. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of South Carolina.

32. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of this Easement to uphold the Purpose as stated in Paragraph 1. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose that would render the provision valid should be favored over any interpretation that would render it invalid.

33. Severability. If any provision of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement shall not be affected thereby.

34. Entire Agreement. The covenants, terms, conditions and restrictions of this Easement shall be binding upon, and inure to, the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Protected Property. All terms used in this Easement, regardless of the number or gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context or sense of this Easement, any Paragraph, Subparagraph, or clause herein may require as if such terms had been fully and properly written in such number or gender.

35. No Goods or Services. **Grantor** and **Grantee** acknowledge that no goods or services or other consideration, have been provided by **Grantee** to **Grantor** as consideration for this Easement, excepting for \$529,000 paid through the Beaufort County Rural and Critical Lands Preservation Program, and **Grantee** will provide **Grantor** with a **separate letter** so stating, pursuant to the requirements of §170(f)(8) of the Code.

TO HAVE AND TO HOLD the Easement interests herein described unto **Grantee** forever.

By execution of this Easement, the **Grantee** accepts this Easement and the rights and obligations recited herein.

GRANTOR HEREBY WARRANTS and represents that the **Grantor** is seized of the Protected Property in fee simple and has the right to grant and convey this Easement, that the Protected Property is free and clear of any and all encumbrances, except existing easements of record and prescriptive easements, if any, and that the **Grantee** shall have the use of and enjoy all of the benefits derived from and arising out of this Easement.

IN WITNESS WHEREOF, **Grantor** and **Grantee** have set their hands to this original copy of this Easement under seal on the day and year first above written.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.

EXHIBIT A

Legal Description and Derivation of Protected Property

A conservation easement is over and across:

All that certain piece, parcel or tract of land, together with buildings and improvements thereon, situate, lying and being in Sheldon Township, in the County of Beaufort, State of South Carolina, containing 115.13 acres, more or less, and being fully shown and delineated on a plat prepared for Beaufort County Open Land Trust, entitled "BOUNDARY SURVEY R700 037 000 0131 0000" by Gasque and Associates Inc Land Surveyors, dated June 16, 2022 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book ___ at Page ___. For a complete description as to metes and bounds, reference is had to said plat.

DMP References:

TMS#: R700 037 000 0131 0000

Grantee's Address: P. O. Box 75
Beaufort, SC 29901

EXHIBIT C

Baseline Documentation Report

EXHIBIT B

STATE OF SOUTH CAROLINA)
) **GRANT OF CONSERVATION EASEMENT**
 COUNTY OF BEAUFORT)

THIS GRANT OF CONSERVATION EASEMENT (hereinafter “Easement”) is made this _____ day of _____, by YIP, LLC (hereinafter “**Grantor**”, having an address at _____ in favor of the Beaufort County Open Land Trust (hereinafter “**Grantee**”), a South Carolina charitable corporation and a publicly supported corporation organized and operated under §501(c)(3) of the Internal Revenue Code of 1986, as amended (hereinafter the “Code”) and not a private foundation under Code §509, with a business address at P. O. Box 75, Beaufort, SC 29901.

WHEREAS, **Grantor** is the sole owner in fee simple of certain real property known as “Lobeco Farms” containing approximately one hundred and fifteen acres (115) acres (Beaufort County TMS# R700 037 000 0131 0000 more particularly described in Exhibit “A” and incorporated herein by this reference (hereinafter the “Protected Property”); and

WHEREAS, the Protected Property possesses significant ecological and natural resources, and open space and scenic value, and historic or cultural values of great importance to **Grantor**, to **Grantee** and to the people of South Carolina and this nation, the protection of which will yield significant public benefit; and

WHEREAS, the Property contains a diversity of relatively natural habitats including active and fallow agricultural fields, mixed pine/hardwood upland forest, and forested and non-forested wetlands, all of which can support a variety of floral and faunal species; and

WHEREAS, the Protected Property provides habitat for numerous game and non-game mammals including, but not limited to: white-tailed deer (*Odocoileus virginianus*), bobcat (*Lynx rufus*), fox squirrel (*Sciurus niger*), and numerous other avian, reptile, amphibian, insect, arachnid and mammal species that are of great importance to the public; and,

WHEREAS, The Protected Property provides significant wildlife habitat functions for neotropical migratory songbirds, wading birds, and diversity of game and non-game avian species including, but not limited to: mourning dove (*Zenaida macroura*), wild turkey (*Meleagris gallopavo*), bald eagle (*Haliaeetus leucocephalus*), and barred owl (*Strix varia*). Specifically, the Protected Property includes priority species called out in the North American Waterfowl Management Plan observed on the Protected Property or found within known range include painted bunting (*Passerina ciris*) and Swallow-tailed kite (*Elanoides forficatus*); and

WHEREAS the Protected Property consists of priority coastal plain bird stopover, foraging, and breeding habitat named in the regional South Atlantic Migratory Bird Initiative Plan including early successional habitat, managed pine forests of various successional stages, and longleaf pine forests; and

WHEREAS, the Protected Property is within the ACE Basin, a focal area including parts of the Salkehatchie/Combahee 8-digit HUC Watershed, as recognized by the Edisto River Basin Resource Assessment, sponsored by the National Oceanic and Atmospheric Administration, and is part of a system supporting numerous high-quality wetland plant communities and highly intact, extensive riparian habitats;

WHEREAS, The ACE Basin is one of the largest relatively undeveloped wetland ecosystems remaining along the Atlantic Coast. It has been identified as a unique coastal ecosystem of national and regional significance under the National Wetlands Priority Conservation Plan, including exceptionally diverse and rich habitats supporting more than 267 species of terrestrial and aquatic birds, 83 species of reptiles and amphibians, 20 species of mammals, and 130 species of fish and shellfish, nesting, foraging, and wintering habitat for a number of endangered and threatened species; and

WHEREAS, the Protected Property will provide critical habitat linkages to adjacent protected lands; and

WHEREAS, Preservation of the Protected Property is pursuant to federal, state and local governmental conservation policy and may achieve a significant public benefit towards the fulfillments of these conservation policies, specifically:

- i. South Carolina Code Annotated 12-43-220(d) grants a special agricultural use value for real property which is “actually used for agricultural purposes.” Section 12-43-230(a) defines agricultural real property as “...any tract of real property which is used to raise, harvest or store crops, feed, breed or manage livestock, or to produce plants, trees, fowl or animals useful to man, including the preparation of the products raised thereon for man’s use and disposed of by marketing or other means....”
- ii. The Conservation Area helps to fulfill the goals of the South Carolina Forest Legacy Program, including the following specified goals: “protect river systems, wetlands, and their associated upland habitats; reduce forest fragmentation caused by development; provide buffer areas and connectivity to already protected areas; and promote Best Management Practices for forestry”;
- iii. South Carolina House Bill 4727 Section 48-59-50, B(5) identifies areas suitable for land protection according to conservation connectivity, ecological conservation priorities, and sustainable forestry and agriculture among other categories,
- iv. Beaufort County Comprehensive Plan and Greenprint Plan, adopted in 2020, identifying properties in rural areas, including the Protected Property, as important for the agricultural value, soil health, and contribution to a working rural landscape; and

WHEREAS, the specific Conservation Values, as detailed in the Recitals above and outlined in Paragraph 1 below, are summarized hereunder and documented in a report on file at the **Grantee’s** office and incorporated herein by this reference (hereinafter the “Baseline Documentation”), which consists of maps, reports and photographs (including aerial imagery and on-site photographs taken by a representative of the **Grantee**), and property review occurs prior to easement, and the parties agree that the Baseline Documentation provides, collectively, an

accurate representation of the Protected Property at the time of this Easement and is intended to serve as an objective point of reference from which **Grantee** shall monitor and enforce compliance with the terms of this Easement; and

WHEREAS, **Grantor** believes that through this Easement, the natural resources, habitat, beauty and unique ecological character of the Protected Property can be protected in a manner that permits continuing private ownership of land and its continued use and enjoyment; and

WHEREAS, **Grantor** intends to preserve and protect the Conservation Values, as detailed in the Recitals above and outlined in Paragraph 1 below, in perpetuity; and

WHEREAS, **Grantor** is willing to forego forever the right to fully exploit the financial potential of the Protected Property by encumbering the Protected Property with this Easement; and

WHEREAS, by act of the General Assembly of the State of South Carolina, as enacted in South Carolina Code Ann. (1976, as amended) (hereinafter the “SC Code”) §27-8-10, et. seq. (The South Carolina Conservation Easement Act of 1991) (hereinafter the “Act”), South Carolina recognizes and authorizes the creation of conservation restrictions and easements; and

WHEREAS, this Easement contains the conservation purposes pursuant to the Act, as outlined therein and stated below:

- (A) “retaining or protecting natural, scenic, or open-space aspects of real property”;
- (B) “ensuring the availability of real property for agricultural, forest, recreational, educational, or open-space use”;
- (C) “protecting natural resources”;
- (D) “maintaining or enhancing air or water quality” and

WHEREAS, **Grantor** and **Grantee** recognize the natural, scenic, aesthetic, and special character and opportunity for enhancement of the Protected Property, and have the common purpose of the conservation and protection in perpetuity of the Protected Property pursuant to Code §170(h) and in the regulations promulgated thereunder by the United States Department of the Treasury (hereinafter “Treasury Regulations”) as follows:

(I) Preservation of open space (including farmland and forest land) within the meaning of Code §170(h)(4)(A)(iii)(I) for the scenic enjoyment of the general public which will yield a significant public benefit, including the opportunities for scenic enjoyment and the public benefits described in the recitals to this Easement; and

(II) Preservation of open space (including farmland and forest land) within the meaning of Code §170(h)(4)(A)(iii)(II) pursuant to clearly delineated Federal, state, or local governmental conservation policies which will yield a significant public benefit, including the policies and public benefits described in the recitals to this Easement;

WHEREAS, **Grantor** and **Grantee** agree these purposes can be accomplished by the **Grantor** voluntarily placing perpetual restrictions upon the use of the Protected Property and by providing for the transfer from the **Grantor** to the **Grantee** of affirmative rights for the protection of the Protected Property so as to be considered a “qualified conservation contribution” as such term is defined in Code §170(h) and the Treasury Regulations promulgated thereunder; and

WHEREAS, the **Grantee** is a corporation of which its purposes and powers include one or more of the purposes set forth in SC Code §27-8-20(1); and **Grantee** is a holder of conservation easements as conservation easements are defined by the Act; and, **Grantee** is a publicly supported, tax-exempt, nonprofit corporation organized and operated under Code §501(c)(3) dedicated to the preservation of the irreplaceable natural and historical resources of the South Carolina Lowcountry landscape by protecting significant lands, waters and vistas and is not a private foundation under Code §509;

NOW, THEREFORE, in consideration of payment to Grantor of the sum of Five Hundred twenty nine thousand and no cents (\$529,000.00) Dollars and the above and in further consideration of the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to §§170(h) and 2031(c) of the Code and pursuant to the laws of the State of South Carolina, the **Grantor** hereby voluntarily grants and conveys to **Grantee** this Easement in perpetuity over the Protected Property of the nature and character and to the extent hereinafter set forth. **Grantor** herein declares that the Protected Property shall be held, transferred, sold, conveyed and occupied subject to the covenants, conditions, and restrictions hereinafter set forth, which covenants, conditions, and restrictions shall be deemed to run with the land in perpetuity and to be a burden on the Protected Property in perpetuity.

1. Purpose. The purpose of this Easement (hereinafter the “Purpose”) is to protect the Conservation Values (detailed in the Recitals above and outlined below) and to preserve the Protected Property for the continuation of historic and traditional uses and activities, as well as other limited uses, provided no such uses significantly impair or degrade the Conservation Values. The Conservation Values of the Protected Property include the following:

- 1) Relatively natural habitat and biological diversity,
- 2) Open space for agricultural or forestry use,
- 3) Preservation or enhancement of downstream water quality in the Whale Branch River,
- 4) Scenic views of the Protected Property from Highway 21.

The protection of these Conservation Values by stewardship, enforcement, and monitoring in perpetuity is set forth in this Easement.

This Purpose is to ensure that the Protected Property will be retained in perpetuity predominantly in its relatively natural and scenic condition for conservation purposes and to prevent any use of the Protected Property that would significantly impair or interfere with the Conservation Values of the Protected Property, while allowing for limited low-impact rural residential, recreational, agricultural, forestry and other open-space uses of

the Protected Property that are compatible with and not destructive of those Conservation Values. It is the intent of the parties that Grantor will not perform, nor knowingly allow others to perform, any act on or affecting the Protected Property that is inconsistent with the Purpose of this Easement. Grantor understands that nothing in this Easement relieves Grantor of any obligation or restriction on the use of the Protected Property imposed by law.

2. Definitions. For the purposes of this Easement, **Grantor** and **Grantee** agree that those bold-faced terms that appear throughout this Easement shall be defined as follows:

Agricultural Activities shall be defined as activities directly related to the production of plant or animal products on the Protected Property including crop production, crop storage, refrigeration, packing operations, animal husbandry, floriculture and horticulture, and **community gardens** in a manner that preserves the long-term productivity of the soil. Permitted activities shall not include **Feedlots**, intensive livestock production facilities nor any type of large-scale operation where animals are unnecessarily confined to maximize intensive large-scale production; however, non-intensive small-scale farming uses for the benefit of **Grantor**, **Grantor's** family or local agriculture shall be allowed which may include fences, pens and similar containment methods. Notwithstanding the above, commercial aquaculture and/or mariculture activities must have **Approval**.

Agricultural Structure shall be defined as any building designed to be used or currently used in conjunction with permitted **Agricultural Activities** or **Forest Management Practices**, not including any structure used as a dwelling for human beings.

Approval shall be defined as the prior written consent of the **Grantee** to permit **Grantor** to exercise certain rights described in Paragraphs 4 and 5, or to undertake any activity otherwise permitted as described in Paragraph 10. The rationale for requiring the **Grantor** to receive **Approval** is to afford **Grantee** an adequate opportunity to evaluate the activities in question to confirm if they are designed and will be carried out in a manner that is not inconsistent with the Purpose of this Easement. **Approval** does not relieve **Grantor** of the obligation to obtain all other necessary permits, consents and approvals.

Building Height shall be measured, for the purposes of any permitted structure, from ground elevation or the legal building elevation within a Federal Emergency Management Agency (or successor agency) flood zone, whichever is greater, to the top of the highest structural component, excluding chimneys, antennas and weather vanes.

Conservation Values shall mean those values outlined in recitals to this Easement.

Community Garden shall mean the operation of community garden plots and/or many individual plots, owned, leased or managed by the community for purposes of growing food for home consumption, food banks, or education. Gardens can include

herbs, flowers, native plants, and may include gathering places, children’s gardens, and demonstration sites. United States Department of Agriculture provides best practices for managing a community garden.

Designated Building Area shall be defined as those eight (8) areas, each no larger than approximately three (3) acres in size, designated for the siting of all **Residential Structures, Related Outbuildings,** and **Agricultural Structures,** the location and configuration of which shall be as set forth in the Baseline Documentation Report to this Conservation Agreement.

Feedlot shall be defined as any confined area or facility for feeding livestock for commercial purposes, or within which the land is not grazed or cropped at least annually, or which is used to receive livestock that have been raised off the Protected Property for feeding and fattening for market.

Forest Management Plan shall be defined as a written plan subject to periodic updates, on file with the **Grantee** and agreed upon by both **Grantor** and **Grantee,** which outlines **Forest Management Practices** on the Protected Property. The **Forest Management Plan** shall be compatible with the terms of this Easement and shall not significantly impair or degrade any of the Conservation Values of the Protected Property at the property level.

Forest Management Practices shall be defined as the production, improvement and maintenance of pine and hardwood forest lands for timber production and commercial harvesting, wildlife management, aesthetics or any other purpose. **Forest Management Practices** include silvicultural practices, which are used to control the establishment, growth, composition, health, quality and utilization of forestlands for multiple-use purposes and include, but are not limited to, harvesting, thinning, reforestation, competition control, prescribed fire or fire breaks. **Forest Management Practices** shall follow best management practices of the SC Forestry Commission or successor agency and be compatible with the terms of this Easement and shall not significantly impair or degrade any of the Conservation Values of the Protected Property at the property level.

Grantee shall be defined as the above-named §501(c)(3) South Carolina charitable corporation, designated as the holder of this Easement, and its successors and assigns.

Grantor shall be defined as the original donor of this Easement and his (or her, their or its) personal representatives, heirs, successors, assigns, and subsequent owners of record.

Impervious Surface shall be defined as a hard surface area which either prevents or significantly retards the entry of water into the soil mantle at a rate lower than that present under natural conditions prior to development. Impervious surfaces can include, but are not limited to, roof tops, walkways, patios and decking, enclosed and unenclosed

porches, paved driveways, paved parking lots, covered storage areas, concrete or asphalt paving, swimming pools, or other surfaces which similarly impede the natural infiltration of surface and stormwater runoff. **Impervious Surface** specifically excludes ground surfaces covered with sand, gravel, shell sand, crushed stone, or other similar traditional permeable materials.

Notice shall be defined as a written communication, not a request for **Approval**, prior to undertaking a permitted activity, as defined in Paragraph 27.

Recreational Structure shall be defined as any building designed or used in conjunction with recreational activities on the property, and shall not include any structure used as a permanent or temporary **Residential Structure**.

Related Outbuilding shall be defined as any auxiliary structure customarily used as an accessory to a private **Residential Structure** in the South Carolina Lowcountry.

Request for Approval shall be defined as a written request by **Grantor** for **Approval** by **Grantee** of a defined activity proposed by the **Grantor**.

Residential Structure shall be defined as any dwelling having sleeping quarters, sanitary facilities, and cooking facilities, all three of which must be present, which permanent residential use or occupancy on the Protected Property by the **Grantor**, permitted lessee, and guests or employees of the **Grantor** or permitted lessee.

Significant Tree shall be defined as any *cypress or live oak* having a diameter at breast height of twelve (12) inches or greater and any tree protected by Beaufort County Development Code.

Subdivided Tract shall be defined as a legally divided, transferable parcel of land having a unique tax identification number according to Beaufort County real property tax records.

Subdivision shall be defined as the permitted creation of a **Subdivided Tract** after the date of this Easement.

Water Line shall be defined as the edge of a waterway or waterbody which is either the critical line as defined by S.C Office of Ocean and Coastal Resource Management or, if no critical line has been established, the mean high water line as defined by the Army Corps of Engineers or established by a surveyor employing the regulatory standards then in effect for its determination. If the critical line or the mean high water line cannot be established or are no longer used to define the edge of a waterway or waterbody, then the comparable defining line as defined by successor entities of the above named agencies shall be used.

Wetlands shall be defined as “those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under

normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions,” as stated in the United States Army Corps of Engineers Wetlands Delineation Manual (1987, or as amended).

3. **Rights of Grantee.** **Grantor** hereby conveys the following rights to the **Grantee**:

(A) **Right of Visual Access.** To have visual access to the Protected Property, provided that such right shall not be construed to permit general public access over or upon the Protected Property;

(B) **Right to Monitor.** To enter upon the Protected Property in a reasonable manner, at reasonable times, with reasonable notice, to monitor compliance with this Easement and to further document natural and manmade features of the Protected Property. The **Grantee** shall limit entry to annual visits (after completion of the Baseline Documentation) unless the **Grantee** has reason to believe there is a violation of the terms of this Easement. **Grantee** shall not unreasonably interfere with **Grantor’s** quiet use and enjoyment of the Protected Property;

(C) **Right to Prevent Inconsistent Uses.** To prevent **Grantor** or third parties from conducting any activity or use inconsistent with the Purpose;

(D) **Right to Require Restoration.** To require **Grantor** to restore such Conservation Values that may be damaged by any uses or activities prohibited by this Easement, or any activity or use inconsistent with the Purpose to include third party activities.

4. **Reserved Rights.** **Grantor** reserves all the rights, uses and activities (collectively, the “Reserved Rights”) inherent in fee simple ownership of the Protected Property in its entirety, subject to the specific Restrictions and Limitations of Paragraph 5, which are included to accomplish the Purpose of this Easement stated in Paragraph 1. In addition, the exercise of all Reserved Rights shall be in full accordance with all applicable local, state and federal laws and regulations, as well as in accordance with the Purpose of this Easement stated in Paragraph 1.

5. **Restrictions and Limitations.** **Grantor** will not perform or permit or will perform or permit, as specified below, the following acts or uses on, over or under the Protected Property:

(A) **Subdivision.** The Protected Property is currently composed of one (1) tract, which is Beaufort County TMS# R700 037 000 0131 0000.

Subdivision is limited to the reconfiguration and division of the Protected Property into a maximum of four (4) tracts. The configuration of each such **Subdivided Tract** shall be at the **Grantor’s** discretion, however no tract shall be smaller than twenty (20) acres in size. **Grantor** shall allocate Reserved Rights among such **Subdivided Tracts** at the time of each **Subdivision** with such allocation being specifically described and noted in the deed transferring ownership of any **Subdivided Tract**, specifically quantitative Reserved Rights including allowances for **Impervious Surface, Residential Structures, Docks, or any other Reserved Rights** as applicable within this Easement. **Grantor** shall give **Notice** to **Grantee** of any **Subdivision** or reconfiguration of a **Subdivided Tract**.

(B) Structural Limitations. The construction, enlargement, removal and replacement of **Residential Structures, Related Outbuildings, Recreation/Education Structures, Agricultural Structures** and all other structures are subject to the following limitations:

I. Total **Impervious Surface** on the Protected Property shall not exceed a maximum of sixty thousand (60,000) square feet in the aggregate.

II. No **Residential Structure, Related Outbuilding, Recreational Structure** or **Agricultural Structure** shall exceed thirty-five (35) feet in **Building Height**.

III. **Residential Structures** shall be limited to one (1) structure per subdivision. **Grantor** is required to obtain **Approval** from **Grantee** prior to the construction, enlargement, removal and replacement of any permitted **Residential Structures**.

IV. **Related Outbuildings, Recreational Structures** and **Agricultural Structures** shall be permitted, provided that the square footage of all **Impervious Surface** on the Protected Property does not exceed the allowance stated in Paragraph 5(B)(I). All permitted **Residential Structures and Related Outbuildings**, shall be located within a permitted **Designated Building Area** to be consistent with Baseline Documentation Report.

V. Other than permitted **Residential Structures and Related Outbuildings**, no other structure on the Protected Property shall be used as a temporary or permanent dwelling for human beings.

VII. Towers. There shall be no towers on the Protected Property, including, but not limited to, radio, microwave, broadcast, communication and cellular towers.

Notwithstanding the above, **Grantor** retains the right to construct, maintain, improve, repair and replace wildlife observation towers; such towers shall not exceed 35 feet in height and shall not be visible from off the Protected Property when viewed from ground elevation.

(C) Buffers. Buffer Areas, as shown in the Baseline Documentation, shall be subject to the following restrictions:

Buffer requirements acknowledge the current utility easement as shown in the Property survey as recorded.

“Setback” Road Buffer. In order to protect the scenic view along public roadways, there shall be no **Impervious Surface**, structures (other than mailboxes, fencing and gates, utility and service lines for any permitted use under the terms of this Easement,

boardwalks, or other structures existing at the time of this Easement as documented in the Baseline Documentation), nor new roads (other than those necessary to access the permitted **Subdivided Tracts**) on that portion of the Protected Property within one hundred (100) feet of the legal or established right-of-way along Highway 21 and Morgan Road and former railroad right of way. **Grantor** reserves the right to engage in **Agriculture Practices** and **Forest Management Practices** within the setback road buffer, provided there shall be no clearcutting and no activities that endanger the health or survival of **Significant Trees** without **Approval**.

Notwithstanding the above, **Grantor** reserves the right to cut any tree, in accordance with applicable governmental laws and regulations, when it is necessary to salvage timber damaged by natural causes, when cutting is necessary to prevent further such damage or personal injury, or when a permitted structure is in danger.

(D) Industrial Uses. There shall be no industrial uses, activities, or structures. No right of passage across or upon the Protected Property shall be allowed or granted if that right of passage is used in conjunction with any industrial uses or activities.

(E) Commercial Uses. There shall be no commercial uses, activities or structures permitted with exceptions to include home-based business that do not impair the Conservation Values. Any such home-based business requires prior **Approval** by the **Grantee**. No right of passage across or upon the Protected Property shall be allowed or granted if that right of passage is used in conjunction with any commercial uses or activities not permitted in this Easement. For the purposes of this Easement, **Agricultural Activities**, **Forest Management Practices** and the leasing of agriculture, hunting, trapping and fishing rights, and seasonal daily “pay-to-hunt” activities traditional to the Lowcountry shall not be considered commercial uses. However, to qualify this Easement for treatment under §2031(c)(8)(B) of the Code, any use of the Protected Property for more than a de minimus use for a commercial recreational activity is prohibited.

(F) Services. Construction of water wells, septic systems, and utility services is limited to serve the allowed uses in Paragraph 4, subject to the Restrictions and Limitations of Paragraph 5, and subject to all applicable governmental laws and regulations.

Fuel storage tanks are limited to aboveground or underground gaseous (not liquid) fuel storage tanks and/or aboveground liquid fuel storage tanks to serve the allowed uses in Paragraph 4, subject to the Restrictions and Limitations of Paragraph 5, subject to all applicable governmental laws and regulations.

(G) Roads and Driveways. Roads and driveways shall be limited to those required to facilitate the uses permitted by this Easement, provided there shall be no road or driveway constructed or covered with **Impervious Surface**. Maintenance of driveways, roads and roadside ditches shall be limited to standard practices for non-paved roads.

(H) Landscaping. Landscaping shall be limited to the management of native vegetation associated with the uses allowed by this Easement, including but not limited to, mowing,

pruning, trimming, and gardening. Structural elements of landscaping, including but not limited to walkways and patios, shall be subject to **Impervious Surface** restrictions and limitations as provided for in this Easement.

(I) Lighting. There shall be limited exterior lighting of which the light source is visible from off the Protected Property at ground level; lights shall employ an opaque shield so as to prevent direct visibility of the light source from off the Protected Property. The purpose of this provision is to allow lighting on the property for safety and security and to minimize the impact of lighting on the relatively natural and scenic views of the Protected Property.

(J) Signs. Signs visible from off the Protected Property shall be limited to a maximum of eight (8) square feet in size, individually and billboards are expressly prohibited. Signs shall be placed so as to minimally impact the scenic view as seen from the public roadway.

(K) Archeological and Paleontological Excavations. **Grantor** shall give **Notice** to **Grantee** prior to undertaking archeological or paleontological excavation. Any archeological or paleontological site shall, upon completion of any excavation, be returned to, or as close as possible to, its previous state, unless the site is to be maintained in an excavated condition for interpretive purposes related to education.

(L) Forestry Uses. A **Forest Management Plan** is recommended for the Protected Property when deemed appropriate by the **Grantee**. Forestry Uses are limited to those **Forest Management Practices** defined in the **Forest Management Plan** or recommended by the South Carolina Forestry Commission or successor agency. **Grantor** shall provide **Notice** to **Grantee** of timber harvests. **Forest Management Practices** specifically permitted under the terms of this easement include clearing small patch openings and wildlife food plots.

Notwithstanding the above, **Grantor** reserves the right to cut any tree, in accordance with applicable governmental laws and regulations, when it is necessary to salvage timber damaged by natural causes, when cutting is necessary to prevent further such damage or personal injury, or when a permitted structure is in danger.

(M) Agricultural Uses. **Agricultural Activities** are restricted to the recommended or accepted practices recommended by the South Carolina Cooperative Extension Service, the United States Natural Resources Conservation Service, their successors or other entities mutually acceptable to the **Grantor** and **Grantee**. **Grantor** shall have the right to utilize Pond(s), center pivot irrigation and wells to irrigate for Agricultural Uses. **Grantor** and **Grantee** recognize that changes in agricultural technologies, including accepted management practices, may result in an evolution of **Agricultural Activities**. Such evolution shall be permitted so long as it is consistent with the Purpose of this Easement.

Community Gardens are included as **Agricultural Activities**. Leases for agriculture are permitted.

(N) Significant Trees. There shall be no activities that endanger the health or survival of **Significant Trees** without **Approval** and all activities are subject to the Beaufort County Community Development Code.

(O) Pond(s). One (1) new pond is permitted in the aggregate not to exceed more than five (5) acres in size. The sale of extracted soil, sand, gravel or other materials produced in connection with the enlargement or construction of pond(s), or any other permitted or non-permitted use, is strictly prohibited in accordance with Paragraph 5(P) Mining. However, any extracted soil, sand, gravel or other materials from enlargement or construction of pond(s) may be used on the Protected Property for improvement or maintenance of roads, development of permitted structures or any other permitted use.

(P) Mining. Mining and recovery of any oil, gas or minerals are restricted to extraction methods in accordance with Code §170(h)(5)(B) prohibiting surface mining provided that following the mining activity, the site is returned to, or as closely as possible to, its previous state.

(Q) Topography and Hydrology. There shall be no adverse material alteration of the topography or hydrology, unless otherwise provided for in Paragraphs 4 or 5. Exceptions for wildlife management, as permitted by local, state, and federal authorities, are allowed.

(R) Refuse. There shall be no placing of refuse on the Protected Property of vehicle bodies or parts or refuse not generated on the Protected Property. Temporary piles for collection of refuse generated on the Protected Property established between regular removals are permitted provided such piles do not contain hazardous substances, pollutants, or wastes and do not impair the Conservation Values of the Protected Property.

(S) Right to Lease. Subject to the other provisions of this Conservation Easement, Grantor reserves the right to lease all or a portion of the Protected Property for any purpose permitted under this Conservation Easement, including permitted Commercial Uses.

(T) Eligibility for Conservation Programs. **Grantor** reserves the right to participate in conservation, preservation, or mitigation programs existing now or permitted in the future for any activity or use permitted (or restricted, as the case may be) on the Protected Property under this Easement, including but not limited to carbon sequestration credits and greenhouse gas credits.

(U) Adverse or Inconsistent Uses. There shall be no other use or activity that is inconsistent with the Purpose of this Easement as stated in Paragraph 1.

6. Third Party Activities. The **Grantor** shall keep the **Grantee** reasonably informed as to activities being conducted on the Protected Property which are within the scope of this Easement and as to the identity of any third parties who are conducting or managing such activities. The **Grantor** shall ensure that all third parties who are conducting activities relating to permitted uses of the Protected Property are fully and properly informed as to the restrictions and covenants contained within this Easement which relate to such uses, including without limitation, the provisions of this Paragraph and of Paragraphs 4 and 5.

7. **Grantee's Remedies.** If **Grantee** determines that **Grantor** is in violation of the terms of this Easement or that a violation is threatened, the **Grantee** shall notify the **Grantor** of the violation (hereinafter, "First **Notice**") and request voluntary compliance. In the event that voluntary compliance is not agreed upon within ninety (90) days of receipt of First **Notice**, the **Grantee** shall give written notice to **Grantor** of such violation (hereinafter, "Second **Notice**") and demand corrective action sufficient to cure the violation and, where the violation involves injury to the Protected Property resulting from any use or activity inconsistent with the Purpose, to restore the portion of the Protected Property so injured.

If **Grantor** fails to cure the violation within sixty (60) days after receipt of Second **Notice** thereof from **Grantee** (or under circumstances where the violation cannot reasonably be cured within a sixty (60) day period, if **Grantor** shall fail to begin curing such violation within said sixty (60) day period, or shall fail to continue diligently to cure such violation until finally cured), **Grantee** may bring an action at law or in equity in a court of competent jurisdiction to enforce the terms of this Easement, to enjoin the violation ex parte as necessary, by temporary or permanent injunction, to recover any damages to which it may be entitled for violation of the terms of this Easement, including damages for the loss of the Conservation Values, and to require the restoration of the Protected Property to the condition that existed prior to any such injury. Without limiting **Grantor's** liability therefore, **Grantee**, in its sole discretion, may either apply any damages recovered to the cost of undertaking any corrective action on the Protected Property or may apply any damages recovered towards activities relating to monitoring and enforcing compliance with the terms of this Easement and other similar conservation easements.

If **Grantee**, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate significant damage to the Conservation Values, **Grantee** shall give immediate notice of the circumstances to **Grantor**, as described in Paragraph 28, and may immediately pursue its legal and equitable remedies under this Paragraph without waiting for the period provided for cure to expire. **Grantor** agrees that if such emergency arises, **Grantee** may obtain injunctive relief without the necessity of posting a bond.

Grantee's rights under this Paragraph apply equally in the event of either actual or threatened violations of the terms of this Easement. **Grantor** agrees that if **Grantee's** remedies at law for any violation of the terms of this Easement are inadequate, the **Grantee** shall be entitled to seek the injunctive relief described in this Paragraph, both prohibitive and mandatory in addition to such other relief to which **Grantee** may be entitled, including specific performance of the terms of this Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal remedies, and without the necessity of posting a bond. **Grantee's** remedies described in this Paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity.

8. **Costs of Enforcement.** If **Grantee** prevails in any action to enforce the terms of this Easement, any costs incurred by **Grantee** in enforcing the terms of this Easement against **Grantor**, including without limitation, costs of suit (which includes reasonable attorneys' fees), and any reasonable costs of restoration necessitated by **Grantor's** violation of the terms of this Easement, shall be borne by **Grantor**. If **Grantor** prevails in any action to enforce the terms of

this Easement, any costs incurred by **Grantor**, including without limitation **Grantor's** cost of the suit (which includes reasonable attorneys' fees) shall be borne by **Grantee**.

9. Successors; Benefits and Burdens. The covenants, terms, conditions, easements, benefits, and burdens of this Easement shall be binding upon and inure to the parties hereto and their respective successors, personal representatives, heirs, and assigns and shall continue as a restriction running in perpetuity with the Protected Property. An owner of the Protected Property shall only be responsible for those violations first occurring on the Protected Property during such owner's ownership, and while still an owner of the Protected Property (although notwithstanding the foregoing, a subsequent owner may also be held responsible for those violations first occurring during another's prior ownership of the Protected Property unless an estoppel certificate or compliance certificate was obtained from **Grantee** prior to or at the time of the transfer of the Protected Property's ownership to such subsequent owner). Any of the rights herein reserved to **Grantor** may be exercised by any owner of the Protected Property.

10. Compliance Certificates. Upon request by **Grantor**, **Grantee** shall within thirty (30) days execute and deliver to **Grantor** any document that may be requested by **Grantor**, including an estoppel certificate or compliance certificate, to certify to the best of **Grantee's** knowledge **Grantor's** compliance with any obligation of **Grantor** contained in this Easement or otherwise to evidence the status of this Easement.

11. Representation of Authority. Each signatory to this Easement represents and warrants that he or she is duly authorized to enter into and execute the terms and conditions of this Easement and to legally bind the party he or she represents.

12. Forbearance Not a Waiver. Any forbearance by **Grantee** to exercise its rights under this Easement in the event of any breach of any terms of this Easement by **Grantor** shall not be deemed or construed to be a waiver by **Grantee** of such term or of any subsequent breach of the same or any other term of this Easement or of any of **Grantee's** rights under this Easement. No delay or omission by **Grantee** in the exercise of any right or remedy upon any breach by **Grantor** shall impair such right or remedy or be construed as a waiver.

13. Reasonableness Standard. **Grantor** and **Grantee** shall follow a reasonableness standard and shall use their best efforts to make any determinations that are necessary or are contemplated to be made by them (either separately or jointly) under this Easement in a timely manner, and shall cooperate with one another and shall take all other reasonable action suitable to that end.

14. Grantor's Environmental Warranty. The **Grantor** warrants that **Grantor** has no knowledge of the existence or storage of hazardous substances, pollutants, or wastes on the Protected Property or a release or threatened release of hazardous substances, pollutants or wastes on the Protected Property and promises to defend and indemnify the **Grantee** against all litigation, claims, demands, penalties, and damages, including reasonable attorney's fees, arising from breach of this warranty.

15. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle **Grantee** to bring any action against **Grantor** for any injury to or change in the

Protected Property resulting from causes beyond **Grantor's** control, including but not limited to trespass, fire, hurricane, flood, storm and earth movement, or from any prudent action taken by **Grantor** under emergency conditions to prevent, abate or mitigate significant injury to the Protected Property resulting from such causes.

16. Access. No right of public access to any portion of the Protected Property is conveyed by this Easement, except as expressly provided herein.

17. Costs, Liabilities, and Taxes. **Grantor** retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Protected Property, including, but not limited to, clean up or remediation costs due to chemical contamination and payment of taxes. Furthermore, if the **Grantor** maintains general liability insurance coverage for the Protected Property, **Grantor** will be responsible for such costs.

Each party agrees to release, hold harmless, defend and indemnify the other from any and all liabilities including, but not limited to, injury, losses, damages, judgments, costs, expenses and fees that the indemnified party may suffer or incur as a result of or arising out of wrongful or negligent activities of the indemnifying party on the Protected Property.

18. Transfer Fee. There shall be assessed by the **Grantee** a transfer fee equal to one (1) percent of the sales price and/or other consideration paid in connection with the transfer of any freehold or fee simple interest in the Protected Property, including but not limited to any conveyance by warranty deed, limited warranty deed, or quitclaim deed, sale, mortgage foreclosure, or conveyance in lieu of foreclosure. The transfer fee shall be paid to the **Grantee** on the date of the closing of the transfer.

Exemptions from assessment of transfer fee:

- (A) The sale of timber rights or products produced from permitted **Forest Management Practices** and/or permitted **Agricultural Activities** of such Protected Property.
- (B) Any transfer subsequent to the conveyance of this Easement:
 - I. Without consideration, or
 - II. To a spouse, a lineal descendant, an ancestor or ancestors, a spouse of a lineal descendent (collectively, "Immediate Family Members"), or
 - III. To or from a trust whose beneficiaries or presumptive beneficiaries are the **Grantor** or Immediate Family Member, or both, or
 - IV. To an entity at least 50% of the equity interest of which is owned by **Grantor** or Immediate Family Member, or
 - V. If the **Grantor** of this Easement is a corporation, limited liability company or a partnership, to an owner/partner/member of such entity or to an Immediate Family Member thereof, or
 - VI. To a charitable organization which is tax exempt under §501(c)(3), or
 - VII. Any transfer under a will, or
 - VIII. Any transfer implemented or effected by court order, except foreclosure, or

- IX. Any transfer that corrects, modifies, or confirms a transfer previously made, or
- X. A transfer to Beaufort County.

(C) If a creditor purchases the Protected Property at a foreclosure sale or takes title to the Property in lieu of foreclosure, the transfer fee shall be due and paid at the time the creditor takes title. The transfer fee shall be based on the total bid for the Protected Property if purchased at a foreclosure sale or on the amount of the accrued indebtedness if the creditor accepts a deed in lieu of foreclosure. An additional transfer fee shall be due if the creditor who takes title through foreclosure or a deed in lieu of foreclosure sells the Protected Property for an amount higher than the amount subject to the transfer fee at the time the creditor took title; the additional transfer fee due shall be based on the additional amount alone, not the entire sales price. Creditor for purposes of this Paragraph shall include an assignee of the creditor who purchases the Protected Property at a foreclosure sale or takes a deed in lieu of foreclosure.

An exchange of properties pursuant to Code §1031, or similar statute, shall be deemed to be for consideration based on the market value of the property plus boot, if applicable, received at the time of such transfer. Market value of the Protected Property shall be determined by agreement of the **Grantor** and the **Grantee**, or in the absence of such agreement by a South Carolina certified appraiser selected by the **Grantee**, whose appraisal fee shall be paid by the **Grantee**.

Grantor grants **Grantee** a lien against the Protected Property for all or any part of the transfer fee that is unpaid at the time of the conveyance or assignment triggering the transfer fee. **Grantee's** lien shall be subordinate to this Easement and to the lien of any first mortgage on the Protected Property. **Grantee** shall have the right to record a notice of lien for such unpaid transfer fee. Any such lien may be enforced and/or foreclosed in accordance with the laws of the State of South Carolina. **Grantee** may require the **Grantor** and/or any subsequent purchaser to provide reasonable written proof of the applicable sales price, such as executed closing statements, contracts of sale, copies of deeds or other such evidence.

19. Extinguishment, Condemnation and Fair Market Value. If circumstances arise in the future that render the Purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. As required by §1.170A-14(g)(6)(ii) of the Treasury Regulations, in the event of any extinguishment or termination of this Easement, any sale, exchange, or involuntary conversion of the Protected Property entitles **Grantee** to a percentage of the gross sale proceeds, equal to the ratio of the appraised value of this Easement to the unrestricted fair market value of the Protected Property established as of the date donated.

If all or a part of the Protected Property is taken by exercise of the power of eminent domain, **Grantor** and **Grantee** shall be respectively entitled to compensation in accordance with applicable law and as provided in this Paragraph. **Grantor** and **Grantee** shall divide the net proceeds after the payment of all expenses of the condemnation in accordance to the ratio of the

appraised value of this Easement to the fair market value of the Protected Property unrestricted by the Easement established as of the date conveyed.

For the purpose of the above Paragraphs, the parties hereto stipulate that the value of this Easement and the value of the restricted fee interest in the Protected Property each represent a percentage interest in the fair market value of the Protected Property. The percentage interests shall be determined by the ratio of the value of this Easement to the value of the Protected Property, without reduction for the value of this Easement. All such proceeds received by **Grantee** shall be used in a manner consistent with **Grantee's** mission. This provision is not intended to violate the provision required by Code §170(h)(2)(C) that requires this Easement to be granted in perpetuity.

20. Limitations on Extinguishment. If a sudden or unexpected change in the conditions surrounding the Protected Property have made impossible or impractical the continued use of the Protected Property for conservation purposes, this Easement can only be terminated or extinguished, whether with respect to all or part of the Protected Property, by judicial proceedings in a court of competent jurisdiction. Unless otherwise required by applicable law at the time, in the event of any sale of all or a portion of the Protected Property (or any other property received in connection with an exchange or involuntary conversion of the Protected Property) after such termination or extinguishment, and prior to the payment of any costs or expenses associated with such sale, **Grantee** shall be entitled to an amount no less than **Grantee's** proportionate share of the gross proceeds of such sale, as such proportionate share is determined under the provisions of Paragraph 21, adjusted, if necessary, to reflect a partial termination or extinguishment of this Easement. If sufficient funds are not available for **Grantee** to be paid its entire proportionate share out of such proceeds, or if for any other reason **Grantee** is not paid its entire proportionate share, **Grantee** has the right to recover such deficiency (including the right to record a lien to secure its recovery of such deficiency) from the record owner of the Protected Property at the time of such sale. All such proceeds received by **Grantee** shall be used by **Grantee** in a manner consistent with the conservation purposes of this Easement as of the effective date of this grant. In the event of extinguishment of this Easement in whole or in part, the provisions of this Paragraph 20 shall survive such extinguishment.

21. Percentage Interests. **Grantor** and **Grantee** hereby confirm that the donation of this Easement gives rise to a property right immediately vested in **Grantee**, with a value for purposes of this Paragraph 21 determined as follows. The parties hereto stipulate that as of the effective date of this grant the Easement and the restricted fee interest in the Protected Property each represent a percentage interest in the fair market value of the Protected Property (**Grantee's** percentage interest is referred to herein as **Grantee's** "proportionate share"). For the purposes of this paragraph, **Grantee's** proportionate share of the fair market value of the Protected Property shall remain constant.

22. Condemnation. If all or any part of the Protected Property is taken under the power of eminent domain by public, corporate, or other authority, or otherwise acquired by such authority through a purchase in lieu of a taking, **Grantor** and **Grantee** shall join in appropriate proceedings at the time of such taking to recover the full fair market value (without regard to any diminution in value attributable to the Easement) of the interests in the Protected Property

subject to the taking and all incidental or direct damages resulting from the taking. Prior to the payment of any expenses reasonably incurred by the parties to this Easement in connection with such taking, **Grantee** shall be entitled to its proportionate share from the recovered proceeds in conformity with the provisions of Paragraphs 20 and 21 (with respect to the allocation of proceeds). The respective rights of **Grantor** and **Grantee** set forth in this Paragraph 22 shall be in addition to, and not in limitation of, any rights they may have at common law. All such proceeds used by **Grantee** shall be used by **Grantee** in a manner consistent with the conservation purposes of this Easement as of the effective date of this grant.

23. Assignment. The benefits of this Easement shall not be assignable by the **Grantee**, except if as a condition of any assignment, (i) the **Grantee** requires that the terms and conditions of this Easement continue to be carried out in full as provided herein, (ii) the assignee has a commitment to protect the Purpose and the resources to enforce the restrictions contained herein, and (iii) if the assignee, at the time of assignment, qualifies under §170(h) of the Code, and applicable Treasury Regulations promulgated thereunder, and under State of South Carolina law as an eligible donee to receive this Easement directly. In the event that **Grantee** ceases to exist or exists but no longer as a tax-exempt, nonprofit corporation, qualified under §§501(c)(3) and 170(h)(3) and not a private foundation under §509(a) of the Code, then this Easement shall be assigned to Beaufort County and then a tax-exempt, nonprofit organization, qualified under §§501(c)(3) and 170(h)(3) and not a private foundation under §509(a) of the Code, which has a mission of protecting open lands or natural resources in the South Carolina Lowcountry.

24. No Extinguishment Through Merger. **Grantor** and **Grantee** herein agree that should **Grantee** come to own all or a portion of the fee interest in the Protected Property, (i) **Grantee** as successor in title to **Grantor** shall observe and be bound by the obligations of **Grantor** and the restrictions imposed upon the Protected Property by this Easement; (ii) this Easement shall not be extinguished, in whole or in part, through the doctrine of merger in view of the public interest in its enforcement; and (iii) **Grantee** as promptly as practicable shall assign the **Grantee** interests in this Easement of record to another holder in conformity with the requirements of this Paragraph 24. Any instrument of assignment of this Easement or the rights conveyed herein shall refer to the provisions of this Paragraph 24 and shall contain language necessary to continue it in force.

26. Transfers. **Grantor** agrees to incorporate by reference the terms of this Easement in any deed or other legal instrument by which **Grantor** transfers any interest in all or a portion of the Protected Property, including, without limitation, a leasehold interest. The **Grantor** shall give the **Grantee Notice** of any change of possession, ownership or control of the Protected Property within thirty (30) days after such change takes place, including without limitation notice of any transfer, lease, or sale of all or a part of the Protected Property. The failure of **Grantor** to perform any act required by this Paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

27. Approvals; Notice; Breach.

(A) Grantee's Approval or Withholding of Approval. When **Grantee Approval** is required, **Grantee** shall grant or withhold its approval in writing <within sixty (60) days of

receipt of **Grantor's** written request therefor. In the case of withholding of **Approval**, **Grantee** shall notify **Grantor** in writing with reasonable specificity of the reasons for withholding of **Approval**, and the conditions, if any, on which **Approval** might otherwise be given. Failure of **Grantee** to respond in writing within such sixty (60) days shall be deemed to constitute denial by **Grantee** of any such **Request for Approval**.

(B) **Approval by Grantee of Sites or Activities.** The exercise of any right to engage in the specified activities permitted by the provisions of Paragraphs:

- 2 New products and technologies for pervious surfaces;
- 5(B)(III) Residential Structures;
- 5(B)(IV) Designated Building Area;
- 5(E) Commercial Uses;
- 5(G) Roads;
- 5(L) Forestry Uses;
- 5(N) Significant Trees;
- 5(O) Ponds;

shall be subject to the prior **Approval by Grantee** of the activity and/or of the site for such proposed activity, as the case may be. **Grantor** shall request such **Approval** in writing and shall include therewith information identifying the proposed site or activity with reasonable specificity, evidencing conformity with the requirements of the applicable paragraphs under which the right is reserved hereunder, and, when applicable, evidencing conformity with existing land use regulations. **Grantee's Approval**, which shall not be unreasonably withheld, shall take into account the following criteria:

- I. The extent to which use of the site and/or the proposed activity would impair the scenic qualities of the Protected Property that are visible from public roads or waterways;
- II. The extent to which use of the site and/or the proposed activity would destroy an important habitat or would have a material adverse effect on the movement of wildlife;
- III. The extent to which use of the site for the proposed activity would impair water quality;
- IV. In the case of any proposal to build new structures or roads, the extent to which the scenic quality of the Protected Property may be adversely impacted; and
- V. The extent to which the proposed activity or use of the site for the proposed activity would otherwise significantly impair the Conservation Values. **Grantor** and **Grantee** shall cooperate and shall act in good faith to arrive at agreement in connection with any determinations that are necessary to be made by them (either separately or jointly) under this Paragraph 27. Notwithstanding the foregoing, **Grantee's**

Approval of a proposed site or activity shall be withheld if the site for the proposed activity would interfere with the essential scenic quality of the Protected Property.

(C) **Notice to Grantee.** Following the receipt of **Grantee’s Approval** when required under Paragraph 27(B) and not less than thirty (30) days prior to commencing activity requiring **Approval** or any activity where **Notice** is required, including Paragraphs:

- 5(A) Subdivision;
- 5(K) Archeological and Paleontological Excavations; and
- 26 Transfer of Property

Grantor agrees to provide **Notice** to **Grantee** in writing of the intention to exercise such right. The **Notice** shall describe the nature, scope, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit **Grantee** to monitor such activity. When such information was not provided to **Grantee** under the requirements of Paragraph 27(B), the **Notice** shall also include information evidencing the conformity of such activity with the requirements of the applicable paragraphs under which the right is reserved hereunder, and, when applicable, evidencing conformity with existing land use regulations. At **Grantee’s** sole discretion, **Grantee** may permit commencement of the activity less than thirty (30) days after receiving **Grantor’s Notice**. See also Paragraph 26, with respect to **Grantor’s** written notice to **Grantee** concerning a transfer of any interest in all or a portion of the Protected Property.

(D) **Notice.** As required by Treasury Regulations 1.170-14(g)(5)(ii). Notwithstanding any other provision of this Easement, Grantor must notify **Grantee**, in writing, before exercising any reserved right which may have an adverse impact on the Conservation Values of this Easement.

(E) **Breach.** Failure to secure such **Approval** or give such **Notice** as may be required by this Paragraph 27 shall be a material breach of this Easement notwithstanding any other provision of this Easement and shall entitle **Grantee** to such rights or remedies as may be available under Paragraph 7.

28. **Communication.** All **Requests for Approvals** shall be in writing and shall be deemed sufficiently given or rendered only when acknowledged in writing by **Grantee**. All **Notices** and other communications to **Grantee** may be communicated by United States Postal Service first class mail, hand courier, electronic mail or facsimile, and shall be deemed sufficiently given or rendered and effective only when acknowledged in writing by **Grantee**. All such correspondence and communications shall be addressed as follows:

- If to **Grantor:** YIP LLC
328 East Bay Street
Charleston, SC 29401
- If to **Grantor’s Attorney:** Dorcas M. Tuten
109 Carn Street

**P. O. Box 1694
Walterboro, SC 29488**

If to **Grantee**:

Beaufort County Open Land Trust
P. O. Box 75
Beaufort, SC 29901
Attn: Executive Director
info@openlandtrust.com
(843) 521-2175 (office)
(843) 521-1946 (fax)

With a Copy to:

Beaufort County Administrator
100 Ribaut Road
Post Office Box 1228
Beaufort, SC 29901-1228

Beaufort County Attorney
Attn: County Attorney
100 Ribaut Road
Post Office Box 1228
Beaufort, SC 29901-1228

or to such other person or place as a party may designate by correspondence as aforesaid. Correspondence by mail or overnight courier service shall be deemed given on the date of receipt as shown on the return receipt, or receipt or records of the courier service, as the case may be. In the event any such correspondence is mailed via the United States Postal Service or shipped by overnight delivery service to a party in accordance with this Paragraph and is returned to the sender as undeliverable, then such correspondence shall be deemed to have been delivered or received on the third day following the deposit of such correspondence in the United States Mail or the delivery of such correspondence to the overnight delivery service. **Grantor** has the responsibility of promptly notifying **Grantee** of **Grantor's** current address and other contact information. **Grantor** shall promptly notify **Grantee** of (i) any changes of **Grantor's** address or other changes in **Grantor's** contact information, and (ii) the name, address, and contact information of any transferee of the Protected Property if **Grantor** conveys the Protected Property. Any communications or Correspondence by **Grantee** to or with **Grantor** sent to the last address provided by **Grantor** shall be deemed sufficient to provide notice to **Grantor**.

29. Recordation. **Grantor** or **Grantee** shall record this instrument in timely fashion in the Register of Deeds Office for Beaufort County, South Carolina, and may re-record it at any time as may be required to preserve its rights in this Easement.

30. Effective Date. **Grantor** and **Grantee** intend that the restrictions arising hereunder take effect on the day and year this Easement is recorded in the Register of Deeds Office for Beaufort County, South Carolina, after all required signatures have been affixed hereto.

31. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of South Carolina.

32. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of this Easement to uphold the Purpose as stated in Paragraph 1. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose that would render the provision valid should be favored over any interpretation that would render it invalid.

33. Severability. If any provision of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement shall not be affected thereby.

34. Entire Agreement. The covenants, terms, conditions and restrictions of this Easement shall be binding upon, and inure to, the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Protected Property. All terms used in this Easement, regardless of the number or gender in which they are used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine, or neuter, as the context or sense of this Easement, any Paragraph, Subparagraph, or clause herein may require as if such terms had been fully and properly written in such number or gender.

35. No Goods or Services. **Grantor** and **Grantee** acknowledge that no goods or services or other consideration, have been provided by **Grantee** to **Grantor** as consideration for this Easement, excepting for \$529,000 paid through the Beaufort County Rural and Critical Lands Preservation Program, and **Grantee** will provide **Grantor** with a **separate letter** so stating, pursuant to the requirements of §170(f)(8) of the Code.

TO HAVE AND TO HOLD the Easement interests herein described unto **Grantee** forever.

By execution of this Easement, the **Grantee** accepts this Easement and the rights and obligations recited herein.

GRANTOR HEREBY WARRANTS and represents that the **Grantor** is seized of the Protected Property in fee simple and has the right to grant and convey this Easement, that the Protected Property is free and clear of any and all encumbrances, except existing easements of record and prescriptive easements, if any, and that the **Grantee** shall have the use of and enjoy all of the benefits derived from and arising out of this Easement.

IN WITNESS WHEREOF, **Grantor** and **Grantee** have set their hands to this original copy of this Easement under seal on the day and year first above written.

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.

EXHIBIT A

Legal Description and Derivation of Protected Property

A conservation easement is over and across:

All that certain piece, parcel or tract of land, together with buildings and improvements thereon, situate, lying and being in Sheldon Township, in the County of Beaufort, State of South Carolina, containing 115.13 acres, more or less, and being fully shown and delineated on a plat prepared for Beaufort County Open Land Trust, entitled "BOUNDARY SURVEY R700 037 000 0131 0000" by Gasque and Associates Inc Land Surveyors, dated June 16, 2022 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book ___ at Page ___. For a complete description as to metes and bounds, reference is had to said plat.

DMP References:

TMS#: R700 037 000 0131 0000

Grantee's Address: P. O. Box 75
Beaufort, SC 29901

EXHIBIT B

Copy of Recorded Plat

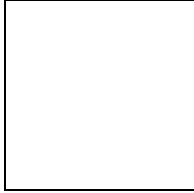
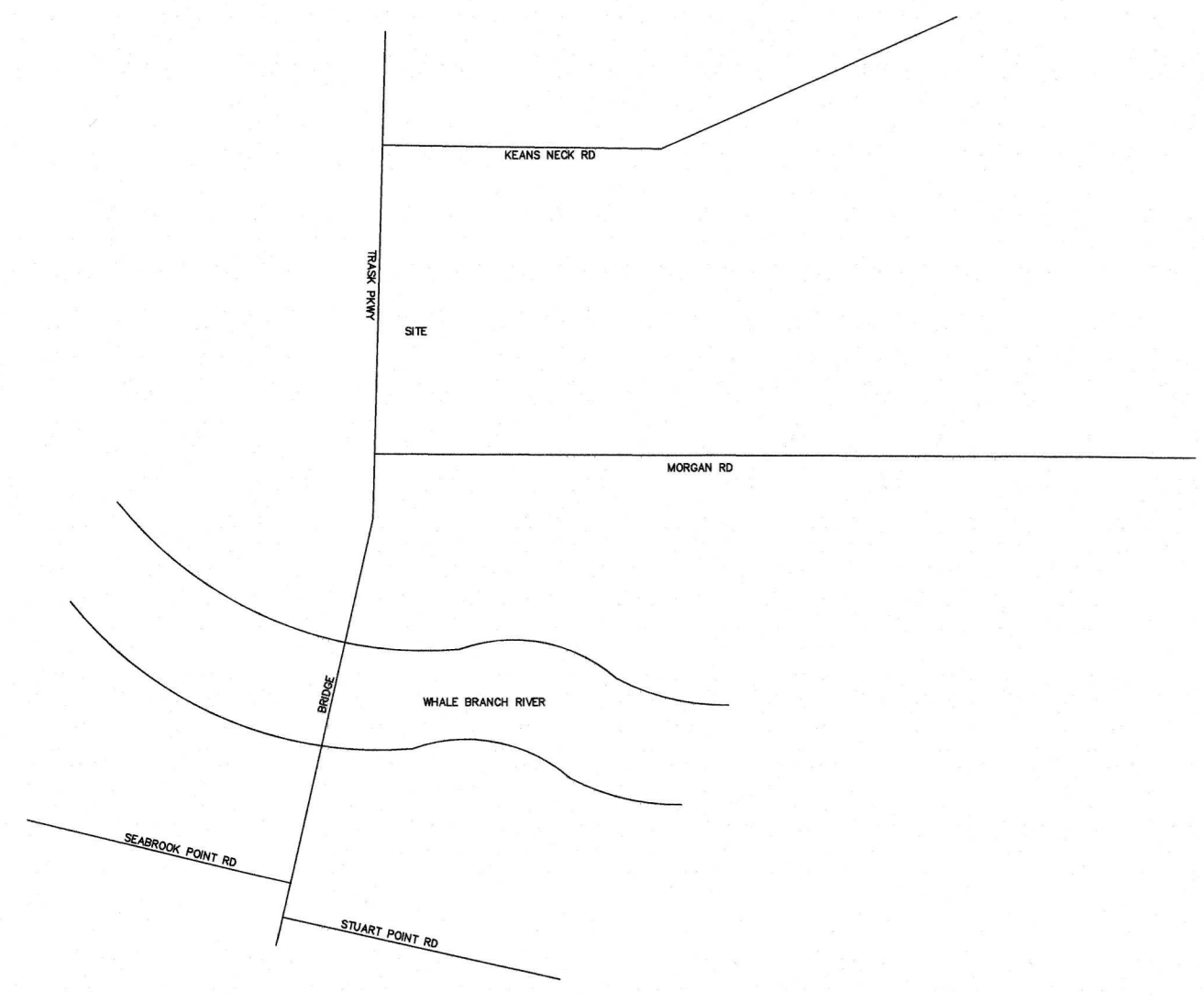
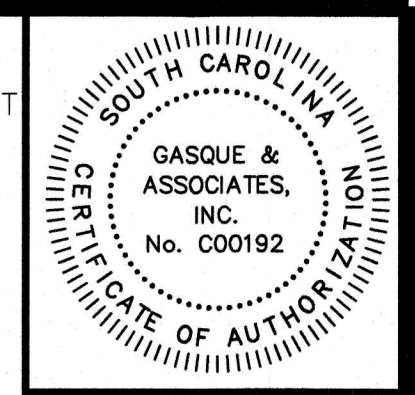


EXHIBIT C

Baseline Documentation Report

LEGEND OF SYMBOLS & ABBREVIATIONS

- FIRE HYDRANT
- CLEAN OUT
- POWER POLE
- TELEPHONE PEDESTAL
- FIBER OPTIC STUB
- WATER VALVE
- GAS VALVE
- WATER METER
- 1/2" ROD SET
- TREE SIZE & TYPE
- ELEVATION
- MVM MAIN VALVE MONUMENT
- MH MANHOLE
- GW GUY WIRE
- CB CABLE BOX
- OVERHEAD POWERLINE
- EDGE OF PAVEMENT
- BACK OF CURB
- LIGHTPOLE
- GAS LINE
- CENTER LINE
- CONTOUR LINE



LOCATION MAP (N.T.S.)

NOTES:

- 1.) THE BEARINGS SHOWN HEREON ARE MAGNETIC AND AS SUCH ARE SUBJECT TO LOCAL ATTRACTION. THIS PLAT DOES NOT CERTIFY THE PRESENCE OR ABSENCE OF U.S. ARMY CORPS OF ENGINEERS JURISDICTIONAL WETLANDS.
- 2.) METHOD OF AREA CALCULATION BASED ON COORDINATE METHOD.
- 3.) LOCATION OF UNDERGROUND UTILITIES ARE FROM SURFACE INDICATIONS ONLY AND ARE NOT CERTIFIABLE.
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- 7.) BEFORE ANY DESIGN WORK OR CONSTRUCTION ON THIS SITE IS STARTED FLOOD ZONE INFORMATION MUST BE VERIFIED BY PROPER BUILDING CODES OFFICIAL.
- 8.) SETBACKS SHOWN AS PER PLAT OF RECORD AND MUST BE VERIFIED WITH OFFICIAL AGENCY BEFORE PURCHASE AND OR CONSTRUCTION ON SUBJECT PROPERTY.
- 10.) THIS PROPERTY APPEARS TO LIE IN FLOOD ZONE "X" SHADED & UNSHADED CCCCMMAP NUMBER 45013C0090G DATED 3/23/2021
- 11.) VERTICAL DATUM IS 1988 NAVD.

REFERENCES:

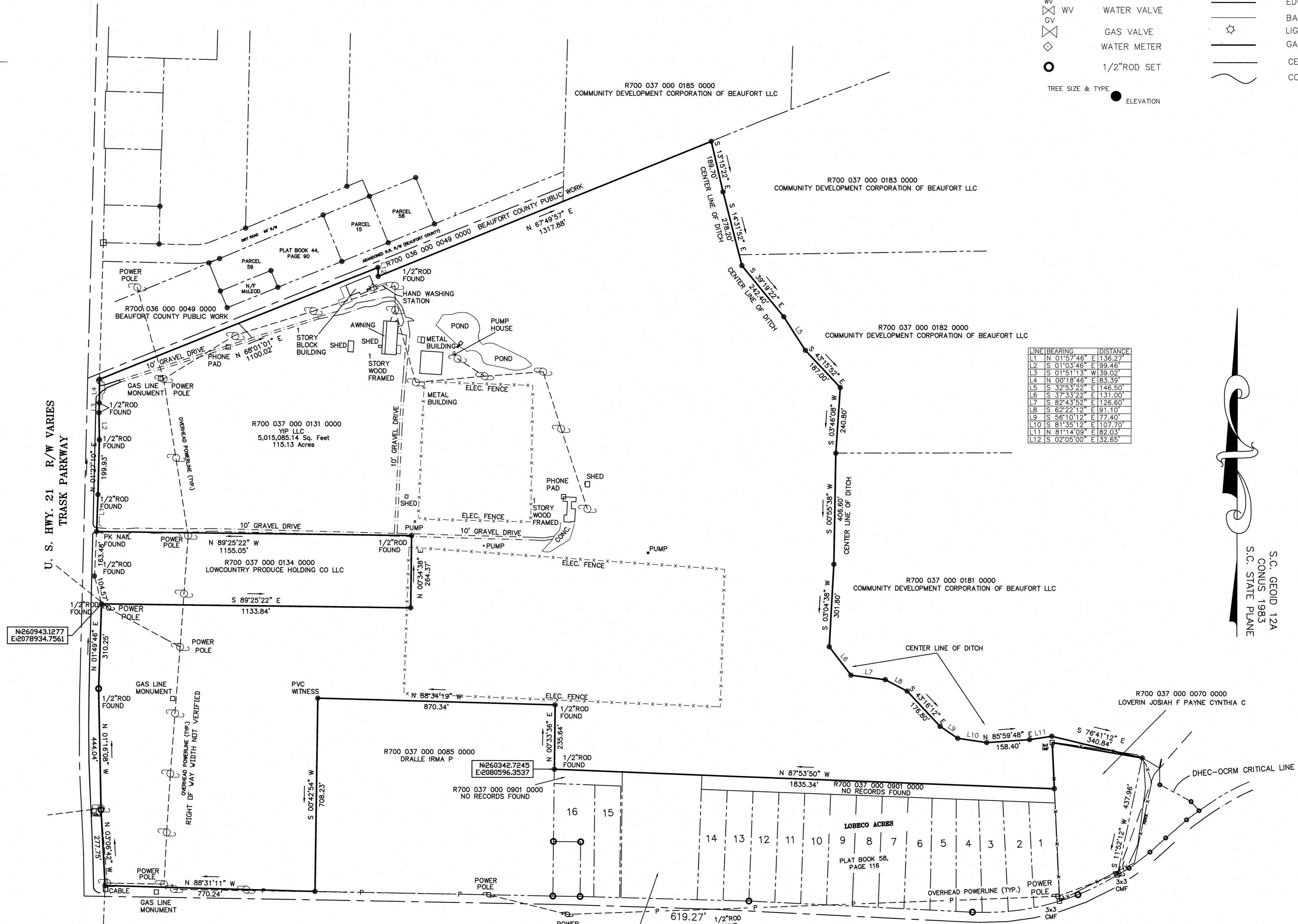
- 1.) T.M.S. R700 037 000 0131 0000
- 2.) PLAT BY DAVID E. GASQUE DATED 9/09/98 PLAT BOOK 62 PAGE 8 BEAUFORT COUNTY R.M.C. OFFICE

I, David E. Gasque, a Registered Professional Land Surveyor in the State of South Carolina, certify to client(s) shown hereon that to the best of my knowledge, information and belief, the survey shown hereon was made in accordance with the requirements of the minimum standards manual for the practice of land surveying in South Carolina, and meets or exceeds the requirements for a CLASS B survey as specified therein, also there are no encroachments or projections other than shown. This survey is not valid unless it bears the original signature and has an embossed seal.

David E. Gasque
 7-20-22
 David E. Gasque, R.L.S.
 S.C. Registration Number 10506

GASQUE & ASSOCIATES INC.
 LAND SURVEYORS · PLANNERS
 28 PROFESSIONAL VILLAGE CIRCLE, BEAUFORT, S.C.
 P.O. BOX 1363, BEAUFORT, S.C.
 (843) 522-1798

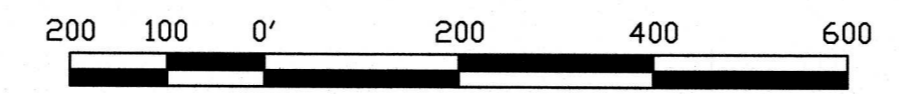
THIS PLAT IS COPYRIGHTED AND IS ONLY INTENDED FOR THE USE OF THE ENTITY OR PERSON(S) SHOWN HERE ON.



S.C. GEOD 12A
 CONUS 1983
 S.C. STATE PLANE

S. C. HWY. 301 66' R/W
 MORGAN ROAD

BOUNDARY SURVEY
R700 037 000 0131 0000
 PREPARED FOR
BEAUFORT OPEN LAND TRUST
 SHELDON TOWNSHIP
 BEAUFORT COUNTY SOUTH CAROLINA



DATE 6/16/2022 SCALE 1"=200'

11/7 Projects

- Lobeco Farms, PDR – for consideration for PDR purchase
- NEW! Tarver PDR – for consideration for due diligence



Item 6.

Lobeco Farms PDR

Location Map: Lobeco PDR



PIN: [R700 037 000 0131](#)
[0000](#)

AIN: 7600474
 Status: A
 TAG: 700
 Legres:
 Area Code: 1,116
 Area Name: SHELDON RURAL
 Class Code: 1,025,041 / AgImp Forest
 Book: 3841
 Page: 1879
 Comments:

Address Information:
 Situs: 1915 TRASK PKWY
 Owner Name: YIP LLC
 Mailing Address: PO BOX 1694
 City: WALTERBORO
 State: SC
 Zip: 29488
[Zoom to](#) ...

Lobeco Farms PDR – Project Overview

- SELLER: YIP, Inc
- ACREAGE: 115 acres
- TOTAL PRICE: \$529,000
- RCLPP FUNDS: \$529,000
- RCLPP PRICE/ACRE: \$4,600 / acre
- PARTNERS: Landowner, OLT to hold conservation easement
- ZONING: T2 Rural
- COUNCIL DISTRICT: 1 (Councilman Gerald Dawson)
- LOCATION: 1915 Trask Parkway

Due Diligence Reports

- Appraisal – completed by Holstein Appraisals 4/27/22
- Survey – completed by Gasque and Associates 6/30/22
 - 115.13 acres, bound by Highway 21, Morgan Road, private property, and property belonging to Beaufort County Public Works
 - Powerline easement runs along Highway 21 with overhead power and gas line underground
- Phase 1 analysis – completed by Coastal Engineering: Identified REC (Recognized Environmental Conditions) on property from former agricultural uses 7/20/22
- Soil analysis – completed by GEL associates, no soil contamination or concern 9/2/22
- Appraisal reviewed by 10/3/22, price adjustment



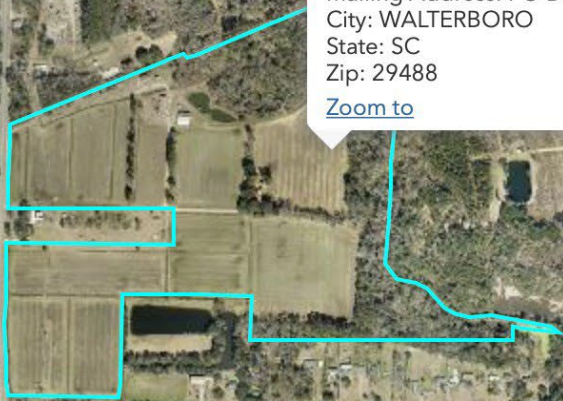
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AIN: 7600474
Status: A
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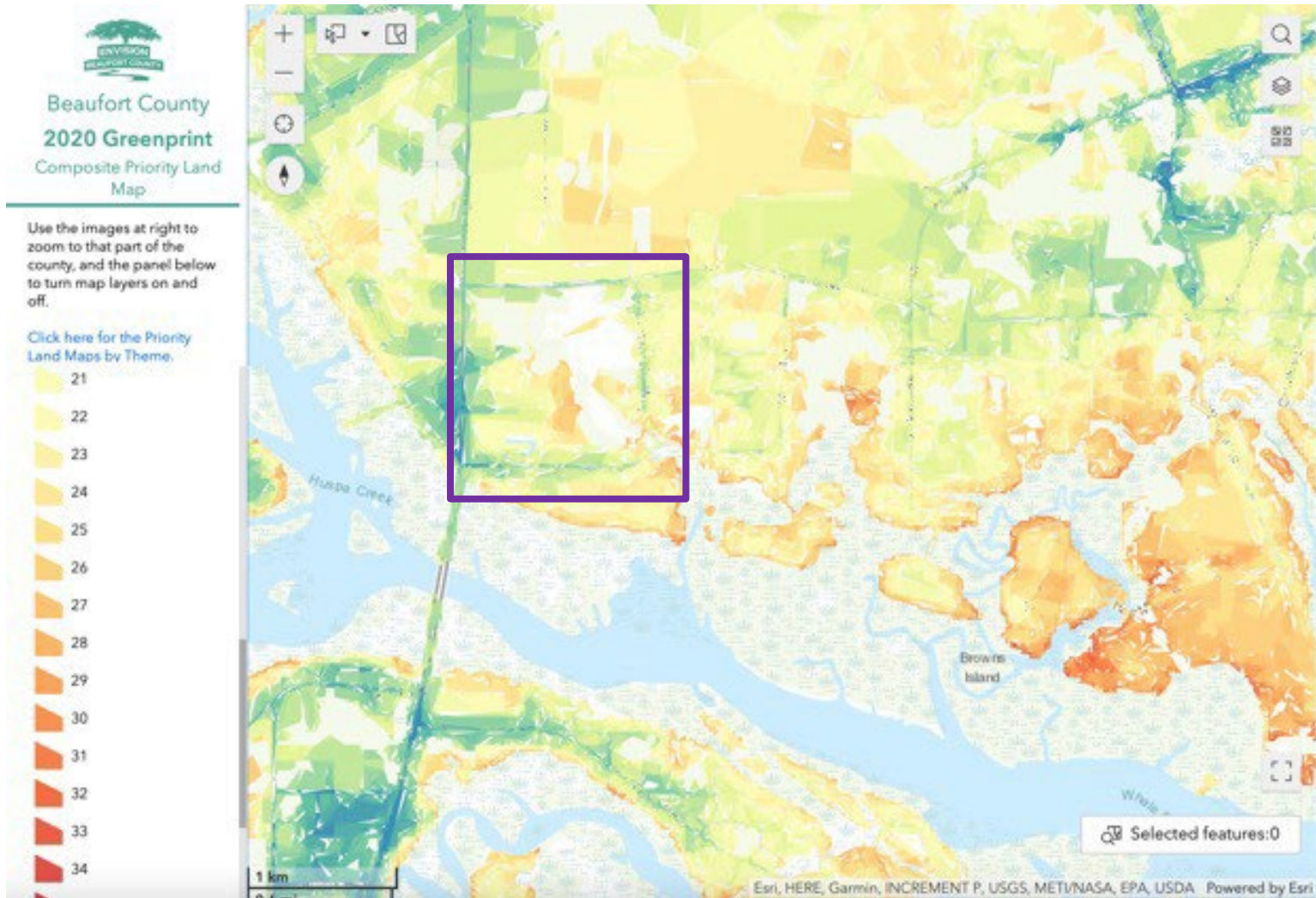
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Situs: 1915 TRASK PKWY
Owner Name: YIP LLC
Mailing Address: PO BOX 1694
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State: SC
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

[Zoom to](#)



0.3mi





-  Boundary Line
-  105.6 ac Farmland of Statewide Importance
-  10.4 ac Not Prime Farmland

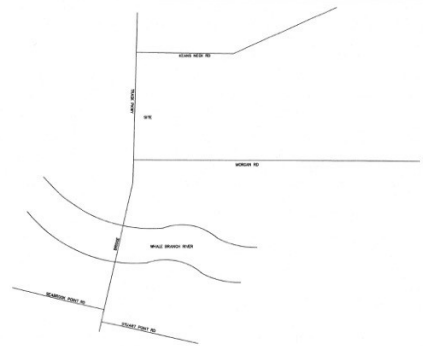
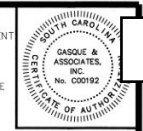






LEGEND OF SYMBOLS & ABBREVIATIONS

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- CO CLEAN OUT
- PP POWER POLE
- TP TELEPHONE PEDESTAL
- FO FIBER OPTIC STUB
- WV WATER VALVE
- ◇ GAS VALVE
- WATER METER
- 1/2" ROD SET
- TREE SIZE & TYPE
- ELEVATION
- MVM MAIN VALVE MONUMENT
- MH MANHOLE
- CW CUY WIRE
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- OE OVERHEAD POWERLINE
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- CO CONTOUR LINE



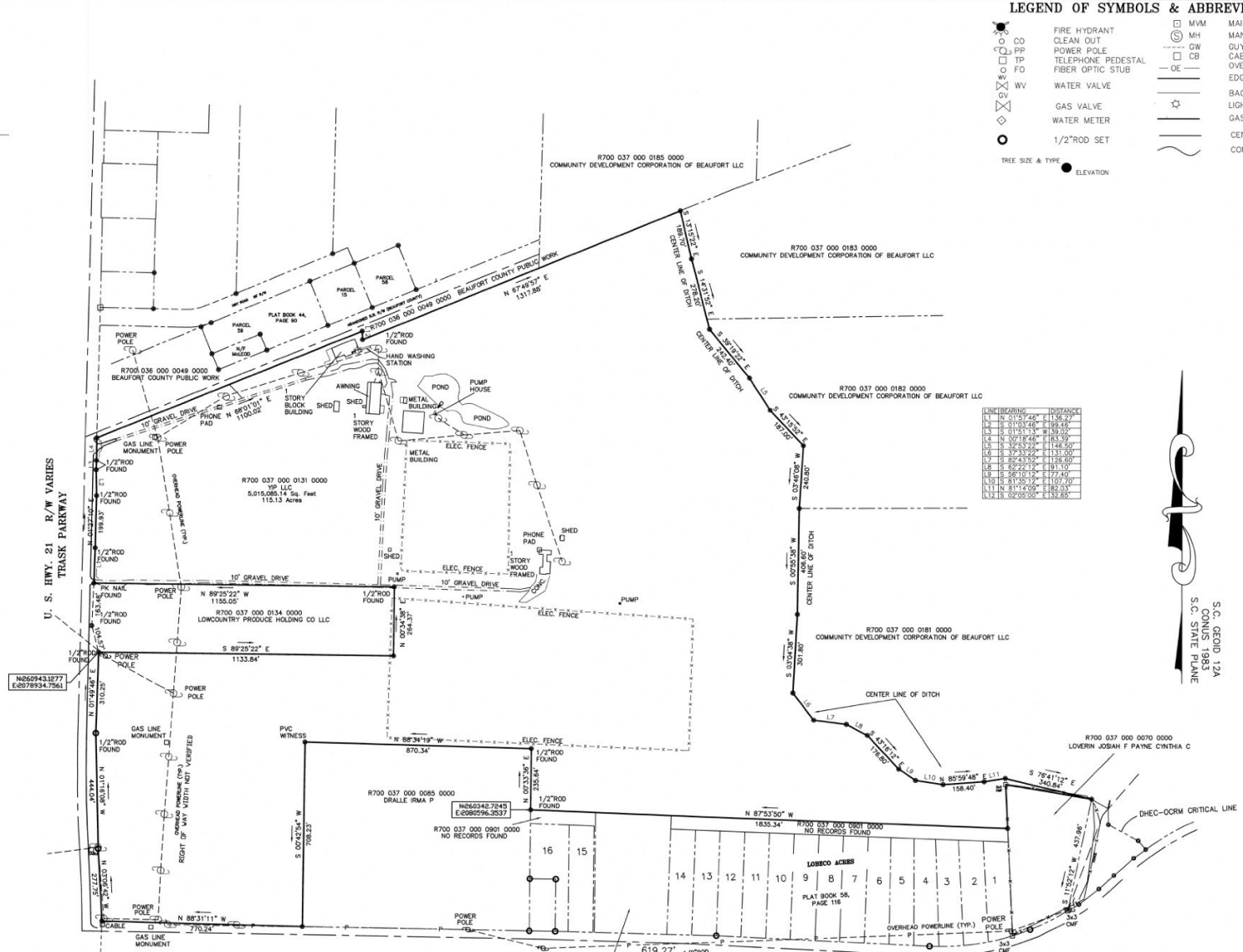
LOCATION MAP (N.T.S.)

- NOTES:**
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 - 2.) PLAT BY DAVID E. GASQUE DATED 9/09/89 PLAT BOOK 62 PAGE 8 BEAUFORT COUNTY R.M.C. OFFICE

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David E. Gasque 7-20-22
 David E. Gasque, R.L.S.
 S.C. Registration Number 10505
GASQUE & ASSOCIATES INC.
 LAND SURVEYORS - PLANNERS
 28 PROFESSIONAL VILLAGE CIRCLE, BEAUFORT, S.C.
 P.O. BOX 1363, BEAUFORT, S.C.
 (843) 522-1798



| LINE BEARING | DISTANCE |
|----------------|----------|
| N 01°34'40" E | 117.90 |
| N 01°03'48" E | 99.48 |
| N 01°41'13" E | 85.92 |
| N 07°18'46" E | 83.93 |
| N 32°43'23" E | 114.50 |
| N 37°33'22" E | 113.00 |
| N 22°43'53" E | 113.60 |
| N 22°22'12" E | 81.10 |
| N 26°10'12" E | 127.40 |
| N 18°35'12" E | 107.70 |
| N 18°12'00" E | 83.30 |
| N 18° 02'00" E | 152.80 |

S.C. GRID 12A
 CONUS 1983
 S.C. STATE PLANE



BOUNDARY SURVEY
 R700 037 000 0131 0000
 PREPARED FOR
 BEAUFORT OPEN LAND TRUST
 SHELDON TOWNSHIP
 BEAUFORT COUNTY SOUTH CAROLINA

DATE 6/16/2022 SCALE 1"=200'

THIS PLAT IS COPYRIGHTED AND IS ONLY INTENDED FOR THE USE OF THE ENTRY OR PERSONS SHOWN HERE ON.

Significant Easement Terms

| Term | Easement | Within norms? |
|---------------------------------|--|---|
| Subdivision | Exists as 1 property today, could be divided into 4 properties, with no individual property being smaller than 20 acres | Yes: T2R = 1 u/3 acres; Easement = 1/28 acres approx.. |
| Residential Structures | 4 total for long-term residency 1 per each subdivision (One residence exists already, may be repaired, replaced and counts toward total) | yes |
| Uses | Agriculture encouraged, (Several agricultural building exist already) forestry allowed. No commercial, industrial uses | Yes, best management practices specified in easement <i>County to secure RFR on agricultural buildings if subdivided</i> |
| Docks | n/a | |
| Ponds | 1 new pond up to 5 acres in size total, one small pond exists already | yes |
| Impoundments | n/a | |
| Setbacks from Road/Water | 100 foot setback from all roads, agriculture encouraged in set back but no structures to be built | Yes – at lower end of recommended spectrum (100-300 feet) however, visibility of agriculture operations is in keeping with property and uses; county setback is 50 feet |



TO: Rural and Critical Lands Committee
FROM: Heritage Community Farm
DATE: June 17, 2021

Dear Committee Members,

Heritage Community Farm is a 501(c)(3) that supports agricultural pursuits in Northern Beaufort County. The mission of Heritage Community Farm is to identify underutilized farmland and return it to productive use for the purposes of food security, education, conservation and historic preservation.

The land in Lobevo which is currently under consideration by Rural and Critical Lands has in the past been used for agricultural purposes. To preserve that history and to provide future opportunities for the growing of fresh produce in an area deemed a food desert would be a valuable asset for Northern Beaufort County.

In addition to a community gardens with individual plots and given the acreage, demonstration gardens, pollinator gardens and mini farms could be brought to life on the property all of which have been envisioned by Heritage Community Farm. The land in Lobevo presents a unique opportunity for Beaufort County to partner with organizations and citizens in the area to create an agriculturally based community center and to provide a place like no other in the county.

The Board of Directors of Heritage Community supports efforts to protect and preserve the land in Lobevo and looks forward to continuing to pursue such opportunities in Northern Beaufort County.

Signed,

Catherine Isbell, President
Heritage Community Farm

(Please do not write above this line – Reserved for Register of Deeds Office)

Prepared by:

STATE OF SOUTH CAROLINA)
) **GRANT OF RIGHT OF FIRST REFUSAL**
COUNTY OF BEAUFORT)

WHEREAS, YIP LLC (hereinafter “Grantor”) is the owner of the property herein described; and

WHEREAS, the parties hereto recognize the agricultural and community significance of said property and wishes to maintain the property as open space in agricultural use with opportunities for public access; and

WHEREAS, the property is protected by a conservation easement that supports agricultural uses including community agriculture; and

WHEREAS, Beaufort County (hereinafter “Grantee”), upon the completion of a reasonable due diligence period and upon Council Approval, wishes to purchase a portion of said property; and

WHEREAS, the Grantor wishes to sell, and the Grantee wishes to purchase said property for the purposes of operating a community farm; and

WHEREAS, Grantor does consent to the granting of a first right of refusal to Grantee, for the purposes of purchasing the property described herein and to the exclusion of any and all other persons and/or entities; and



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

| |
|---|
| ITEM TITLE: |
| RESOLUTION TO APPROVE THE AMENDED OYSTER FACTORY PARK MASTER PLAN (2022 OYSTER FACTORY PARK MASTER PLAN) AND SITE LAYOUT PLAN |
| MEETING NAME AND DATE: |
| Natural Resources Committee, November 7, 2022 |
| PRESENTER INFORMATION: |
| Stefanie M. Nagid, Passive Parks Manager (10 minutes) |
| ITEM BACKGROUND: |
| Beaufort County acquired the Oyster Factory Park in 2003 through the Rural and Critical Lands Preservation Program. A Conservation Easement was placed on the property. It is held and enforced by the Open Land Trust. An agreement between the County and the Town of Bluffton for improvements, maintenance and management was executed in 2004, which included an original Master Plan. The Master Plan and Conservation Easement were amended and approved in 2015 by County Council, the Open Land Trust and the Town. An amended agreement between the County and the Town of Bluffton was executed in 2017, which included the 2015 amended Master Plan. |
| PROJECT / ITEM NARRATIVE: |
| In 2020, the Town of Bluffton Council approved a second amended park Master Plan. Until very recently, Beaufort County was unaware of this amended plan. The new plan creates additional parking for non-trailer vehicles in what is currently a canopied park open space. Although the Town of Bluffton Council has already approved the engineering site plan and construction contract for the additional non-trailer vehicle parking, neither the County nor the Open Land Trust approved the 2020 amended Master Plan with the expanded parking. Due to County and Open Land Trust staff concerns about the loss of canopied park open space, all parties met on site to discuss reducing the amount of parking as set forth in the Town's 2020 plan. All parties came to an agreement to reduce the additional non-trailer parking area and relocate the potential future tree house to the Town co-owned parcel, as provided in the 2022 Master Plan and Site Layout Plan. |
| FISCAL IMPACT: |
| None to the County |
| STAFF RECOMMENDATIONS TO COUNCIL: |
| Staff recommends approval of the 2022 Oyster Factory Park Master Plan and Site Layout Plan as provided. |
| OPTIONS FOR COUNCIL MOTION: |
| Motion to approve or deny the 2022 Oyster Factory Park Master Plan and Site Layout Plan as provided. |

RESOLUTION 2022/___

A RESOLUTION APPROVING THE AMENDED OYSTER FACTORY PARK MASTER PLAN (2022 OYSTER FACTORY PARK MASTER PLAN) AND SITE LAYOUT PLAN

WHEREAS, Beaufort County (“County”) is sole owner of certain real property in Beaufort County, South Carolina known as Oyster Factory Park (R610 039 00A 0165 0000 and R610 039 00A 0190 0000) (“Property”) in the Town of Bluffton under and by virtue of deeds recorded in the Beaufort County Register of Deeds at Deed Book 1693, Page 2006, Beaufort County, South Carolina; and

WHEREAS, the Open Land Trust (“Trust”) holds a Conservation Easement on the Property, as recorded in the Beaufort County Register of Deeds at Book 1548, Page 626, Beaufort County, South Carolina, which was amended in 2003 as recorded in the Beaufort County Register of Deeds at Book 1693, Page 2002, Beaufort, South Carolina; and

WHEREAS, in 2004, the County and Town of Bluffton (“Town”) entered into an Agreement for management, maintenance and improvements on the Property, which was amended in 2015 and again in 2017, and included updates to the Oyster Factory Park Master Plan (“Plan”); and

WHEREAS, in 2020, the Town approved another amended Plan, which the County just recently become aware of, and which includes the creation of additional parking for non-trailer vehicles in an area which is currently a canopied park open space area and which is concerning to both the County and to the Trust; and

WHEREAS, the Modified Agreement between County and Town of Bluffton dated February 17, 2017 provides that the park shall be maintained as open space and that there shall be no improvements constructed without the express, written consent of the County; and

WHEREAS, the County, Town and Trust staff have agreed to reduce the amount of non-trailer parking spaces in the 2020 Plan to comply with the 2017 Modified Agreement and to retain the original intent of the purchase of the Property.

NOW THEREFORE, BE IT RESOLVED, BY BEAUFORT COUNTY COUNCIL, duly assembled, does hereby approve the 2022 Oyster Factory Park Master Plan and Site Layout Plan, both of which are attached and incorporated herein by reference.

Adopted this ____ day of _____, 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

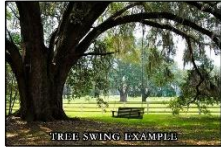
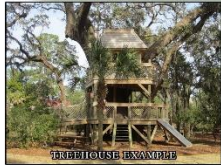
BY: _____
Joseph Passiment, Chairman

ATTEST:

Sarah Brock
Clerk to Council

Exhibit A – 2022 Oyster Factory Park Master Plan

PRELIMINARY MASTER PLAN



OCTOBER 2022
Project No. 2022-01
Wharf Street, Bluffton, SC 29910 | Tel: (843) 331-1111 | www.wjkg.com

OYSTER FACTORY PARK
63 WHARF STREET
BLUFFTON, SOUTH CAROLINA



Exhibit B – 2022 Oyster Factory Park Site Layout Plan



I. PROVISIONS OF CONSERVATION EASEMENT

- A. The Property shall be held in perpetuity by the Grantor as open space, a passive park, or open gateways to scenic vistas, and no improvements shall be constructed thereon, and the Property shall not be developed for either commercial or residential purposes and will continue to be available to the general public as a recreational, scenic and historic asset; provided, however, that the Grantor shall be permitted to continue leasing to third parties the portion of the Property currently leased to D&L Seafood Corporation, and that the terms of this conservation easement shall not in any way restrict this use of that portion of the Property.
- B. The Grantor shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property, and ensure that routine clean-up and landscape maintenance are performed as and when necessary.
- C. The Grantor shall indemnify and hold harmless Grantee against any claims for damage to person and/or property which relate in any way to the use of the Property.

II. ENFORCEMENT OF CONSERVATION EASEMENT

The Grantee, in order to insure the effective enforcement of this conservation easement, shall have, and Grantor hereby grants to it, the following rights:

- A. The Grantee and/or persons designated by him shall be permitted, at any time, to come upon the Property to inspect for possible violations of the covenants of this easement.
- B. If the Grantee determines there is a violation of this easement, after reasonable notice to the Grantor requesting the correction of any such violations, and provided the Grantor has failed to commence or continue satisfactory corrective action or work, the Grantee shall have (i) the right to institute legal proceedings to enjoin the violations by ex parte, temporary or permanent injunction, and to require the restoration of the Property to its prior condition, and to avail itself of all other legal and equitable remedies; and (ii) the right to enter upon the Property at a reasonable time and upon ten (10) days' advance notice to correct such violations and hold the Grantor responsible for the costs thereof;
- C. The Grantee shall have the right to place a lien against the Property to secure the payment of any sums owed to the Grantee under the provisions hereof and to foreclose such lien.

III. SUBJECT TO SENIOR ENCUMBRANCE

- A. This conservation easement is junior in priority to that certain first mortgage lien granted on this date by the Grantor to First Citizens Bank to secure a promissory note in the original principal amount of \$2,200,000.00.

IV. MISCELLANEOUS

- A. The benefits of this easement shall be in gross and shall be assignable by the Grantee.
- B. The Grantor intends that this easement shall be construed liberally to further the public purpose of ensuring that the Property is available to the general public as a recreational, scenic and historic asset. In the event of any ambiguity in the terms of this easement, it shall be resolved by a liberal construction of the language of the grant in favor of the Grantee to affect the purpose of this easement.
- C. Any forbearance by the Grantee to exercise his rights under this easement in the event of any breach by the Grantor shall not be deemed or construed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term of this easement or of any of the Grantee's rights under this easement. No delay or omission by the Grantee in the exercise of any right or remedy upon any breach by the Grantor shall impair such right or remedy or be construed as a waiver.

TO HAVE AND TO HOLD, all and singular, this Grant of Conservation Easement in, on and over the Property, unto the Grantee, his heirs and assigns, forever.

IN WITNESS WHEREOF, the Grantor has hereunto affixed its Hands and Seals on this 28th day of February, 2002.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

BEAUFORT COUNTY OPEN LAND
TRUST

Ramon S. Skypsey
[Signature]

By: *R. Bruce McBratney*
R. Bruce McBratney
Its President

By: *Cindy Bayden*
Cindy Bayden
Executive Director

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT) PROBATE

PERSONALLY appeared before me Dawn Shipsey and made oath that s/he saw the within-named **BEAUFORT COUNTY OPEN LAND TRUST**, by its president and executive director, sign, seal, and as its act and deed, deliver the within-written Conservation Easement, and that s/he with Thomas C. Davis witnessed the execution thereof.

Dawn Shipsey

SWORN to before me on this 20th day of February, 2002.

[Signature]

Notary Public of South Carolina
My Commission Expires: 10/25/08

ORBIC 1548 page 626A

Item 7.

EXHIBIT "A"

ALL that certain piece, parcel or lot of land, with improvements thereon, situate, lying and being in the Town of Bluffton, Beaufort County, South Carolina and being described on a plat of the property of Johns S. Graves, III, Gerald B. Graves, and Stephen R. Graves made by Niels Christensen, RLS, and dated April 2, 1968, which said plat is attached to a deed recorded in Deed Book 171 at Page 73 in the office of the Register of Deeds for Beaufort County, South Carolina. The property described herein lies on either side of the street of the Town of Bluffton known as Wharf Street as shown on the above referred to plat and is subject to the right of way of the Town of Bluffton or appurtenant to said street. It is understood that title to said property on the South is bounded by the mean high water mark of the May River.

- B. The Grantor shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep and maintenance of the Property, and ensure that routine clean-up and landscape maintenance are performed as and when necessary.
- C. That Grantor shall indemnify and hold harmless Grantee against any claims for damage to person and/or property which relate in any way to the use of the Property.

II. ENFORCEMENT OF CONSERVATION EASEMENT

The Grantee, in order to insure the effective enforcement of this conservation easement, shall have, and Grantor hereby grants to it, the following rights:

- A. The Grantee and/or persons designated by him shall be permitted, at anytime, to come upon the Property to inspect for possible violations of the covenants of this easement.
- B. If the Grantee determines there is a violation of this easement, after reasonable notice to the Grantor requesting the correction of any such violations, and provided the Grantor has failed to commence or continue satisfactory corrective action or work, the Grantee shall have (i) the right to institute legal proceedings to enjoin the violations by ex parte, temporary or permanent injunction, and to require the restoration of the Property to its prior condition, and to avail itself of all other legal and equitable remedies; and (ii) the right to enter upon the Property at a reasonable time and upon ten (10) days advanced notice to correct such violations and hold the Grantor responsible for the costs thereof;

III. MISCELLANEOUS

- A. The benefits of this easement shall be in gross and shall be assignable by the Grantee.
- B. Any forbearance by the Grantee to exercise his rights under this easement in the event of any breach by the Grantor shall not be deemed or construed to be a waiver by the Grantee of such term or of any subsequent breach of the same or any other term of this easement or of any of the Grantee's rights under this easement. No delay or omission by the Grantee in the exercise of any right or remedy upon any breach by the Grantor shall impair such right or remedy or be construed as a waiver.

TO HAVE AND TO HOLD, all and singular, this Grant of Conservation Easement in, on and over the Property, unto this Grantee, his heirs and assigns, forever.

Item 7.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Lois Jones
Witness
Carla D. Montgomery
Notary

Jerry H. Reeves, III
Jerry H. Reeves, III

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

PROBATE

Personally appeared before me 49c witness/witness and made oath that s/he saw the within-named Grantee, sign, seal, and as its act and deed, deliver the within-written Modification Conservation Easement, and that s/he with 49c other witness witnessed the execution thereof.

SWORN to before me on this
30th day of December 2002
Carla D. Montgomery
Notary Public for the State of South Carolina
My Commission Expires:

Lois Jones
witness

CARLA D. MONTGOMERY
NOTARY PUBLIC
COMMISSION EXPIRES
JANUARY 19, 2009

AGREEMENT

Between Beaufort County and Town of Bluffton

STATE OF SOUTH CAROLINA)
) **In Re: Bluffton Oyster Factory and Park**
COUNTY OF BEAUFORT)

This Agreement is entered into this 26th day of October, 2004 by and between Beaufort County, a political subdivision of the State of South Carolina (County), and the Town of Bluffton, South Carolina (Town).

RECITALS

WHEREAS, the County is the owner of a parcel of real property located in the Town of Bluffton, South Carolina consisting of 5.024 acres, hereinafter "the Park;" and

WHEREAS, the County purchased the Park subject to a Lease between the Beaufort County Open Land Trust, and Tenant, D&L Seafood Corporation, d/b/a The Bluffton Oyster Company, the lease being attached hereto as Exhibit A and made part hereof; and

WHEREAS, the Park is subject to a conservation easement recorded at Book 01548 at Page 0626 of the Beaufort County Register of Deeds; and

WHEREAS, the County and the Town recognize the historic significance of the Bluffton Oyster Company as the last oyster processing facility in South Carolina; and

WHEREAS, the County and the Town desire to foster the historic use of the Park as, in part, an oyster processing factory, honor the terms of the conservation easement, and continue the traditional uses of the property as a place to gather for oyster roasts, community events and the like; and

WHEREAS, the County and the Town desire to enter into this Agreement for a joint undertaking to share in the use and expenses associated with the Park and maintain the historic character of the Park to the extent permitted by the Conservation Easement now in effect or as may be amended from time to time by the Grantee and the County and to further outline the joint

responsibilities and duties associated with the funding, operation, maintenance, and general conditions of the Park.

NOW THEREFORE, the County and the Town enter into this Agreement under the following terms and conditions:

1. The Park is occupied, in part, by the Tenant D&L Seafood Company, Inc., d/b/a Bluffton Oyster Company. D&L Seafood Company, Inc., operates an oyster processing/retail establishment in the an area designated in the Park as the "Operations Zone." The Operations Zone is not subject to this Agreement. The Operations Zone is presently committed to a use by D&L Seafood Company, d/b/a Bluffton Oyster Company under the terms and conditions of a lease and assignment of same to the County. D&L Seafood Company has been granted the use of the Operation Zone which consists of the Building in which the Bluffton Oyster Factory operates together with the land as shown and labeled on the plat attached hereto for the limited purposes provided by the Lease. The remainder of the Park property, exclusive of the Operations Zone, is operated by Beaufort County and committed to use by the general public.
2. The Park shall be maintained as open space, a passive park, and an open gateway to scenic vistas and accesses to the May River for recreational boating. There shall be no improvements constructed thereon without the express, written consent of the County. Further, such construction shall be subject to the applicable ordinances of the Town of Bluffton. The Park shall be made available to the general public for recreational use and access to scenic vistas and the May River for recreational boating; provided, however, the Town may conduct organized events within the Park upon notice to and approve by the Beaufort County Parks & Leisure Services Division.
3. Operation of the Park is under the supervisory authority of the Beaufort County Parks & Leisure Services Division. For purposes of this Agreement, the liaison

between Beaufort County and the Town is the Beaufort County Parks and Leisure Services Director or his designee.

4. The Park shall operate as follows; provided, however, this Agreement and these terms may be amended, changed, modified or altered by the County if doing so, in the discretion of the County, is in the public's best interests. Nothing in this agreement shall operate to limit the County's authority, as owner of a public facility, to operate the Park in a manner in which it deems most beneficial to the public at large.
 - a. Hours of Operation: The Park shall be open to the general public daily, during daylight hours, and at such other times as may be approved by the Beaufort County Parks and Leisure Services Department as provided herein. The boat ramp shall open for use by the general public daily, twenty-four (24) hours a day.
 - b. Special Events: A special event means the congregation of persons on the Park premises, at a function hosted by the County or the Town, and where food, beverages, entertainment, or a concert are provided. The County and Town may host, directly, a special event or the County or the Town may sponsor a third party to conduct a special event. A special event may be an event to which the general public is invited or an event to which admission is limited to a specified group to the exclusion of the general public during the duration of the event. Special events may be fee based or non-fee based. Fees may include fees for admission and charges for food, beverages, entertainment, and other vendors typical of such events. All fee based special events shall be for a public or charitable purpose as provided herein. These special event provisions shall be construed to secure the beneficial use of the Park for the general public and invitees and to secure the public's or the invitee's safety, health and general welfare by assuring the structural strength and stability of any temporary structures erected for use at a special event, and secure

sanitation and safety to life and property from fire and other hazards incidental to the congregation of persons at an outdoor public assembly at a special event.

- c. **Scheduling:** A special event shall be scheduled as follows:
- i. The County or the Town must write the Beaufort County Parks and Leisure Services Director to request approval to schedule a special event to be hosted by the County or the Town. When the County or the Town intends to sponsor a third party to conduct a special event, the request must be made by the County or the Town. The request must include the information provided below.
 - ii. All special events must obtain prior written approval from the Beaufort County Parks and Leisure Services Department Director or his designee.
 - iii. The request to schedule a special event must include: (a) the proposed date, (b) time, (c) duration of the special event, (d) description of the special event and purpose of the event, (e) the amount of an admission fee, if any, (f) the amount charged for food, beverage and entertainment, if any, (g) whether the event is open to the general public or a named, specified group, and (h) when the County or the Town is sponsoring a third party, the third party's owner, authorized agent, promoter or individual which desires to be sponsored to host a special event must be included along with the event organizer's address and telephone number and a contact name and telephone number.
 - iv. The Beaufort County Parks and Leisure Services Director shall notify the Town, in writing, of the disposition of the request. The County and the Town recognize that the Park is committed to use by the general public. The County and the Town agree exclusion of the

general public to access and free use of the Park should be an exception rather than the rule and special events shall be approved based on frequency, time, the nature of the event and the imposition of fees, if any.

- d. Disposition of Fees from Special Events: The gross receipts from special events shall inure to the benefit of the Park unless prior approval has been given to host a special event as a “fund-raiser” for a public or charitable purpose. Other than permitted public purpose or charitable “fund-raisers,” the gross receipts from special events shall be remitted to the Beaufort County Parks & Leisure Services Director within thirty days of the conclusion of the special event. In return, the Beaufort County Parks & Leisure Services Director shall notify the Town of Bluffton of such remittances. Special event funds shall be expended solely for the general upkeep, maintenance and improvement of the Park and Park facilities.
- e. General Provisions for Special Events:
- i. The approval to conduct a special event shall expire at the conclusion of the special event or at midnight on the day of the special event, whichever comes first. Special events may be held for more than one day if prior approval is granted and in that event, the approval shall expire at midnight on the last day of the special event.
 - ii. Temporary Structures: The erection of all temporary structures intended for use at a special event shall be inspected and approved by a Beaufort County Building Codes Officer prior to the day of the event. A temporary structure includes a tent, all similar temporary structures and all temporary seating, platforms and the like. If the Building Codes Officer finds the temporary structure or the construction thereof is, in his or her opinion, unsafe, then he or she

shall notify the Beaufort County Parks and Leisure Services Department Director or his designee and the contact person for the special event. The Building Codes Officer shall notify the County, the Town or the third party of the corrections to be made. The Building Codes Officer shall again inspect the work or apparatus. No temporary structures may be used at a special event without approval of the Beaufort County Building Codes Official. Tents shall not be located in areas where underbrush, grass or other products of combustion exist in substantial amounts. The grounds within and adjacent to tents may be cleared, with prior approval of the Beaufort County Parks and Leisure Services Department Director or his designee, of all such materials or similar fire hazards. No tent shall be erected closer than fifty feet to a public right-of-way or be situated in such a manner that it could create a traffic hazard. No tent shall be erected within 100 feet of an open flame-cooking source, i.e., an oyster roast pit and similar outdoor cooking facilities.

- iii. **Security and Safety.** Prior to the issuance of any approval to conduct a special event, the host shall arrange for a minimum of two paid law enforcement officers for every anticipated 500 persons in attendance. The law enforcement officers are to be paid by the host of the event. The host shall provide written advance notice to the Beaufort County Emergency Management Officer and the Town of Bluffton Police Department of the location and time of the event. An unobstructed path of travel for access and egress to the Park shall be maintained at all times during the special event for the use of emergency vehicles.
- iv. **Sanitation--Toilet facilities.** The Park shall have two toilet facilities, one for men and one for women. If attendance is anticipated to exceed

7

an average daily attendance in excess of two hundred and fifty (250) people, the Beaufort County Parks and Leisure Services Director may require that the host provide additional portable toilets.

- v. Solid waste disposal and recycling of oyster shells. All solid waste and litter shall be removed from the Park immediately following the special event. All oyster shells shall be removed to an approved oyster shell recycling site.
 - vi. Parking spaces for vehicles. Parking is available on the Park premises. The host of a special event shall ensure that adequate parking space for anticipated attendance is available within the Park premises or obtain permission for alternate site parking. Parking along the shoulder of the Park's entry road or frontage road is prohibited unless prior special permission is obtained from the Town of Bluffton. Parking in any major thoroughfare and in any manner that would create a traffic hazard shall be prohibited.
 - vii. Discharge of Fireworks. Discharging fireworks on the Park premises shall be prohibited except by prior written approval by the County Administrator. Approval must be obtained twenty-four hours in advance of planned fireworks display.
 - viii. Other than approved, special events, the Park shall remain free for use by the general public. Neither the County nor the Town may charge Park users for use of the Park unless the charge is associated with a special event previously approved by the County.
5. Public Beach. To the extent that the sandy area lying in and adjacent to the boat ramp in the Park premises may be used as a public beach, the County and Town agree to enforce the following restrictions. Driving or operating any motor vehicle on the public beach other than in the designated areas for purposes of launching a boat is

prohibited. Using a surfboard or a motorized device including a personal watercraft in the area of the beach and in any manner as to become a hazard to bathers, swimmers, boaters or others shall be prohibited. Glass bottles, drinking glasses or other glass containers shall be prohibited on the beach.

6. Use of Alcoholic Beverages. County recreation facilities are publicly funded and for the purpose of carrying on leisure, recreation and sporting events. It is the policy of the County and the Town to regulate the Park in a manner that shall provide for the greatest public use. Alcoholic beverages may be permitted for family outings, social events, fund raising events and special events provided that its use is not in conflict with any other County or Town ordinance or state law.
7. The Town shall regulate parking within the Park and restrict boat and boat trailer parking to the area designated for such purpose.
8. The County shall maintain the boat ramp in its current configuration and in a condition suitable for recreational boating.
9. The County shall notify the Town of the date the Park is open for public use. After the Park is opened for public use, the Town shall provide at least two (2) refuse containers on the Park property outside of the Operations Zone. Thereafter, the Town shall provide, at least weekly, regular refuse, litter and garbage pick-up free of charge to the County, in all the Park areas exclusive of the Operations Zone.
10. The County and the Town shall notify their respective property and liability insurers, which provide the County and the Town general liability insurance now and in the future of this joint undertaking. The County and Town expressly agree to share equally in any and all liability resulting from the use of the park and that same shall be shared equally to the extent that immunity has been waived by the State of South Carolina.
11. Capital Improvements including demolition shall be jointly reviewed by the County and the Town. The Town shall advise the County of Town zoning and land use

regulations which may apply to the subject property. Such improvements shall conform to Town regulations. In the event that variance(s) are required, such variance shall not be unreasonably withheld. The Concept Plan dated November 2002 (Exhibit A) shall serve as an initial and general guide concerning capital improvements. Initial capital improvements consisting of sanitary facilities shall be the responsibility of the County. Thereafter, the County and the Town shall jointly fund all capital improvements on such terms and conditions as both parties mutually agree. Funds collected by non-profit/private entities for this purpose may be accepted on terms agreed upon by the County and Town.

12. The County and the Town acknowledge the presence of a structure on the southwest side of the Park with potentially historic significance. Any improvements or disposition of the structure shall conform to the Town's Historic Preservation Commission guidelines.
13. Signage and associated lighting shall be mutually agreed on by the County and the Town. Design of the signage shall be guided by the Town's sign ordinance.
14. The Town shall provide law enforcement with back up by the County Sheriff's office, as required.
15. It is agreed that either of the parties shall have the right and privilege of terminating this Agreement at any time upon giving one (1) months notice, in writing, to the other party of its intention to do so, and in the event this Agreement is terminated, then all rights and interests of the parties shall cease, and any permanent building or improvements erected by Town shall then be, and become the property of the County.

Notice shall be provided as follows:

For the Town:
Town Manager
P.O. Box 386
Bluffton, SC 29910

For the County:
County Administrator
P.O. Drawer 1228
Beaufort, SC 29901-1228

The laws of the State of South Carolina shall govern this Agreement.

IN WITNESS WHEREOF, the parties have set their hands and seals this day and year as
aforewritten.

WITNESSES:

Cheryl Harris

Stacy W. Bradshaw

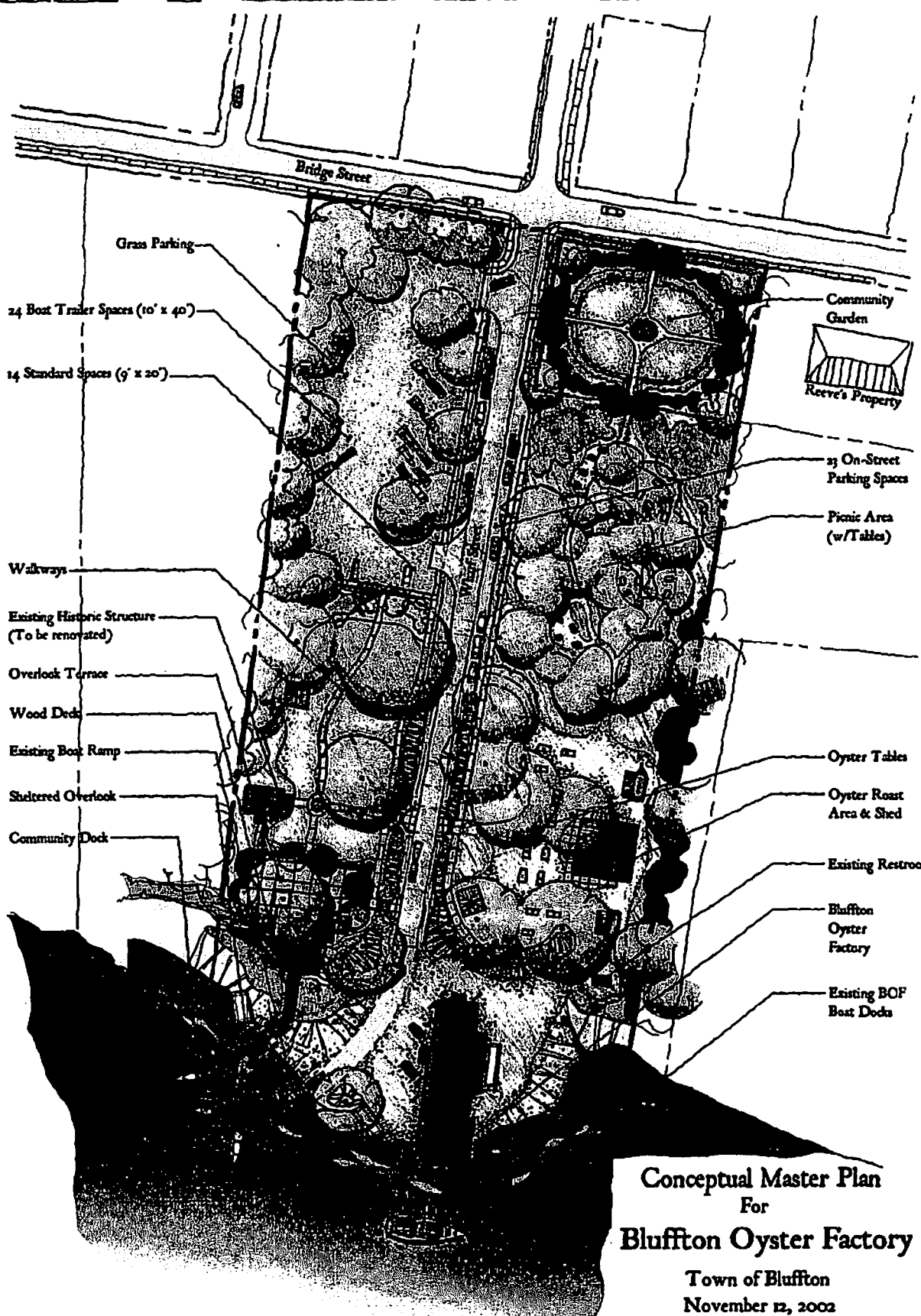
BEAUFORT COUNTY COUNCIL

BY: Gary Kubic
Gary Kubic
County Administrator

LaTanya [Signature]
Sandra [Signature]

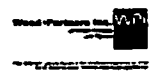
TOWN OF BLUFFTON

BY: Joshua L. Martin
Joshua L. Martin
Town Manager



**Conceptual Master Plan
For
Bluffton Oyster Factory**

Town of Bluffton
November 12, 2002



STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

AMENDMENT OF
CONSERVATION EASEMENTS

WHEREAS, on February 28, 2002, **Jerry H. Reeves, III** (Grantor) granted a conservation easement recorded March 1, 2002, in Volume 01548, Page 0626 in the Office of the Register of Deeds for Beaufort County, in favor of **Beaufort County Open Land Trust, Inc.** (Trust) and

WHEREAS, **Grantor** and the **Trust** executed a modification of such conservation easement on December 31, 2002 which was recorded on January 9, 2003 at Volume 01693 at Page 2002 in the Office of the Register of Deeds for Beaufort County, and

WHEREAS, the five (5) +/- acres encumbered by the modified conservation easement were thereafter conveyed by the **Trust** to **Beaufort County**, a political subdivision of the State of South Carolina (County) subject to the conservation easements and,

WHEREAS, the **County** has executed an agreement with the **Town of Bluffton** (Town) to develop certain passive park facilities on the property known as Oyster Factory Park, and

WHEREAS, the **County** and **Trust** wish to clarify certain items contained in the conservation easement while preserving the conservation values including the recreational, scenic, and historic uses of the property, and

WHEREAS, both the **County** and **Trust** have agreed to the following amendments to such conservation easement, and

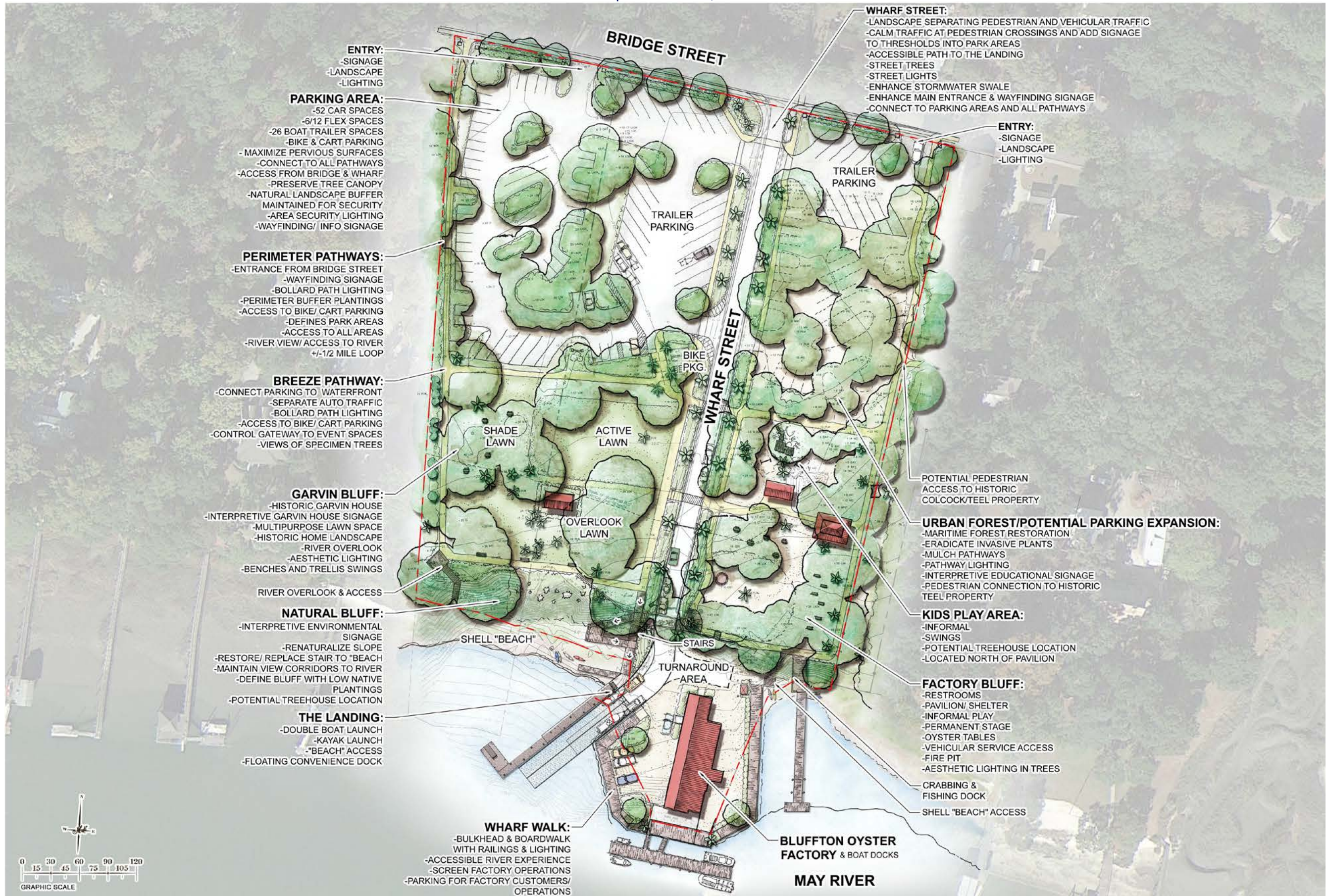
NOW THEREFORE, the **County** and **Trust** amend the Conservation Easement according to the following terms:

- 1) Park improvements that are intended for use by the **Town** for recreational, scenic, and historic uses and as depicted in Exhibit A, Oyster Factory Park Master Plan (Master Plan) dated September 8, 2015 are permitted.
- 2) Additional improvements not included in the Master Plan are subject to approval by the Trust.
- 3) Commercial, residential or industrial uses other than previously permitted by the conservation easements are expressly prohibited.

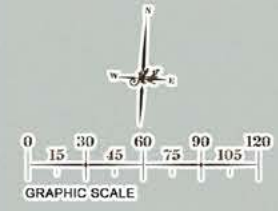
SIGNATURES ON FOLLOWING PAGE

Master Plan

September 8, 2015

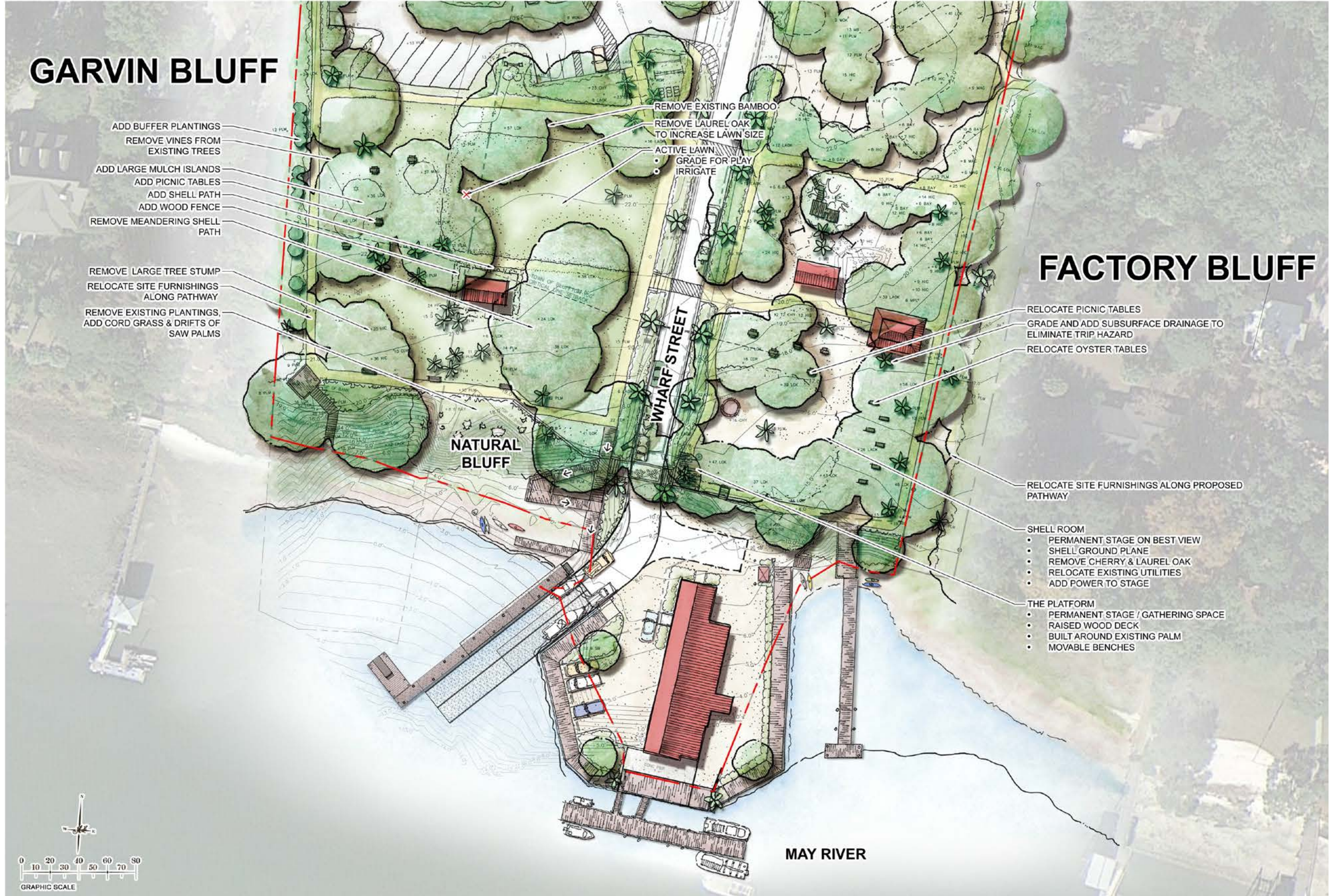


Oyster Factory Park - Bluffton, SC



Master Plan Enlargement

September 8, 2015



GARVIN BLUFF

- ADD BUFFER PLANTINGS
- REMOVE VINES FROM EXISTING TREES
- ADD LARGE MULCH ISLANDS
- ADD PICNIC TABLES
- ADD SHELL PATH
- ADD WOOD FENCE
- REMOVE MEANDERING SHELL PATH
- REMOVE LARGE TREE STUMP
- RELOCATE SITE FURNISHINGS ALONG PATHWAY
- REMOVE EXISTING PLANTINGS, ADD CORD GRASS & DRIFTS OF SAW PALMS

- REMOVE EXISTING BAMBOO
- REMOVE LAUREL OAK TO INCREASE LAWN SIZE
- ACTIVE LAWN
- GRADE FOR PLAY
- IRRIGATE

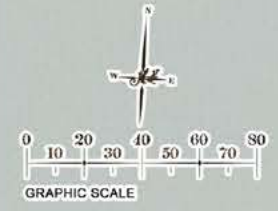
FACTORY BLUFF

- RELOCATE PICNIC TABLES
- GRADE AND ADD SUBSURFACE DRAINAGE TO ELIMINATE TRIP HAZARD
- RELOCATE OYSTER TABLES

- RELOCATE SITE FURNISHINGS ALONG PROPOSED PATHWAY

- SHELL ROOM
 - PERMANENT STAGE ON BEST VIEW
 - SHELL GROUND PLANE
 - REMOVE CHERRY & LAUREL OAK
 - RELOCATE EXISTING UTILITIES
 - ADD POWER TO STAGE

- THE PLATFORM
 - PERMANENT STAGE / GATHERING SPACE
 - RAISED WOOD DECK
 - BUILT AROUND EXISTING PALM
 - MOVABLE BENCHES



Oyster Factory Park - Bluffton, SC



STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT) **Modified Agreement Between Beaufort
) County and Town of Bluffton**

This Modified Agreement (hereinafter "Agreement") is made and entered into this 17th day of February, 2017 by and between Beaufort County, a political subdivision of the State of South Carolina (hereinafter the "County"), and the Town of Bluffton, South Carolina (hereinafter the "Town").

WHEREAS, the County, a political subdivision of the State of South Carolina, is the owner of a parcel of real property located in the Town of Bluffton, South Carolina consisting of 5.024 acres as shown in the plat recorded at Plat Book 90 at Page 188 (hereinafter "'County Property;"); and

WHEREAS, the County purchased the County Property subject to a Lease between the Beaufort County Open Land Trust, and Tenant, D&L Seafood Corporation, d/b/a The Bluffton Oyster Company, the lease being attached hereto as Exhibit A and made part hereof; and

WHEREAS, the County Property is subject to a conservation easement recorded at Book 01548 at Page 0626 of the Beaufort County Register of Deeds, which was later modified per the Modification of Conservation Easement recorded at Book 1693 at Page 2002 and then assigned per the Assignment of Modified Easement recorded at Book 1693 at Page 2010; and

WHEREAS, the County and the Town recognize the historic significance of the Bluffton Oyster Company as the last oyster processing facility in South Carolina; and

WHEREAS, the County and the Town are co-owners of that parcel of real property located in the Town of Bluffton, South Carolina which is immediately adjacent to the County Property consisting of 1.863 acres, as shown in the plat recorded at Plat Book 118 at Page 100; and

WHEREAS, the 5.024 acre County Property and the 1.863 acre County and Town property comprise the 6.887 acres, is commonly referred to as the Oyster Factory Park, (hereinafter "the Park"); and

WHEREAS, the County and the Town desire to foster the historic use of the Park as, in part, an oyster processing factory, honor the terms of the conservation easement, and continue the traditional uses of the property as a place to gather for oyster roasts, community events and the like; and

WHEREAS, the County and the Town desired to enter into this Agreement to transfer responsibility for the maintenance, liability and operation of the Park property as well as the adjacent Operations Zone in exchange for the Town being able to exclusively manage the Park and receive all income generated therefrom; and

WHEREAS, on October 25, 2004, the County and the Town entered into an Agreement for the joint undertaking to share in the use and expenses associated with the Park and maintain the historic character of the Park to the extent permitted by the Conservation Easement now in effect or as may be amended from time to time by the Grantee and the County; and

WHEREAS, the parties desire to amend the October 25, 2004 Agreement (hereinafter the "2004 Agreement"); and

WHEREAS, the County and the Town agree to assign all duties and responsibilities associated with the funding, operations, maintenance, and general conditions of the Park and the adjacent Operations Zone Property to the Town.

NOW THEREFORE, for due and valuable consideration, the parties agree as follows:

1. The Park is occupied, in part, by the Tenant D&L Seafood Company, Inc., d/b/a Bluffton Oyster Company. D&L Seafood Company, Inc. operates an oyster processing/retail establishment in the an area designated in the Park as the "Operations Zone." The Operations Zone is presently committed to a use by D&L Seafood Company, d/b/a Bluffton Oyster Company under the terms and conditions of a lease and assignment of same to the County. D&L Seafood Company has been granted the use of the Operation Zone which consists of the Building in which the Bluffton Oyster Factory operates together with the land as shown and labeled on the plat attached hereto for the limited purposes provided by the Lease. The County shall assign all of its rights in interest in the Lease to the Town of Bluffton who shall accept such assign and be responsible for the enforcement of the Lease and all of its corresponding provisions.
2. The Park shall be maintained as open space, as a passive park, and open gateway to scenic vistas and accesses to the May River for recreational boating. There shall be no improvements constructed thereon without the express, written consent of the County. Furthermore, such construction shall be subject to the applicable ordinance(s) of the Town. The Park shall be made available to the general public for recreational boating; provided, however, the Town may conduct organized events within the Park upon notice.
3. Operation of the Park is under the supervisory authority of the Town.
4. This Agreement and these terms may be amended, changed, modified or altered by the Town if doing so, in its discretion, is in the public's best interests. Nothing in this Agreement shall operate to limit the County's authority, as owner of a public facility, to limit the use of the Park in a manner it deems most beneficial to the public at large.
 - a. Hours of Operation: The Park shall be open to the general public daily, during daylight hours, and at such other times as may be approved by the Town as

provided herein. The boat ramp shall be open for use by the general public daily, twenty-four (24) hours a day.

- b. **Special Events:** A special event means the congregation of persons on the Park premises, at a function hosted or approved by the Town, and where food, beverages, events, entertainment or a concert are provided.
 - c. **Process of Handling of Special Events:** Special Events at the Park will be procedurally and substantively handled like all other special events in the Town.
 - d. **Disposition of Fees from Special Events:** The gross receipts from Special Events shall inure to the benefit of the Park unless prior approval has been given to host a Special Event as a “fund-raiser” for a public or charitable purpose. Other than permitted public purpose or charitable “fund-raisers,” the gross receipts from Special Events shall be remitted to the Town. Special Event funds shall be expended solely for the general upkeep, maintenance and improvement of the Park and Park facilities.
5. **Public Beach.** To the extent that the sandy area lying in and adjacent to the boat ramp in the Park premises may be used as a public beach, the County and Town agree to enforce the following restrictions. Driving or operating any motor vehicle on the public beach other than in the designated areas for purposes of launching a boat is prohibited. Using a surfboard or a motorized device including a personal watercraft in the area of the beach and in any manner as to become a hazard to bathers, swimmers, boaters or others shall be prohibited. Glass bottles, drinking glasses or other glass containers shall be prohibited on the beach.
 6. **Use of Alcoholic Beverages.** County owned recreation facilities are publicly funded and for the purpose of carrying on leisure, recreation and sporting events. As such, the Town shall regulate the Park in a manner that shall provide for the greatest public use. Alcoholic beverages may be permitted for family outings, social events, fund raising events and special events provided that its use is not in conflict with any other County or Town ordinance or state law.
 7. The Town shall regulate parking within the Park and restrict boat and boat trailer parking to the area designated for such purpose.
 8. The Town maintain the boat ramp in a condition suitable for recreation boating.
 9. The Town shall provide, at least weekly, regular refuse, litter and garbage pick-up free of charge to the County, in all the Park areas exclusive of the Operations Zone. Additionally, the Town shall be responsible for providing all maintenance and cleaning of the restroom facilities located at the Park.
 10. The County and the Town shall notify their respective property and liability

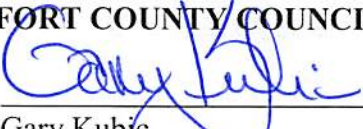
insurers, which provide the County and the Town general liability insurance now and in the future of the modifications to the initial undertaking. As the party responsible for the operation, maintenance, use and condition of the Park and all related facilities, the Town agrees to be the primary responsible party for any and all liability resulting from the use of the Park to the extent that immunity has been waived under State of South Carolina law.

11. Capital Improvements, including demolition, shall be jointly reviewed by the County and the Town. The Town shall advise the County of Town zoning and land use regulations which may apply to the subject property. Such improvements shall conform to Town regulations. In the event that a variance(s) are required, such variance shall not be unreasonably withheld. The Concept plan dated November 2002 Exhibit B shall serve as an initial and general guide concerning capital improvements. The Town shall be responsible for updating the Concept plan as necessary. Upon approval, the updated Concept plan shall replace the Concept plan dated November 2002 as Exhibit B of this Agreement. The Town shall manage all capital improvements. The Town and County agree to cooperate to secure funds for capital improvement from any available source. Funds collected from grants and/or non-profit/private entities for capital improvements may be accepted on terms acceptable to the Town.
12. The County and the Town acknowledge the presence of a structure on the southwest side of the Park with potentially historic significance. Any improvements or disposition of the structure shall conform to the Town's Historic Preservation Commission guidelines.
13. Signage and associated lighting shall be mutually agreed on by the County and the Town. Design of the signage shall be guided by the Town's sign ordinance.
14. The Town shall provide law enforcement with back up by the County Sheriff's office, as required.
15. It is agreed that either of the parties shall have the right and privilege of terminating this Agreement at any time upon giving one (1) months notice, in writing, to the other party of its intention to do so, and in the event this Agreement is terminated, then all rights and interests of the parties shall cease, and any permanent building or improvements erected by Town shall then be, and become the property of the County.

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly appointed officers this day and year as aforewritten.

BEAUFORT COUNTY COUNCIL

By: 
Gary Kubjc
County Administrator

TOWN OF BLUFFTON

By: 
Marc Orlando
Town Manager

EXHIBIT "A"

STATE OF SOUTH CAROLINA)
) **LEASE AGREEMENT**
COUNTY OF BEAUFORT)

This Lease (the "Lease") is executed as of December 30, 2002, by and between The Beaufort County Open Land Trust, P.O. Box 75, Beaufort, South Carolina, 29901 ("Landlord") and D & L Seafood Corporation, doing business as "The Bluffton Oyster Company" 63 Wharf Street, Bluffton, South Carolina, 29910 ("Tenant").

WHEREAS, Bluffton has a rich history of oyster harvesting and oyster processing, which is worth preserving. These skills have provided a livelihood and sustenance for the residents of Bluffton for more than 100 years. They provide a vital link with the past and have done much to create the current feeling of the Town of Bluffton. The oyster industry has been an integral part of the fabric of Bluffton, from the architecture of the Bluffton Oyster Factory along the May River, to a long history of employment of the African-American community in the industry. It is believed to be vital to continue the state of mind of Bluffton, the Bluffton Oyster Company be given all possible opportunity to continue as an integral part of the Bluffton Community.

WHEREAS, Tenant desires to lease from Landlord, and Landlord desires to lease to Tenant, that certain commercial space, more particularly described on Exhibit "1" (the "Demised Premises") attached hereto and which shall be defined to include the dock and wharf. The Demised Premises are divided into the Operations Zone which Tenant is entitled to exclusive possession and use, and the River Access Zone to which the Tenant has non-exclusive possession and use;

NOW, THEREFORE, Landlord agrees to lease to Tenant and Tenant agrees to lease from the Landlord the Demised Premises, upon which Tenant may operate a seafood plant, an oyster processing facility, mariculture for clams, oysters, mussels and other shellfish and a retail seafood store, to include but not be limited to, packaged snacks, non-alcoholic beverages, bait, tackle, ice and all uses ancillary thereto, all as more particularly set forth herein.

**ARTICLE 1
INTRODUCTION**

1.1 In consideration of the rent to be paid and the mutual covenants and agreements herein contained, Landlord hereby demises and rents unto Tenant and Tenant hereby rents and hires from Landlord the Demised Premises as further defined herein.

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Landlord's Initials

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Tenant's Initials

**ARTICLE 2
DEMISED PREMISES**

2.1 Landlord hereby leases to Tenant and Tenant hereby takes and hires from Landlord, upon and subject to the terms, covenants and provisions hereof, the Demised Premises" consisting of "the Operations Zone" consisting of the Bluffton Oyster Factory located at the foot of Wharf Street at the May River in Bluffton, Beaufort County, South Carolina, and situated on the property further described as:

All those certain pieces, parcels or lots of land, with improvements thereon, situate, lying and being in the Town of Bluffton, Beaufort County, South Carolina, and being described and shown on a plat of the property prepared by T Square Surveying, a copy of which is attached hereto and incorporated herein by reference, as the Operations Zone and the River Access Zone. It is understood that the title to said property is bounded by the mean high water mark of the May River.

2.2 Provided further that the Landlord and the Tenant agree that the Demised Premises is divided into two parts: to wit: (1) The Operations Zone; and (2) the River Access Zone as shown on the plat attached hereto.

2.3 The "Operations Zone" consists of the Building in which the Bluffton Oyster Factory operates, together with the land as shown and labeled on said plat. The Tenant shall be entitled to exclusive possession and use of the Operations Zone.

2.4 "The River Access Zone" consists of the area shown and designated on the Plat as such. The Tenant shall have the non-exclusive right with the general public to use the River Access Zone. The Tenant shall have the right to cross this zone so as to gain access to the Operations Zone, and property taxes are addressed in Article 5.

**ARTICLE 3
TERMS**

3.1 The term (the "Term") of this Lease shall be for Five (5) years, commencing on 12/30, 2002 (the "Commencement Date"), and expiring on 12/29, 2007. Provided there is no continuing event of default hereunder by Tenant, Tenant shall have the right to extend the term of this lease for up to four (4) consecutive terms of Five (5) years each (the "Extended Term") upon the same terms and conditions contained herein, except the basic and additional rent, by giving written notice to Landlord of Tenant's intent to extend the then existing term at least three (3) months prior to the expiration of the then existing term.

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**ARTICLE 4
RENT AND OPERATING COSTS**

4.1 Tenant shall pay the following:

- A. Tenant shall pay a base rent to Landlord on an annual basis on the anniversary of the Commencement Date. The rent shall be One and 00/100 (\$1.00) Dollar per year.**
- B. Tenant shall pay all personal property taxes; hazard, flood and liability insurance costs (see Article 5, infra); and all utilities, including, without limitation, charges for electricity, water, sewer, heating and air-conditioning.**
- C. Tenant shall make such improvements to the building on the Demised Premises as may be necessary or required so as to remain permitted by the appropriate state regulatory agency as a seafood, an oyster processing plant and a retail seafood store.**
- D. As additional rent, the Tenant shall also pay to the Landlord Four Hundred Dollars (\$400.00) per month for the months of September, October, November, December, January, February, March and April. The rent shall be due and payable on the first (1st) day of each month, and past due on the tenth (10th) day of each month.**
- E. In all other months the Tenant shall pay to the Landlord the sum of Two Hundred Dollars(\$200.00) per month. The rent shall be due and payable on the first (1st) day of each month, and past due on the tenth (10th) day of each month.**
- F. All Operating Costs as further defined in Article 5.**
- G. If any payment of rent, either base or additional, is paid more than five (5) days after the date the same was due, it shall thereafter bear interest at the rate of Twenty and 00/100 (\$20.00) Dollars per day.**

**ARTICLE 5
OPERATING COSTS**

5.1 Tenant shall pay all "operating costs" as defined herein. "Operating Costs" shall mean all capital and non-capital expenditures required to be made in the operation, management, repair and maintenance of the Land and Building constituting the "Bluffton Oyster Factory" located in the Operations Zone of the Demised Premises, including, but not limited to, any additional construction of an addition to the existing dock, wharf and pier located in the Operations Zone and all charges, fees and taxes of whatever kind attributable thereto including the following:

- A. All ad valorem, special assessment, personal property taxes and any tax or fee, including impact fees, attributable to the Land and Building within the Operations Zone of the**

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Demised Premises. The Tenant shall not be responsible for any ad valorem, special assessment, personal property taxes and any tax or fee, including impact fees, attributable to the River Access Zone.

B. All charges for water and sewer use, electricity, gas and other public utilities supplied to the Building and grounds within the Operations Zone of the Demised Premises.

C. Heating, ventilation and air conditioning supplied to the "Building" in the Operations Zone including any capital expenditures for same.

D. Wages, social security taxes, unemployment taxes and insurance for all employees of the Tenant who are full time or part time, and whose services are used for the operation and maintenance of the Bluffton Oyster Factory, the Building and grounds within the Operations Zone and River Access Zone of the Demised Premises.

E. The Cost of labor, materials and supplies for cleaning, maintaining and securing the Building in which the Bluffton Oyster Factory operates including the grounds, windows, hallways, bathrooms, elevators, offices and food service areas, whether performed by employees of the Tenant or by independent contractors or subcontractors engaged by the Tenant, within the Operations Zone or for the picking of trash and litter within the River Access Zone.

F. Premiums for any insurance whatsoever including insurance against loss or damage to the Building in which the Bluffton Oyster Factory operates, whether by fire or other hazard, general public liability insurance, worker's compensation insurance and business interruption insurance; and,

G. Any and all expenses for repair maintenance, decoration or redecoration of the common areas within the Operations Zone and the Building in which the Bluffton Oyster Factory operates including the grounds, gardening and landscaping.

H. Tenant shall make such improvements to the Operations Zone as may be necessary or required so as to remain permitted by the appropriate state regulatory agency as a seafood plant, an oyster processing plant and a retail seafood store; and,

I. Tenant shall be solely liable and responsible to pay any and all assessments, fees or other charges to or on the Operations Zone of the Demised Premises, or any activities conducted thereon as may now or hereafter be charged to the Operations Zone of the Demised Premised during the Term or any renewal term.

J. Tenant shall be responsible for picking up and disposing of trash and litter in the Operations Zone and River Access Zone.

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**ARTICLE 6
USE OF PREMISES**

6.1 Tenant shall use the Premises to operate a seafood plant, an oyster processing facility and a retail seafood store and specified uses ancillary thereto. It shall comply with any and all applicable local, state and federal ordinances and regulations, including, without limitation, the Beaufort County Hazardous Materials Ordinance, OSHA requirements, the Americans with Disabilities Act and rules imposed by permit issuers charged with the regulation of Tenant's activities.

6.2 Tenant shall have the right to use the Operations Zone for those uses presently permitted and allowed by the Town of Bluffton under its current zoning ordinances, and the Parties hereto acknowledge that the Tenant's use of the Operations Zone is grand-fathered and a permitted use. Those uses consist of and are limited to the following: sale of seafood, both retail and wholesale, the sale of mercantile goods exclusive of wine, beer and alcoholic beverages, the operation of a seafood factory, the harvesting of seafood and the operation of seafood mariculture operations, provided that same are approved by all appropriate agencies of the State of South Carolina.

6.3 If during the Initial Term or any Extended Term, the application of any statute, code or ordinance of any government, authority, agency, official or officer applicable to the Building or the Demised Premises makes it impossible or not economical for Tenant to operate in the Demised Premises in accordance with subparagraph 6.1, then Tenant, at its option, may terminate this Lease, whereupon the Base Rent and Additional Rent and all other charges payable to the Landlord hereunder by Tenant shall be apportioned as of such date of termination.

**ARTICLE 7
ASSIGNMENT AND SUBLETTING**

7.1 Tenant shall have no right to assign this Lease or sublet the Demised Premises, in whole or in part, to any person or entity including a State agency, institution, department, bureau, political subdivision or State or political subdivision operated entity or to any other successor or assign. In the event that the Tenant is involved in bankruptcy or insolvency proceedings and the Tenant's trustee fails to perform or rejects any of the Tenant's obligations provided under this Lease, this Lease shall immediately terminate.

**ARTICLE 8.
NOTICE THAT NO SERVICES OR INSURANCE IS PROVIDED**

8.1 Tenant expressly acknowledges and agrees that the Landlord is not providing any service whatsoever to the Tenant in this Lease. Tenant expressly acknowledges and agrees that Landlord is not providing any form of insurance, which would inure to the benefit of the Tenant, in this Lease.

8.2 Tenant expressly acknowledges and agrees that the Landlord is not obtaining, providing or otherwise insuring the Building in which the Bluffton Oyster Factory operates against loss, in

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whole or in part, due to fire, flood, or any other hazard including acts of God. Tenant further acknowledges and agrees that Landlord is not providing any form of insurance, which would inure to the benefit of the Tenant.

8.3 Tenant expressly acknowledges and agrees that the Landlord is not providing lighting, heating or air conditioning, ventilation, electricity, janitorial service, security service, grounds maintenance, repair and maintenance to or about the Building in which the Bluffton Oyster Factory operates or any other service or supply necessary or convenient to maintain and /or operate the Bluffton Oyster Factory, the Building in which it operates and the real property on which the Building is sited including any improvements made thereto by the Tenant. Tenant expressly agrees that Tenant shall be obligated to pay for any service, maintenance or repair required by State, Federal or Local Law ordinance or regulation.

8.4 Tenant shall use separately metered utilities servicing the Operations Zone of the Demised Premises and make direct payment for such utility services to the suppliers thereof.

**ARTICLE 9
ARCHITECTURAL BARRIERS**

9.1 Tenant covenants and agrees that those portions of the Land, Building and Demised Premises, open to the public, shall comply with any and all applicable State and Federal law, rules and regulations with respect to architectural barriers or design that would prohibit free and full access to and use of those portions of the Land, Building, Demised Premises or any part thereof within the Operations Zone of the Demised Premises open to the aged, disabled or physically handicapped. In the event the Land, Building or Demised Premises within the Operations Zone of the Demised Premises do not so comply as of the Commencement Date of this Lease, Tenant shall, at Tenant's sole cost and expense and within ninety (90) days following the Commencement Date, alter, repair, renovate or otherwise provide at the Land, Building and Demised Premises within the Operations Zone of the Demised Premises all reasonable access and use thereof for the aged, disabled or physically handicapped as required by Law, taking into account any grand-fathering compliance permitted by law.

**ARTICLE 10
IMPROVEMENTS, ALTERATIONS AND MAINTENANCE**

10.1 Tenant shall have the following responsibilities and privileges for improvements, alterations and maintenance:

- A. Tenant may develop, construct and operate within the Operations Zone, at its sole cost and expense, any additional improvements (the "Tenant's Improvements") necessary or convenient for Tenant to conduct its business. Tenant's improvements which are not permanently affixed, may be removed by the Tenant at the expiration of the Term provided; however, Tenant shall repair, cause to repair, or compensate Landlord for any repairs,

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construction or reconstruction required to return the Demised Premises to its original condition existing prior to this Lease which are caused or resulted from removal of Tenant's improvements. Any such construction and operations shall be pursuant to permit by the applicable state, county or town agency.

B. Tenant agrees, except for normal wear and use, to keep and maintain the exterior and interior of the Leased Premises and any improvements thereon, including roofs, doors, windows, walls and any other structural elements in good condition and repair. Tenant shall make and be responsible for the costs of any electrical repairs, heating and air conditioning repairs, plumbing repairs and replacement, including the replacement of heating and air conditioning equipment and water heaters, all of which shall be deemed to be affixed, except in the case of personalty, such as window air conditioning units.

C. Tenant shall, at its sole expense, keep the Operations Zone (as defined hereinafter) free and clear of trash and debris, and the River Access Zone free of trash and litter.

D. Tenant agrees to perform such maintenance actions as may be commercially reasonable to keep the Building in which the Bluffton Oyster Factory operates and any improvements within the Operations Zone in the condition required by the appropriate state regulatory agencies to allow the use as a seafood plant, an oyster processing facility and a retail seafood store.

E. Tenant agrees to take such actions as may be necessary to prevent any unlawful discharge from the Operations Zone of the Leased Premises into the waters of the May River and further shall not store or allow hazardous or toxic waste or substances, which are defined as those substances, materials and wastes, including but not limited to, those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials table (49 CFR 172.101) or by the Environmental Protection Agency as hazardous substances (40 CFR Part 302) and amendments thereto, or such substances, materials and wastes which are or become regulated under any applicable local, state or federal law, including, without limitation, any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyl's, (iv) designated as a "Hazardous substance" pursuant to Section 331 of the Clean Water Act, 33 U.S.C. Sec 1251, et. seq. (33 U.S. C. 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Sec 1371), (v) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Sec 6901, et. seq. (42 U.S.C. sec 9601), et seq. (42 U.S.C. 9601) within the Operations Zone of the Leased Premises.

F. Tenant shall be liable, at its sole cost and expense, for any fines, penalties and/or recovery of costs and expenses associated with any improper or unlawful discharge into the May River from the Operations Zone. The Tenant shall have no right to make any discharge from the River Access Zone into the May River.

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**ARTICLE 11
CONDEMNATION AND CASUALTY**

11.1 If any damage or destruction occurs, in whole or in part, to the Bluffton Oyster Factory Building, or if proceedings or negotiations are instituted which do or may result in a taking by condemnation or eminent domain ("Taking"), each party will promptly give notice thereof to the other, describing the nature and extent thereof.

11.2 If any damage or destruction occurs, in whole or in part, to the Bluffton Oyster Factory Building and the dock(s), wharf(s), and pier(s) from any cause whatsoever, including acts of God, Landlord shall have no duty, obligation or liability to Tenant to restore, replace or rebuild the Bluffton Oyster Factory Building, any structure associated therewith, the dock(s), wharf(s) and pier(s), including Tenant Improvements made thereto.

11.3 If any damage to or destruction occurs, in whole or in part, to the Bluffton Oyster Factory Building, or any structure associated with it, including docks, wharfs, and piers, Tenant may elect, at its sole cost and expense, to restore the Bluffton Oyster Factory Building, any structure associated therewith, and the docks, wharfs, and piers to the original condition subject to permitting by state and local authorities. If Tenant elects not to restore or rebuild any damaged structure as provided herein including the Bluffton Oyster Factory Building, the Tenant shall terminate this Lease by notice to Landlord within ten (10) days from the date Tenant elects not to restore or rebuild the structure.

11.4 Nothing contained in this Lease shall be deemed or construed to grant the Tenant a claim or cause of action against the Landlord, its successors and assigns, for the value of the Tenant's leasehold estate, its leasehold improvements, lost income and /or rents, moving and related costs or any other damages whatsoever. Tenant expressly waives any claim or cause of action against the Landlord and its successors and assigns.

**ARTICLE 12
INSURANCE**

12.1 Tenant shall obtain and maintain throughout the Term the following:

A. At all times during the term of this lease, Tenant shall keep in full force and effect a Commercial General Liability Policy insuring against bodily injury, including death, or damage to tangible property, with minimum limits of liability in the amount of One Million (\$1,000,000.00) Dollars for a single occurrence for activities on the Operations Zone. The Landlord shall be shown as an additional insured.

B. At all times during the term of this lease, Tenant shall keep in full force and effect a Workers' Compensation Insurance policy with statutory benefits.

C. At all times during the term of this lease, Tenant shall keep in full force and effect an Employer's Liability insurance policy with minimum limits of liability in the amount of

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Three Hundred Thousand (\$300,000.00) Dollars.

12.2 The policies or certificates of insurance shall include a provision that written notice of cancellation or notice of any material change to the insurance policy, including the limits of liability in said policy(s), shall not be effective until after the Landlord is given thirty (30) days written notice of such change

12.3 The landlord shall not be required to maintain hazard or all risk insurance on the Bluffton Oyster Factory Building or the improvements of the Operations Zone. Tenant elects not to maintain hazard or all risk insurance on the Bluffton Oyster Factory Building, the improvements thereto and the contents thereof, and shall occupy and make improvements to it at its own risk.

**ARTICLE 13
INDEMNITY**

13.1 Tenant hereby agrees to indemnify and hold harmless Landlord, its successors and assigns, from any and all costs, expenses, losses, liabilities, causes of action or other obligations in any way connected or associated with its occupation of the Leased Premises pursuant to this Lease. In the event any claim or demand is made on Landlord for any such obligation, Tenant shall promptly defend, remove, bond or otherwise dispose of such claim or demand and save and hold Landlord harmless against all expenses, costs and attorney's fees which may arise from any action taken by Landlord in response to said claim or demand.

**ARTICLE 14
DEFAULTS**

14.1 Any of the following shall constitute an Event of Default by Tenant under this Lease:

A. If Tenant shall fail to perform any of Tenant's obligations to pay the base rent or additional rent hereunder on or before the due date thereof, and such default remains uncured for period of Ten (10) Days after written notice of such default; or,

B. If Tenant fails to observe or perform any of Tenant's other obligations under any of the terms, covenants, conditions and provisions of this Lease and such default shall remain uncured for a period of Thirty (30) days after written notice of such default, provided the notice sets forth the specific actions necessary for Tenant to undertake, to correct or cure such default. No event of default shall be deemed to have occurred if Tenant commences necessary corrective or remedial action within the thirty (30) day notice period and diligently pursues and completes same.

14.2 If an event of default as defined in Section 14.1 A, B occurs, then (a) Landlord shall have the immediate right to give a written termination notice to Tenant specifying a date on which this Lease shall terminate, and on such date, the Term of this Lease shall expire and terminate, and all rights of Landlord and Tenant under this Lease shall cease; or, (b) if Tenant has not (i) cured such default or (ii) made arrangements to address the default and such arrangements have not been approved by

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Landlord, which approval shall not be unreasonably withheld, within thirty (30) days of written notice of such default, Landlord shall have the right to cure such default by any reasonable means including, without limitation, the expenditure of funds, in which case Tenant shall pay to Landlord the reasonable cost of curing such default on demand of Landlord.

14.3 If within thirty (30) days after receipt by Landlord of written notice from Tenant to Landlord specifying any failure by Landlord to observe or perform any of Landlord's obligations under any of the terms, covenants, conditions and provisions of this Lease, Landlord has not commenced diligently to correct or otherwise to cure the default or defaults so specified or has not thereafter diligently pursued such correction.

14.4 If an event of default as defined in Section 14.3 shall have occurred, Tenant shall have the immediate right at any time thereafter to give a written termination notice to Landlord specifying a date on which this Lease shall terminate, and on such date, the Term of this Lease shall expire and terminate, and all rights of Landlord and Tenant under this Lease shall cease. Or in the alternative, Tenant shall have the right to cure such default by any reasonable means including, without limitation, the expenditure of funds and Tenant shall be entitled to recoup the reasonable cost of curing such default by offsetting such expenses against the basic rent due.

**ARTICLE 15
NOTICE**

15.1 Any notice to be given by either party to the other pursuant to the provisions of this Lease shall be given by personal delivery or by first-class United States mail, postage paid, addressed to the party for whom it is intended at the address first stated above or at such other address as may be designated in writing

**ARTICLE 16
SUCCESSORS AND ASSIGNS**

16.1 The covenants, conditions and agreements contained in this Lease shall bind and inure to the benefit of the Landlord and its respective successors and assigns. Unless repugnant to the context, the word "Landlord" appearing in this Lease shall be construed to mean the Landlord named above and its successors and assigns, and those claiming through or under it respectively.

16.2 The covenants, conditions and agreements contained in this Lease shall not bind or inure to the benefit of the Tenant's successors and assigns or those claiming through or under it.

**ARTICLE 17
MISCELLANEOUS**

17.1 The Lease shall be subject to the following:

- A. Landlord agrees that upon Tenant's payment of the base and additional rent and

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performing and observing the terms, covenants, conditions and provisions on its part to be performed and observed, Tenant shall and may peaceably and quietly have, hold and enjoy the Operations Zone exclusively and the non-exclusive right in the River Access Zone of the Demised Premises during the Term without any manner of hindrance, interruption or molestation from Landlord or anyone claiming under Landlord, subject, however, to the terms of this Lease.

B. If any term in this Lease shall be declared invalid or unenforceable, the remaining terms of this Lease shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the parties.

C. This agreement represents the entire understanding of the parties with reference to the subject matter hereof, and shall be construed and enforced in accordance with the laws of South Carolina.

D. Tenant shall neither assign this Lease nor sublet any portion of the Leased Premises.

E. The failure of either party to call any one default under the provisions of this Lease shall not be construed as a waiver of the right to call any other or future default.

F. Tenant shall not encumber the Demised Premises or any part thereof or permit any lien or charge to be taken against the Demised Premises or any part thereof.

G. Nothing herein shall be construed as a subordination by Landlord of its interests in the Leased Premises. Landlord shall not be required to subordinate its interest in the Leased Premises to any other party.

**ARTICLE 18
SPECIAL PROVISIONS**

18.1 The following special provisions apply to the parties herein:

A. The Demised Premises shall consist of the two areas as shown on the plat affixed hereto as Exhibit "1", the Operations Zone and the River Access Zone. The Tenant shall be entitled to the sole and exclusive possession and use of the Operations Zone. Tenant shall be entitled to non-exclusive possession and use of the River Access Zone. The Operations Zone shall include all appurtenances and improvements affixed to the property, including the docks, wharfs and piers emanating from that property.

B. Entry and access to the Operations Zone shall be limited to the Tenant and its guests and invitees.

C. Tenant shall have the right to terminate this Lease in the event of any of the following:
(i) the improvements on the Leased Premises are damaged, by fire, flood, storm or other casualty to the extent that repairs by the Tenant are not financially feasible by the Tenant

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and there are no insurance proceeds available to Tenant to effect repairs or rebuild; Tenant acknowledges that Landlord is not providing any form of insurance including hazard insurance which would inure to the benefit of the Tenant; or, (ii) in the event that a regulatory agency having jurisdiction over the business operations of the Tenant shall issue an order, make such findings or enact such regulation(s) as will substantially impair the ability of the Tenant to conduct the permitted uses of the Leased Premises. In the event of termination under the provisions of this Paragraph, Tenant shall give the Landlord sixty (60) days written notice of its intent to terminate and this Lease shall terminate on the 60th day and all obligations of the parties hereunder shall terminate.

D. Tenant agrees that prior to making any structural modifications of the Building it will obtain the consent of the Landlord in writing, which consent shall not be unreasonably withheld.

E. Tenant shall have, subject to Tenant obtaining at it's sole and exclusive cost, all necessary permits and authorization from governmental entities having jurisdiction over such activities, the right to construct additions to the dock, wharf and pier at the eastern (down river) side of the existing structure and located in the Operations Zone. The costs related to the construction shall be the sole and exclusive responsibility of the Tenant. The additional dock, wharf and pier shall be used for purposes related to the permitted uses of the Leased Premises and shall not be used for marina type activities such as the rental or leasing of dockage to non-commercial vessels or boats or the sale of motor fuel. Landlord shall consent to any application by Tenant for all necessary permits and approvals for the construction and operation of the above specified improvements. In the event the Landlord desires to construct a dock, wharf or pier on the River Access Zone portion of the Leased Premises, the Tenant agrees to assist in the application for all necessary permits and approvals for such construction provided, that the construction will not result in the imposition of material limitations on the Tenant's use of the existing dock, wharf or pier and will not interfere with the Tenant's expansion of the facilities as contemplated under this paragraph.

F. Tenant shall have the right, subject to appropriate governmental approval, to construct fencing on the boundary between the Operations Zone and the River Access Zone to limit access to the Operational Zone of the Leased Premises. Tenant may not construct any fencing without prior written approval of Landlord. Landlord's approval right shall be limited to the location, design and specifications of the fence, and its approval shall not be unreasonably withheld.

G. Tenant agrees that it will keep the River Access Zone clean and free of trash and litter at its sole and exclusive expense. Tenant shall provide appropriate trash receptacles and shall empty same on an as-needed basis. In the event that special events sponsored by the Landlord results in Tenant incurring extra expense in the upkeep and cleaning of the River Access Zone, the Landlord shall bear the extra expense of such cleanup.

WJDU
Landlord's Initials

[Signature]
Tenant's Initials

H. Landlord shall be responsible for the upkeep and maintenance of all improvements located in the River Access Zone other than trash receptacles.

I. Landlord shall post appropriate signs setting rules and regulations for the use of the River Access Zone. Such rules shall not, by their content or operation, interfere with Tenant's possession or use described in this Lease.

J. Landlord shall take all steps necessary to prevent the parking of vehicles within the River Access Zone and on or beside Wharf Street, except while engaged in launching and recovering boats. The parties further agree to take such action as may be required to have the appropriate governmental authority designate that portion of Wharf Street between the Premises and Bridge Street a "No Parking" zone or area.

K. Landlord agrees that it shall provide parking area(s) for persons utilizing the River Access Zone, and said parking shall not be located on the Demised Premises. The Landlord shall also be responsible for providing public restroom facilities with sewer disposal to include all necessary sewer, water and utility lines.

L. The Tenant shall have the right, as a permitted use of the Leased Premises, to engage in mariculture type activities in the Operations Zone, subject to compliance with applicable rules, regulations and laws of the State of South Carolina. Tenant shall obtain, at its sole cost, all necessary permits and authorizations from governmental authorities having jurisdiction over such activities. Tenant shall have the right to construct such improvements in the Operations Zone as may be necessary to conduct mariculture type activities in the Operations Zone.

M. Landlord expressly acknowledges that Tenant, as part of its permitted use in the Operations Zone, may conduct private parties in the Operations Zone.

In witness whereof, the Parties hereto have caused these presents to be executed in each entities' respective name and the seals to be affixed, on the date above written.

WDM
Landlord's Initials

ST
Tenant's Initials

WITNESSES:

Sharon C. Rainis
Tracy D. Bradshaw
[Signature]

WITNESSES

[Signature]
Karen B. [Signature]

**LESSOR:
BEAUFORT COUNTY OPEN LAND
TRUST**

By: [Signature]
It's President
Attest: [Signature]
It's Treasurer
Attest: Paul W. Fordham
It's Secretary

**LESSEE:
D&L SEAFOOD CORPORATION**

By: [Signature]
It's President
Attest: [Signature]

WDM
Landlord's Initials

[Signature]
Tenant's Initials

STATE OF SOUTH CAROLINA)
)
) PROBATE
COUNTY OF BEAUFORT)

Personally appeared before me Sharon C. Raino, who first being duly sworn, states that they saw the within named William F. Moser, President sign, seal and as their act and deed deliver the within written document, and that they with C. Scott Graker witnessed the execution thereof.

Sharon C. Raino

SWORN to before me this 9 day of January 2002. 2003

[Signature]
Notary Public for South Carolina
My Commission expires: June 25, 2012

STATE OF SOUTH CAROLINA)
)
) PROBATE
COUNTY OF BEAUFORT)

Personally appeared before me William F. Moser III, who first being duly sworn, states that they saw the within named Larry Tanner, President of D+L Services sign, seal and as their act and deed deliver the within written document, and that they with Karen Patterson witnessed the execution thereof.

[Signature]

SWORN to before me this 30th day of December 2002.

Karen B. Patterson
Notary Public for South Carolina
My Commission expires: 11/10/09

WFD
Landlord's Initials

[Signature]
Tenant's Initials

PRELIMINARY MASTER PLAN



JOGGLING BOARD EXAMPLE



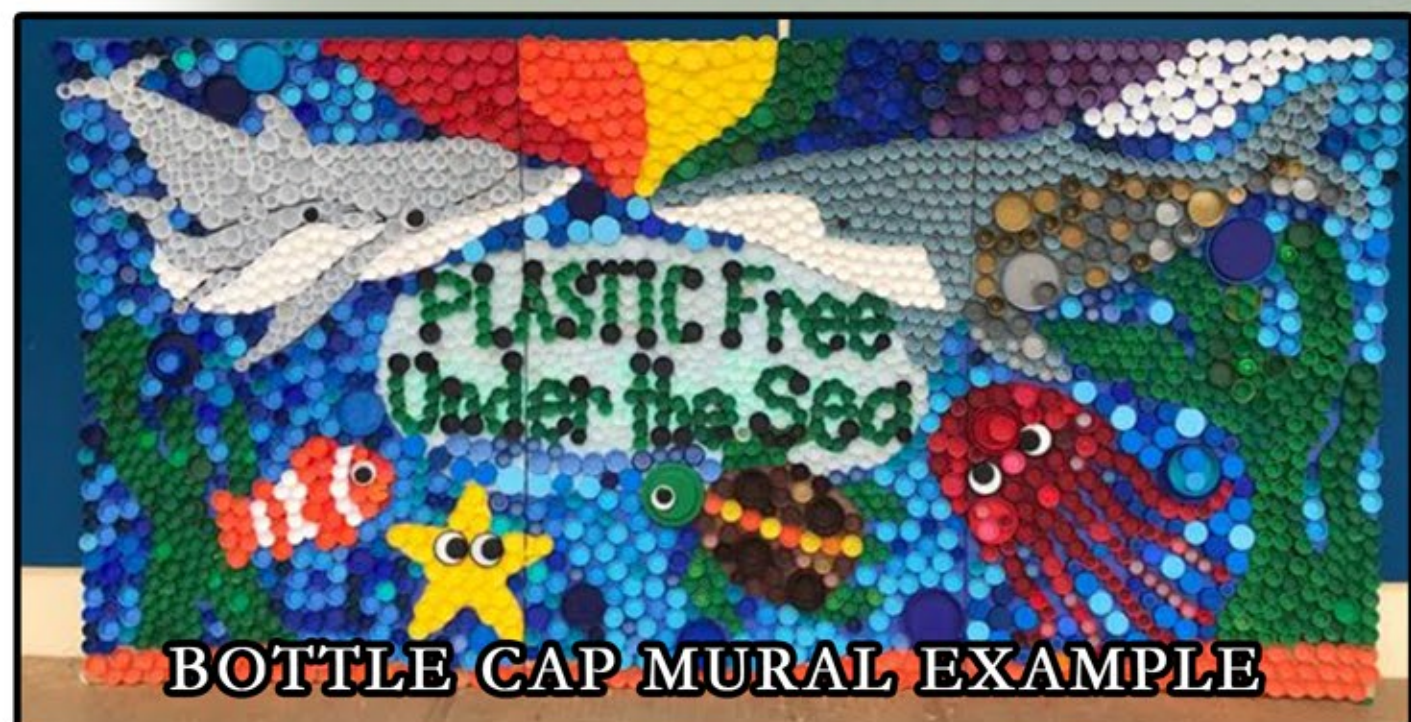
DIAMOND RAIL FENCE EXAMPLE



TREEHOUSE EXAMPLE



TREE SWING EXAMPLE



BOTTLE CAP MURAL EXAMPLE



OYSTER FACTORY PARK

63 WHARF STREET
BLUFFTON, SOUTH CAROLINA

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PLAN IS CONCEPTUAL IN NATURE
AND IS SUBJECT TO CHANGE.
THIS SHEET TO SCALE: 30"X42"



PRELIMINARY MASTER PLAN



JOGGLING BOARD EXAMPLE



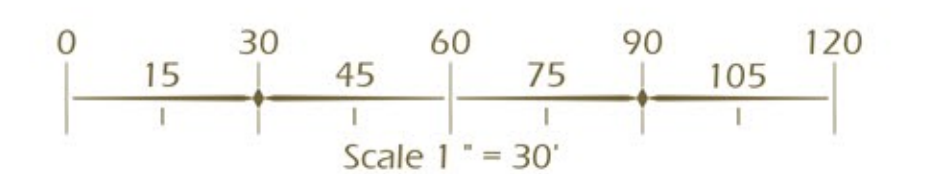
DIAMOND RAIL FENCE EXAMPLE



TREEHOUSE EXAMPLE



TREE SWING EXAMPLE



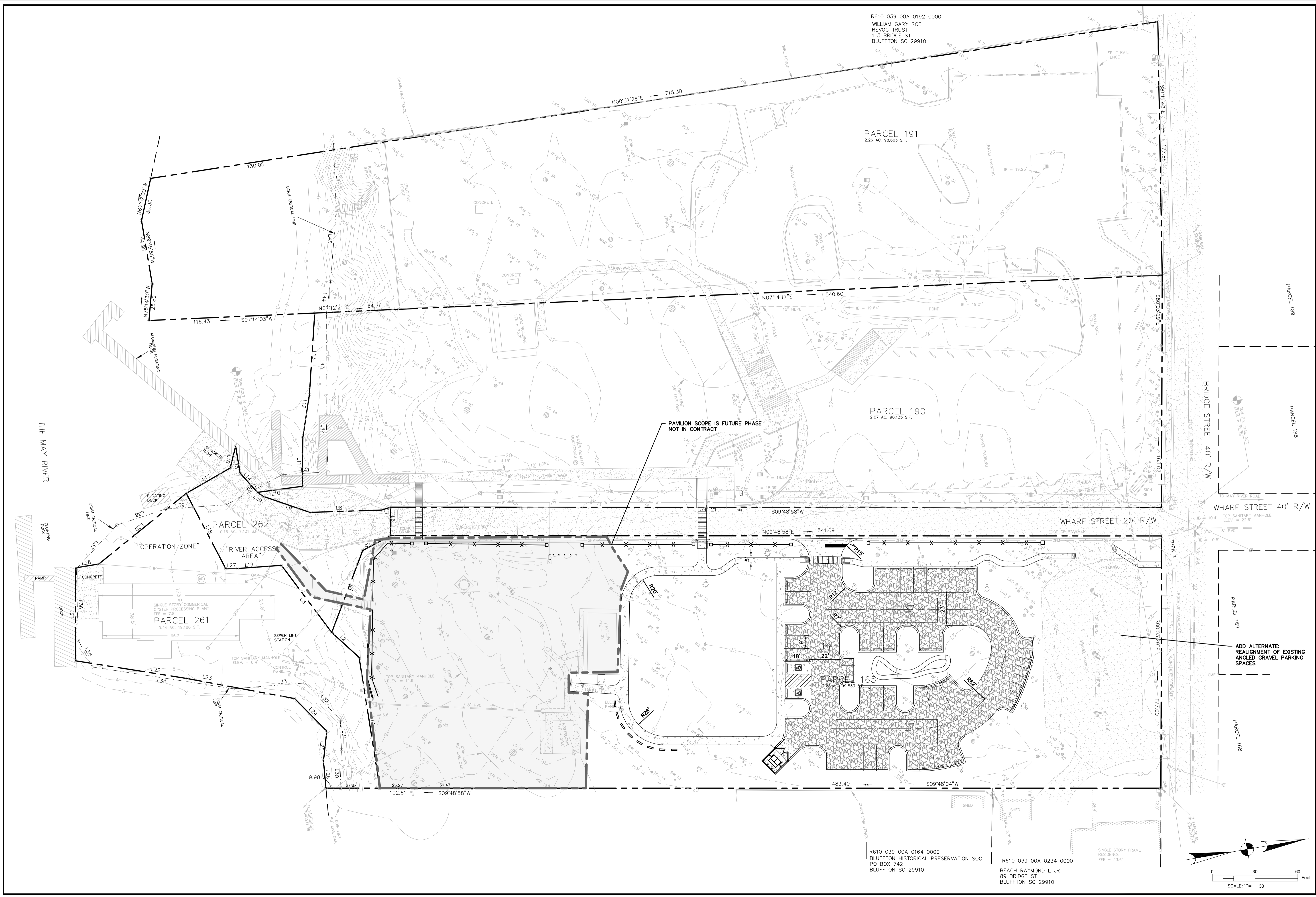
OYSTER FACTORY PARK

63 WHARF STREET
BLUFFTON, SOUTH CAROLINA

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PLAN IN CONCEPTUAL IN NATURE
AND IS SUBJECT TO CHANGE
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R610 039 00A 0192 0000
 WILLIAM GARY ROE
 REVOC TRUST
 113 BRIDGE ST
 BLUFFTON SC 29910

PARCEL 191
 2.26 AC. 98,603 S.F.

PARCEL 190
 2.07 AC. 90,135 S.F.

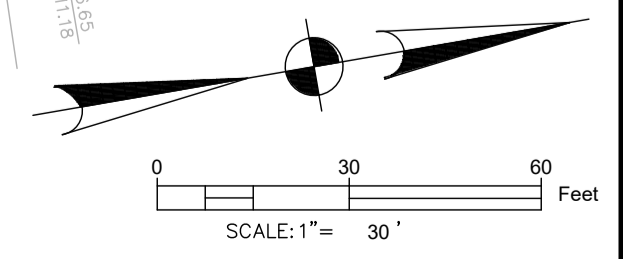
PARCEL 165
 2.28 AC. 99,533 S.F.

PARCEL 261
 0.14 AC. 18,380 S.F.

PARCEL 262
 0.16 AC. 7,131 S.F.

R610 039 00A 0164 0000
 BLUFFTON HISTORICAL PRESERVATION SOC
 PO BOX 742
 BLUFFTON SC 29910

R610 039 00A 0234 0000
 BEACH RAYMOND L JR
 89 BRIDGE ST
 BLUFFTON SC 29910



| NO. | DESCRIPTION | DATE |
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Ward Edwards
ENGINEERING
 P.O. BOX 381, BLUFFTON, SOUTH CAROLINA 29910
 PH: (843) 837-5750 / FAX: (843) 837-2556
 WWW.WARDEDWARDS.COM

OYSTER FACTORY PARK PARKING LOT EXPANSION
 TOWN OF BLUFFTON, SOUTH CAROLINA
TOWN OF BLUFFTON, SOUTH CAROLINA
SITE LAYOUT PLAN

VERTICAL DATUM:
 NAVD88
 PROJECT #: IS0607A
 DATE: 06/01/22
 DESIGNED BY: JCH
 CHECKED BY: PRM

SHEET C401

Professional Engineer Seal for Paul M. Ward, License No. 22816, State of South Carolina. The seal is circular and contains the text 'SOUTH CAROLINA PROFESSIONAL ENGINEER' and 'WARD EDWARDS, INC. LICENSE NO. 22816'.

NOT FOR CONSTRUCTION

IF THIS SHEET IS LESS THAN 22" X 34" IT IS A REDUCED PRINT. SCALE ACCORDINGLY.



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

| |
|--|
| ITEM TITLE: |
| Recommendation to update Policy 19 - Acquisition of Stormwater Drainage Easements |
| MEETING NAME AND DATE: |
| Natural Resources Committee – November 7th, 2022 |
| PRESENTER INFORMATION |
| Neil Desai, P.E. – Public Works Director Katie Herrera – Stormwater Manager (alternate) (10 min) |
| ITEM BACKGROUND: |
| Stormwater easements are necessary to obtain if private entities wish for Beaufort County to maintain drainage systems. In situations where the Public Works Director (PWD) or their designee determine an easement is necessary, it is important for a standard operation procedure (SOP) to be in place. In 2014 the County adopted Policy 19 as an SOP. August 18, 2014 – Recommended for approval at Public Facilities Committee August 25 th , 2014 – Approved by County Council |
| PROJECT / ITEM NARRATIVE: |
| Staff seeks to update the policy to provide additional guidance on how to obtain an easement from the County. Staff wants to provide clarity to the public on what steps the County needs to take and record an easement granted by the public. |
| FISCAL IMPACT: |
| N/A |
| STAFF RECOMMENDATIONS TO COUNCIL: |
| Staff recommends the approval of proposed updates to Policy 19. |
| OPTIONS FOR COUNCIL MOTION: |
| Motion to approve proposed updates to Policy 19. Motion to deny proposed updates to Policy 19. (Next Step – Bring resolution to November 14th County Council meeting for 1st reading) |

RESOLUTION 2022/

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN UPDATE TO POLICY STATEMENT 19
“ACQUISITION OF STORM WATER DRAINAGE EASEMENTS”;**

The County Council of Beaufort County (the “**Council**”), the governing body of the Beaufort County, South Carolina (the “**County**”), has made the following findings of fact;

WHEREAS, the County a political subdivision of the State of South Carolina (the “**State**”), and as such possesses all general powers granted by the Constitution and statues of the state to public entities;

WHEREAS, in pursuance of the powers granted to the County, the County currently operates its stormwater management utility as an administrative division of the County;

WHEREAS, the County has previous accepted Policy Statement 19 dated August 25th, 2014

WHEREAS, the County has negotiated an “update to Policy Statement 19” the provisions of which amend and restate the Policy in its entirety, in the form attached hereto as Exhibit A;

NOW THEREFORE, BE IT RESPOVED BY COUNTY COUNCIL OF BEAUFORT COUNTY, in a meeting duly assembled, as follows:

ADOPTED, this ____ day of _____, 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____

Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

Standard Operating Procedures to Request drainage easement

1. Property owner and/or their agent (designated representation for property owner) makes a request of the Public Works Director (PWD for Beaufort County to obtain designated drainage easement on their private property
 - a. Information needed during request:
 - i. Nature of request to include desire to have piped or stay open ditch
 - ii. Parcel PIN number
 - iii. Property Owner Information
 - iv. Any structures within easement staff should be aware of
2. All requests will be brought to the attention of all necessary County staff during staff coordination meetings for acceptance or denial.
3. Staff would like all requestee's to know the following:
 - a. Drainage easements are at the discretion of the Public Works Director, or their designee, to accept or deny.
 - b. Standard easement widths necessary range from 15' to 30'.
 - c. Systems including multiple property owners will require all property owners to be in agreement with the easement being accepted for County maintenance
 - i. The County will not accept easement for only one property if it is part of a larger system.
 - d. The standard operating procedure followed by the Public Works Director and the Easement Manager is as follows:
 - i. Request is brought to the attention of all appropriate staff for discussion
 - ii. If the easement request is determined to be necessary to accept into the Stormwater Drainage Infrastructure system, the easement manager will do the following
 1. Identification of adjacent property owners (names and mailing addresses)
 2. Preparation of easement request letters
 3. Drafting of easement deeds or easement agreements
 4. Initial request letter is mailed via certified mail
 5. Second request letter, if necessary, is mailed
 6. If all of the easement requests are granted, the Easement manager records each document as obtained
 - iii. If the easement request is determined to not be eligible for acceptance into the Stormwater Drainage Infrastructure System, the applicant will be made aware. Reasons for denial of request could be, but are not limited to, the following
 1. Adjacent property owners were not willing to grant an easement
 2. The easement is not part of a larger drainage system necessary for safely routing runoff from County maintained right of way
 3. There is no outfall to waters of the United States
 4. The easement area is within a wetland

Official Proceedings
County Council of Beaufort County
August 25, 2014

The electronic and print media duly notified in accordance with the State Freedom of Information Act.

CAUCUS

A caucus of the County Council of Beaufort County was held Monday, August 25, 2014 beginning at 4:00 p.m., in the large meeting room of the Hilton Head Island Branch Library, 11 Beach City Road, Hilton Head Island, South Carolina.

ATTENDANCE

Chairman D. Paul Sommerville, Vice Chairman Stewart Rodman and Councilmen Cynthia Bensch, Rick Caporale, Gerald Dawson, Brian Flewelling, Steven Fobes, Gerald Stewart, Roberts "Tabor" Vaux and Laura Von Harten. William McBride absent.

PLEDGE OF ALLEGIANCE

The Chairman led those present in the Pledge of Allegiance to the Flag.

DISCUSSION ITEMS

Council discussed removing one item from the consent agenda: an ordinance to amend Beaufort County Ordinance No. 2014/15 so as to adjust the millage rate from 101.70 to an amount to be determined to achieve the same appropriated revenue amount of \$114,868,815 to be derived from tax collections.

CALL FOR EXECUTIVE SESSION

It was moved by Mr. Stewart, seconded by Mr. Fobes, that Council go immediately into executive session for the purpose of receiving information regarding negotiations incident to proposed contractual arrangements and proposed purchase of property as well as receipt of legal advice for pending or threatened claims. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

Mr. Vaux recused himself, left the room, and was not present for any of the discussion regarding negotiations incident to proposed contractual arrangements.

EXECUTIVE SESSION

REGULAR SESSION

The regular meeting of the County Council of Beaufort County was held Monday, August 25, 2014 beginning at 4:00 p.m., in the large meeting room of the Hilton Head Island Branch Library, 11 Beach City Road, Hilton Head Island, South Carolina.

ATTENDANCE

Chairman D. Paul Sommerville, Vice Chairman Stewart Rodman and Councilmen Cynthia Bensch, Rick Caporale, Gerald Dawson, Brian Flewelling, Steven Fobes, Gerald Stewart, Roberts “Tabor” Vaux and Laura Von Harten. William McBride absent.

PLEDGE OF ALLEGIANCE

The Chairman led those present in the Pledge of Allegiance to the Flag.

INVOCATION

Councilman Roberts “Tabor” Vaux gave the Invocation.

The Chairman passed the gavel to the Vice Chairman in order to receive the Administrative Consent Agenda.

ADMINISTRATIVE CONSENT AGENDA

Review of Proceedings of the Regular Meeting held August 11, 2014

This item comes before Council under the Administrative Consent Agenda.

It was moved by Mr. Fobes, seconded by Mrs. Bensch, that Council approve the minutes of the regular meeting held August 11, 2014. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

County Administrator’s Two-Week Progress Report

This item comes before Council under the Administrative Consent Agenda.

Mr. Gary Kubic, County Administrator, presented his Two-Week Progress Report, which summarized his activities from August 11, 2014 through August 22, 2014.

Deputy County Administrator’s Two-Week Progress Report

This item comes before Council under the Administrative Consent Agenda.

Mr. Gary Kubic, County Administrator, on behalf of the Deputy County Administrator, Mr. Bryan Hill, presented his Two-Week Progress Report, which summarized his activities from August 11, 2014 through August 22, 2014.

Committee Reports

Community Services Committee

It was moved by Mr. Vaux, seconded by Mr. Stewart, that Council approve the purchase of residential property located at 75 Lakes Crossing Drive, Bluffton in the amount of \$289,000 for the Disabilities and Special Needs Program. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

It was moved by Mr. Vaux, seconded by Mr. Stewart, that Council approve the purchase of residential property located at 210 Pinecrest Circle, Bluffton for the purchase price of \$285,000 for the Disabilities and Special Needs Program. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

Public Facilities Committee

It was moved by Mr. Dawson, seconded by Ms. Von Harten, that Council waive the right of first refusal on the purchase of the Beaufort County Voter Registration Building. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

The Vice Chairman passed the gavel back to the Chairman in order to continue the meeting.

PUBLIC COMMENT

The Chairman recognized Mrs. Kerstin Taylor, a resident of Bluffton, who stated Beaufort County roads and medians need cleaning. Bluffton Parkway has a large amount of sand and debris along the curb and the intersections have piles of trash from car accidents. There is trash in the medians on U.S. Highway 278.

Ms. Joni Dimond, a resident of Hilton Head Island, spoke of corruption in Beaufort County when Wexford Plantation sued her for interference with landscape maintenance workers.

Ms. Catherine Donaldson, a real estate agent representing Bluffton and Hilton Head Island, is opposed to the recommended or proposed increase in millage rate of the School District.

Mr. Bill Evans, Board of Education Chairman, stated the Board of Education passed a resolution August 19, 2014 requesting County Council establish a millage rate sufficient to generate revenue equal to the June 2014 appropriation amount. He submitted a proposal to create a process to establish millage value and rate.

Mr. Jeffrey Moss, School District Superintendent, stated Council should consider treating the School District in the same manner it treats itself, *i.e.*, the County tax collection discount rate is over 5%, while the District rate is 3%.

Mrs. Jocelyn Staigar, representing the Sun City Association of Realtors, is opposed to the recommended or proposed increase in millage rate of the School District.

Mr. Andy Twisdale, a resident of Hilton Head Island, is opposed to the recommended or proposed increase in millage rate of the School District.

Mrs. Geri Kinton, a member of the Board of Education, stated students cannot learn and teachers cannot teach in classrooms with 30+ students per teacher. The only way to meet the demands the millage rate will impose on the District, is to reduce teachers.

Mr. Walter Nester, a lawyer with the McNair Law Firm representing Cherokee Beaufort, LLC, thanked the Planning staff and the Development Agreement Subcommittee on this application and, asked Council to approve the Development Agreement this evening.

Ms. Cathie Rash, a resident of Hilton Head Island, stated there has to be some way that the 4% property owner can help support the schools, rather than to place the burden on 6% property owners and 10.5% business owners.

Mr. Sonny Huntley, a real estate broker and resident of Hilton Head Island, stated Council has a responsibility to all the citizens, not just the students or just the Board of Education. Council is saddled with the consequences of the onerous State Act 388. He implored Council to figure out some way to get around this issue of school funding, which is placing an onerous burden on 6% property owners and 10.5% business owners.

CONSENT AGENDA

NWN CORPORATION SMARTNET LICENSE CONTRACT RENEWAL FOR MIS DEPARTMENT

This item comes before Council under the Consent Agenda. Discussion occurred at the August 18, 2014 meeting of the Community Services Committee.

It was moved by Mr. Flewelling (no second required), that Council award a contract renewal to NWN Corporation, Greensboro, North Carolina for a Smartnet license in the amount of \$173,000. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

MANATRON, INC. ANNUAL MAINTENANCE SUPPORT CONTRACT RENEWAL FOR MIS DEPARTMENT

This item comes before Council under the Consent Agenda. Discussion occurred at the August 18, 2014 meeting of the Finance Committee.

It was moved by Mr. Flewelling (no second required), that Council award a contract renewal to Manatron, Inc., Chicago, Illinois for annual maintenance and support for the property tax software used by the Treasurer, Assessor, and Auditor Departments in the amount of \$163,630. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

COMPUCOM MICROSOFT LICENSE SUPPORT CONTRACT RENEWAL FOR MIS DEPARTMENT

This item comes before Council under the Consent Agenda. Discussion occurred at the August 18, 2014 meeting of the Finance Committee.

It was moved by Mr. Flewelling (no second required), that Council award a contract renewal to CompuCom, Dallas, Texas to provide Microsoft license support in the amount of \$139,468. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

AN ORDINANCE OF BEAUFORT COUNTY COUNCIL CREATING A SPECIAL TAX ASSESSMENT FOR REHABILITATED HISTORIC PROPERTIES IN THE MUNICIPAL BOUNDARIES OF THE CITY OF BEAUFORT

This item comes before Council under the Consent Agenda. Discussion occurred at the August 18, 2014 meeting of the Finance Committee.

It was moved by Mr. Flewelling (no second required), that Council approve on first reading, by title only, an ordinance of Beaufort County Council creating a special tax assessment for rehabilitated historic properties in the municipal boundaries of the City of Beaufort. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr.

Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

BUCKWALTER REGIONAL PARK COMMUNITY CENTER PHASE 2 EXPANSION DESIGN BUILD PROJECT

This item comes before Council under the Consent Agenda. Discussion occurred at the August 18, 2014 meeting of the Public Facilities Committee.

It was moved by Mr. Flewelling (no second required), that Council award a contract to Mashburn Construction Company, Inc., Charleston, South Carolina to design and build the Phase 2 Expansion in the amount of \$6,100,000. Funding would come from Bluffton Parks and Leisure Services impact fees. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

GOVERNMENT COMPLEX PARKING LOT STORMWATER RETROFIT PROJECT

This item comes before Council under the Consent Agenda. Discussion occurred at the August 18, 2014 meeting of the Public Facilities Committee.

It was moved by Mr. Flewelling (no second required), that Council award a contract to JS Construction, Bluffton, South Carolina in the amount of \$299,653 for the County Government Complex parking lot stormwater retrofit. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

DRAINAGE EASEMENT ACQUISITION POLICY

This item comes before Council under the Consent Agenda. Discussion occurred at the August 18, 2014 meeting of the Public Facilities Committee.

It was moved by Mr. Flewelling (no second required), that Council adopt the Standard Operating Procedure for the acquisition of all drainage easements and maintenance of the stormwater system. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

AN ORDINANCE ESTABLISHING, DEVELOPING AND CONSTRUCTING MULTI-USE RECREATION TRAILS AND RESTRICTING THE USE THEREOF TO NON-MOTORIZED ACTIVITIES

This item comes before Council under the Consent Agenda. Discussion occurred at the August 18, 2014 meeting of the Public Facilities Committee.

It was moved by Mr. Flewelling (no second required), that Council approve on first reading an ordinance establishing, developing and constructing multi-use recreation trails and restricting the use thereof for non-motorized activities. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

AN ORDINANCE AUTHORIZING THE BLUFFTON TOWNSHIP FIRE DISTRICT TO GIVE AND RECEIVE MUTUAL ACCESS EASEMENTS WITH THE BEAUFORT COUNTY SCHOOL DISTRICT

This item comes before Council under the Consent Agenda. Discussion occurred at the August 18, 2014 meeting of the Public Facilities Committee.

It was moved by Mr. Flewelling (no second required), that Council approve on first reading an ordinance authorizing the Bluffton Township Fire District to give and receive Mutual Access Easements with the Beaufort County School District. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

AN ORDINANCE TO AMEND BEAUFORT COUNTY ORDINANCE NO. 2014/15 SO AS TO ADJUST THE MILLAGE RATE FROM 101.70 TO AN AMOUNT TO BE DETERMINED TO ACHIEVE THE SAME APPROPRIATED REVENUE AMOUNT OF \$114,868,815 TO BE DERIVED FROM TAX COLLECTIONS

Main motion: It was moved by Mr. Caporale, as Finance Committee Chairman, no second required, that Council approve on first reading an ordinance to amend Beaufort County Ordinance No. 2014/15 so as to adjust the millage rate from 101.70 to 103.5 to achieve the same appropriated revenue amount of \$114,868,815 to be derived from tax collections.

Motion to amend by substitution: It was moved by Mr. Dawson, seconded by Ms. Von Harten, that Council adjust the millage rate from 101.70 to 105.28. The vote: YEAS – Mr. Dawson, Mr. Fobes and Ms. Von Harten. NAYS - Mrs. Bensch, Mr. Caporale, Mr. Flewelling, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Mr. Vaux. ABSENT – Mr. McBride. The motion failed.

Vote on the main motion: Council approve on first reading an ordinance to amend Beaufort County Ordinance No. 2014/15 so as to adjust the millage rate from 101.70 to 103.5 to achieve the same appropriated revenue amount of \$114,868,815 to be derived from tax collections. The vote: YEAS - Mr. Caporale, Mr. Flewelling, Mr. Rodman, Mr. Stewart and Mr. Vaux. NAYS – Mrs. Bensch, Mr. Dawson, Mr. Fobes, Mr. Sommerville and Ms. Von Harten. ABSENT – Mr. McBride. The motion failed.

Motion to reconsider: It was moved by Ms. Von Harten, seconded by Mr. Fobes, that Council reconsider the main motion to adjust the millage rate from 101.70 to 103.5. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr.

Stewart, Mr. Vaux and Ms. Von Harten. NAYS – Mr. Dawson. ABSENT – Mr. McBride. The motion failed.

Main motion: It was moved by Ms. Von Harten, seconded by Mr. Fobes, that Council approve on first reading an ordinance to amend Beaufort County Ordinance No. 2014/15 so as to adjust the millage rate from 101.70 to 103.5 to achieve the same appropriated revenue amount of \$114,868,815 to be derived from tax collections. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

PUBLIC HEARING

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

The Chairman opened the second of two required public hearings at 6:00 p.m. for the purpose of receiving public comment on 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. After calling three times for public comment and receiving none, the Chairman declared the hearing closed at 6:01 p.m.

It was moved by Mr. Flewelling (no second required), that Council approve on third and final reading 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. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. ABSENT – Mr. McBride. The motion passed.

COUNTY ADMINISTRATOR'S REPORT

Retirement of Wlodek Zaryczny

Mr. Gary Kubic, County Administrator, announced Mr. Wlodek Zaryczny, Library Director, has submitted his desire to retire. This individual dedicated his life to library service. He had led the way to the very innovative and well done St. Helena Island Branch Library, utilizing federal, state and local resources; but, more importantly, opening our arms up to the Penn Center Board of Directors and the community to have a role in the design of this state-of-the-art library. On behalf of the County, Mr. Kubic wishes Mr. Zaryczny and his family all the best on behalf of County Administration and Council.

Farewell of Bryan Hill

Mr. Gary Kubic, County Administrator, announced that Mr. Bryan J. Hill, Deputy County Administrator, has accepted the position of County Administrator in James City County, Virginia. Mr. Hill is simply the best. We owe him a round of applause.

PUBLIC COMMENT

The Chairman recognized Mrs. Jocelyn Staigar, representing the Sun City Association of Realtors, who said the whole discussion about the School District millage is not about realtors and schools. This is a discussion about the County as a whole. We have to stop pitting schools against businesses.

ADJOURNMENT

Council adjourned at 6:48 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
D. Paul Sommerville, Chairman

ATTEST _____
Suzanne M. Rainey, Clerk to Council

Ratified: September 22, 2014



BEAUFORT COUNTY STORMWATER UTILITY
120 Shanklin Road
Beaufort, South Carolina 29906
Voice (843) 255-2801 Facsimile (843) 255-9478



TO: Councilman Gerald Dawson, Chairman, Public Facilities Committee

FROM: Robert McFee, PE, Division Director for Engineering and Infrastructure *JRM*
 Eric W. Larson, Beaufort County Stormwater Utility *Eric W. Larson*

SUBJECT: Discussion of a Policy for Acquisition of Storm Water Drainage Easements.

Date: August 6, 2014

BACKGROUND: The following Standard Operating Procedure is recommended for all drainage easement acquisitions:

- 1) Stormwater Engineer, assisted by Easement Manager, determines easement needs; the easement acquisition process is initiated
 - a) identification of adjacent property owners (names and mailing addresses)
 - b) preparation of easement request letters
 - c) drafting of easement deeds or easement agreements
 - d) initial request letter is mailed
 - e) second request letter, if necessary, is mailed
 - f) if all the easement requests are granted, Easement manager records the documents and the drainage project proceeds
 - g) if the requested easement is not granted, County Staff attorney reports the same to Public Facilities Committee/County Council and recommends one of two courses of action
 - 1) Council designates the drainage as private and removes it from the drainage maintenance inventory; property owners are notified of this action by mail
 - 2) Council agrees to provide funding for the condemnation of the easement; drainage project proceeds when County takes title to the condemned easement
- 2) Stormwater department conducts/oversees the contract letting process
- 3) Contract is awarded
- 4) Construction phase commences

FOR ACTION: Public Facilities Committee meeting occurring on August 18, 2014.

RECOMMENDATION: Staff recommends the above process to be endorsed by the Public Facilities Committee of County Council for the acquisition of drainage easements and maintenance of the stormwater system.

CC: Gary Kubic, County Administrator *GK*
 Bryan Hill, Deputy Administrator *BH*

/ewl

County Council approval August 25, 2014

Standard Operating Procedures for all Drainage Easements (Update to Policy 19)

1. Beaufort County Public Works Director (PWD) and or their designee determines needs after a drainage easement request is made; the easement acquisition is initiated:
 - a. Request (Exhibit A) is brought to the attention of all appropriate staff for evaluation
 - b. If the easement request is determined to be necessary to accept into the Beaufort County stormwater drainage system, the PWD will initiate the following process
 - i. Identification of adjacent property owners (names and mailing addresses)
 - ii. Preparation of easement request letters
 - iii. Drafting of easement deeds or easement agreements
 - iv. Initial request letter is either mailed or hand delivered
 - v. If necessary, a second request letter is mailed via certified mail
 - vi. As easement requests are granted and approved, the PWD records each document at the Beaufort County Register of Deeds office.
 - vii. If second letter is denied or not returned, the PWD will pursue one of the two options:
 - a. Pursue condemnation in coordination with the respective Beaufort County Council District representative
 - b. Discontinue easement acquisition

COUNTY COUNCIL OF BEAUFORT COUNTY
 ADMINISTRATION BUILDING
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 BEAUFORT, SOUTH CAROLINA 29901-1228
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D. PAUL SOMMERVILLE
 CHAIRMAN

STEWART H. RODMAN
 VICE CHAIRMAN

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 RICK CAPORALE
 GERALD DAWSON
 BRIAN E. FLEWELLING
 STEVEN G. FOBES
 WILLIAM L. MCBRIDE
 GERALD W. STEWART
 ROBERTS "TABOR" VAUX, JR.
 LAURA L. VON HARTEN

GARY KUBIC
 COUNTY ADMINISTRATOR

BRYAN J. HILL
 DEPUTY COUNTY ADMINISTRATOR

JOSHUA A. GRUBER
 COUNTY ATTORNEY

SUZANNE M. RAINEY
 CLERK TO COUNCIL

AGENDA
 COUNTY COUNCIL OF BEAUFORT COUNTY

Monday, August 25, 2014
 4:00 p.m.

Large Meeting Room
 Hilton Head Island Branch Library
 11 Beach City Road, Hilton Head Island

Citizens may participate in the public comment periods and public hearings from telecast sites at County Council Chambers, Beaufort as well as Mary Field School, Daufuskie Island.

1. CAUCUS - 4:00 P.M.
 - A. Discussion of Consent Agenda
 - B. Discussion is not limited to agenda items
 - C. Executive Session
 1. Discussion of negotiations incident to proposed contractual arrangements and proposed purchase of property
 2. Receipt of legal advice for pending or threatened claims
2. REGULAR MEETING - 5:00 P.M.
3. CALL TO ORDER
4. PLEDGE OF ALLEGIANCE
5. INVOCATION – Roberts "Tabor" Vaux
6. ADMINISTRATIVE CONSENT AGENDA
 - A. Approval of Minutes – August 11, 2014 ([backup](#))
 - B. Receipt of County Administrator's Two-Week Progress Report ([backup](#))
 - Receipt of Deputy County Administrator's Two-Week Progress Report ([backup](#))
 - D. Committee Reports (next meeting)
 1. Community Services (September 22 at 2:00 p.m., Bluffton Library)
 2. Executive (September 8 at 2:00 p.m., ECR)
 3. Finance (September 15 at 2:00 p.m., BIV #3)
 - a. August 18, 2014 minutes ([backup](#))
 4. Governmental (September 2 at 4:00 p.m., ECR)
 (September 16 at 4:00 p.m. CC)



5. Natural Resources (September 2 at 2:00 p.m., ECR)
 6. Public Facilities (September 15 at 4:00 p.m., BIV #3)
 - a. August 18, 2014 minutes ([backup](#))
- E. Appointments to Boards and Commissions

7. PUBLIC COMMENT

8. CONSENT AGENDA

A. NWN CORPORATION SMARTNET LICENSE CONTRACT RENEWAL FOR MIS DEPARTMENT ([backup](#))

1. Contract award: NWN Corporation, Greensboro, North Carolina
2. Contract amount: \$173,000
3. Funding source: MIS #10001150-51110, Maintenance Contracts
4. Finance Committee discussion and recommendation to approve occurred August 18, 2014 / Vote 6:0

B. MANATRON, INC. ANNUAL MAINTENANCE SUPPORT CONTRACT RENEWAL FOR MIS DEPARTMENT ([backup](#))

1. Contract award: Manatron, Inc., Chicago, Illinois
2. Contract amount: \$163,630
3. Funding source: MIS #10001150-51110, Maintenance Contracts
4. Finance Committee discussion and recommendation to approve occurred August 18, 2014 / Vote 6:0

C. COMPUCOM MICROSOFT LICENSE SUPPORT CONTRACT RENEWAL FOR MIS DEPARTMENT ([backup](#))

1. Contract award: CompuCom, Dallas, Texas
2. Contract amount: \$139,466
3. Funding source: MIS #10001150-51110, Maintenance Contracts
4. Finance Committee discussion and recommendation to approve occurred August 18, 2014 / Vote 6:0

D. AN ORDINANCE ADOPTING THE BAILEY BILL; PROVIDING FOR SPECIAL PROPERTY TAX ASSESSMENT FOR REHABILITATED HISTORIC PROPERTIES; AND OTHER MATTERS RELATED THERETO

1. Consideration of first reading, by title only, to occur August 25, 2014
2. Finance Committee discussion to occur August 25, 2014 at 2:00 p.m.
3. Finance Committee discussion and recommendation to approve occurred August 18, 2014 / Vote 6:0

- E. AN ORDINANCE TO AMEND BEAUFORT COUNTY ORDINANCE NO. 2015/16 SO AS TO ADJUST THE MILLAGE RATE FROM 101.70 TO AN AMOUNT TO BE DETERMINED TO ACHIEVE THE SAME APPROPRIATED REVENUE AMOUNT OF \$114,868,815 TO BE DERIVED FROM TAX COLLECTIONS ([backup](#))
1. Consideration of first reading, by title only, to occur August 25, 2014
 2. Finance Committee discussion to occur August 25, 2014 at 2:00 p.m.
 3. Finance Committee discussion and recommendation to approve occurred August 18, 2014 / Vote 6:0
- F. BUCKWALTER REGIONAL PARK COMMUNITY CENTER PHASE 2 EXPANSION DESIGN BUILD PROJECT ([backup](#))
1. Contract award: Mashburn Construction Company, Inc., Charleston, South Carolina
 2. Contract amount: \$6,100,000
 3. Funding source: Bluffton Parks and Leisure Services Impact Fees
 4. Public Facilities Committee discussion and recommendation to approve occurred August 18, 2014 / Vote 7:0
- G. GOVERNMENT COMPLEX PARKING LOT STORMWATER RETROFIT PROJECT ([backup](#))
1. Contract award: JS Construction, Bluffton, South Carolina
 2. Contract amount: \$299,653
 3. Funding source: Primary funding #50260011-61160, Stormwater Capital Improvement Fund
 4. Public Facilities Committee discussion and recommendation to approve occurred August 18, 2014 / Vote 7:0
- H. DRAINAGE EASEMENT ACQUISITION POLICY ([backup](#))
1. Consideration of first reading to occur August 25, 2014
 2. Public Facilities Committee discussion and recommendation to approve occurred August 18, 2014 / Vote 6:1
- I. AN ORDINANCE ESTABLISHING, DEVELOPING AND CONSTRUCTING MULTI-USE RECREATION TRAILS AND RESTRICTING THE USE THEREOF TO NON-MOTORIZED ACTIVITIES ([backup](#))
1. Consideration of first reading to occur August 25, 2014
 2. Public Facilities Committee discussion and recommendation to approve occurred August 18, 2014 / Vote 7:0
- J. AN ORDINANCE AUTHORIZING THE BLUFFTON TOWNSHIP FIRE DISTRICT TO GIVE AND RECEIVE MUTUAL ACCESS EASEMENTS WITH THE BEAUFORT COUNTY SCHOOL DISTRICT
1. Consideration of first reading to occur August 25, 2014
 2. Public Facilities Committee discussion and recommendation to approve occurred August 18, 2014 / Vote 7:0

9. PUBLIC HEARINGS – 6:00 P.M.

A. 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* ([backup](#))

1. Consideration of third and final reading to occur August 25, 2014
2. Second reading approval occurred August 11, 2014 / Vote 11:0
3. First reading approval occurred July 28, 2014 / Vote 9:0
4. Natural Resources Committee discussion and recommendation to approve occurred July 28, 2014 / Vote: 4:0:1

10. COUNTY ADMINISTRATOR'S REPORT

Mr. Gary Kubic, County Administrator

A. Recognition / Wlodek Zaryczny, Library Director ([backup](#))

11. PUBLIC COMMENT

12. ADJOURNMENT

Official Proceedings
County Council of Beaufort County
August 11, 2014

The electronic and print media duly notified in accordance with the State Freedom of Information Act.

CAUCUS

A caucus of the County Council of Beaufort County was held Monday, August 11, 2014 beginning at 4:00 p.m., in the Executive Conference Room of the Administration Building, 100 Ribaut Road, Beaufort, South Carolina.

ATTENDANCE

Chairman D. Paul Sommerville, Vice Chairman Stewart Rodman and Councilmen Cynthia Bensch, Rick Caporale, Gerald Dawson, Brian Flewelling, Steven Fobes, William McBride, Gerald Stewart, Roberts "Tabor" Vaux and Laura Von Harten.

PLEDGE OF ALLEGIANCE

The Chairman led those present in the Pledge of Allegiance to the Flag.

DISCUSSION ITEMS

Council discussed removing one item from the consent agenda:

Item 9B, an ordinance of Beaufort County Council directing the retention of a portion of business license taxes received by the county in a separate economic development fund account.

Mr. Stewart presented the policy positions, which consists of a list of issues of importance to the County that likely will come before the 2015-2016 legislative session. The Governmental Committee has approved the list. Without objection from Council, Mr. Stewart will forward the policy positions to the South Carolina Association of Counties.

CALL FOR EXECUTIVE SESSION

It was moved by Mr. Flewelling, seconded by Mr. Caporale, that Council go immediately into executive session regarding the discussion of negotiations incident to proposed contractual arrangements and proposed purchase of property as well as receipt of legal advice for pending or threatened claims. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

Mr. Vaux recused himself, left the room, and was not present for any of the discussion regarding negotiations incident to proposed contractual arrangements.

EXECUTIVE SESSION

REGULAR SESSION

The regular meeting of the County Council of Beaufort County was held Monday, August 11, 2014 beginning at 5:00 p.m., in Council Chambers of the Administration Building, 100 Ribaut Road, Beaufort, South Carolina.

ATTENDANCE

Chairman D. Paul Sommerville, Vice Chairman Stewart Rodman and Councilmen Cynthia Bensch, Rick Caporale, Gerald Dawson, Brian Flewelling, Steven Fobes, William McBride, Gerald Stewart, Roberts “Tabor” Vaux and Laura Von Harten.

PLEDGE OF ALLEGIANCE

The Chairman led those present in the Pledge of Allegiance to the Flag.

INVOCATION

Chairman Paul Sommerville gave the Invocation.

The Chairman passed the gavel to the Vice Chairman in order to receive the Administrative Consent Agenda.

ADMINISTRATIVE CONSENT AGENDA

Review of Proceedings of the Regular Meeting held July 28, 2014

This item comes before Council under the Administrative Consent Agenda.

It was moved by Mr. Flewelling, seconded by Ms. Von Harten, that Council approve the minutes of the regular meeting held July 28, 2014. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

County Administrator’s Two-Week Progress Report

This item comes before Council under the Administrative Consent Agenda.

Mr. Gary Kubic, County Administrator, presented his Two-Week Progress Report, which summarized his activities from July 28, 2014 through August 8, 2014.

Deputy County Administrator’s Two-Week Progress Report

This item comes before Council under the Administrative Consent Agenda.

Mr. Bryan Hill, Deputy County Administrator, presented his Two-Week Progress Report, which summarized his activities from July 28, 2014 through August 8, 2014.

Committee Reports

Governmental Committee

Without objection from Council, Mr. Stewart agreed to forward the policy positions to the South Carolina Association of Counties.

Appointments to Boards and Commissions

Foster Care Review Board

It was moved by Mr. Sommerville, seconded by Mr. McBride, that Council rescind the nomination of Linda Cecil to serve as a member of the Foster Care Review Board. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

Historic Preservation Review Board

Larry Koolkin

The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. Mr. Koolkin, representing Port Royal Island, was appointed to serve as a member of the Historic Preservation Review Board after garnering the six votes required to appoint.

Lady’s Island / St. Helena Island Fire District

David Townsend

The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. Col. Townsend, representing Lady’s Island, was reappointed to serve as a member of the Lady’s Island / St. Helena Island Fire District after garnering the ten votes required to reappoint. This reappointment is subject to the Governor’s approval.

The Vice Chairman passed the gavel back to the Chairman in order to continue the meeting.

INTRODUCTION OF JULIE SCHNEIDER, DIRECTOR OF SOCIAL SERVICES

Mr. Gary Kubic, County Administrator, introduced Ms. Julie Schneider, Director of Department of Social Services (DSS). Julie has over 25 years of experience working with children and families in several different capacities and organizations. In her previous position, Julie was the Region 3 Coordinator for Family Engagement practices and priorities with DSS. Prior to coming to SCDCSS, Julie was a Program Director for Darkness to Light, a nationally renowned and recognized Child Sexual Abuse Prevention Program. While all of Julie's work experience has centered on the delivery of services for children and families, she also is a tenured leader in total quality management, and a Master Trainer for several programs. Julie has extensive experience in program design and development and has presented at national and international conferences.

PUBLIC COMMENT

The Chairman recognized Mrs. Margaret Bukkosal, a resident of Seabrook Point subdivision, who stated the residents are trying to find a way to get water to Seabrook Point. This task has been very, very difficult. She asked Council to consider making a mandatory water connection policy for all residents of Beaufort County.

Ms. Ellen Hynes, a resident of Seabrook Point subdivision, requested financial assistance from a Community Development Block grant to help pay for B/J Water and Sewer Authority to run a water line and install fire hydrants on Seabrook Road and into Seabrook Point.

Mrs. Hetty Nijman, a resident of Seabrook Point subdivision, stated Seabrook Point has saltwater intrusion and sulfur problems, and well water has no regulatory controls.

Ms. Catherine Pardue, a resident of Seabrook Point subdivision, stated the community has no fire hydrants because the residents are on wells. According to representatives of B/J Water and Sewer Authority, it will cost between \$10,000 and \$11,000 per home to bring water down Seabrook Road and into Seabrook Point. That is significant for both low- and moderate-income families and retirees. In the next draft of the Comprehensive Plan, please include Seabrook Point Subdivision.

Ms. Lorrie Smith, a resident of Seabrook Point subdivision, asked Council to support a Community Development Block grant and B/J Water Sewer Authority to bring water to Seabrook Point Subdivision.

Mr. Jim Minor, a resident of Seabrook Point subdivision, asked Council to provide water and sewer to all residents of Beaufort County. Hold the B/J Water and Sewer Authority accountable to make a report to Council of how many pockets / communities that do not have adequate fire hydrants, water and sewer.

Mrs. Jaime Dailey-Vergara, representing the Beaufort Regional Chamber of Commerce, encourages and supports the County in using the business license revenue to fund a comprehensive economic development plan, and to reinvest this revenue for future growth. She

thanked Council for adopting the NAICS Code, which, hopefully, will simplify the revenue tracking for the business owner and make implementing the reciprocal one-stop business license offices easier. She supports an online business fee calculator.

CONSENT AGENDA

RESOLUTION OF BEAUFORT COUNTY COUNCIL AUTHORIZING THE COUNTY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A PURCHASE AGREEMENT FOR RESIDENTIAL PROPERTY FOR USE IN THE BEAUFORT COUNTY DISABILITIES AND SPECIAL NEEDS PROGRAM

This item comes before Council under the Consent Agenda. Discussion occurred at the July 29, 2014 meeting of the Community Services Committee.

It was moved by Mr. Stewart, seconded by Mr. Flewelling, that Council adopt a resolution authorizing the County Administrator to purchase residential properties to support the Disabilities and Special Needs Department. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

RENEWAL OF ANNUAL MEDICAL SERVICES CONTRACT FOR DETENTION CENTER

This item comes before Council under the Consent Agenda. Discussion occurred at the July 29, 2014 meeting of the Governmental Committee.

It was moved by Mr. Stewart, seconded by Mr. Flewelling, that Council award a contract renewal to Southern Health Partners, Inc., Chattanooga, Tennessee to provide medical services for Detention Center inmates. Funding would come from Account 10001250-51190, Medical / Dental Services in the amount of \$546,888. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

RENEWAL OF ANNUAL FOOD SERVICE CONTRACT FOR DETENTION CENTER

This item comes before Council under the Consent Agenda. Discussion occurred at the July 29, 2014 meeting of the Governmental Committee.

It was moved by Mr. Stewart, seconded by Mr. Flewelling, that Council award a contract renewal to ABL Management, Baton Rouge, Louisiana to provide meals for Detention Center inmates and staff. Funding would come from Account 10001250-51120, Meals / Contracted Services in the amount of \$307,800. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

RENEWAL OF ANNUAL PUBLIC HEALTH INSECTICIDE FOR MOSQUITO CONTROL

This item comes before Council under the Consent Agenda. Discussion occurred at the July 29, 2014 meeting of the Governmental Committee.

It was moved by Mr. Stewart, seconded by Mr. Flewelling, that Council award a contract renewal to Clarke Mosquito Control Products, Inc., Roselle, Illinois to provide public health insecticide for the Mosquito Control Department. Funding would come from Account 10001400-52320, Public Health Products in the amount of \$283,953. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

AN ORDINANCE OF BEAUFORT COUNTY COUNCIL DIRECTING THE RETENTION OF A PORTION OF BUSINESS LICENSE TAXES RECEIVED BY THE COUNTY IN A SEPARATE ECONOMIC DEVELOPMENT FUND ACCOUNT

It was moved by Mr. Rodman (no second required), that Council approve on first reading an ordinance of Beaufort County Council directing the retention of a portion of business license taxes received by the County in a separate Economic Development Fund account. The vote: YEAS - Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

PUBLIC HEARINGS

AN ORDINANCE AUTHORIZING THE PLACEMENT OF A QUESTION ON THE OFFICIAL BALLOT FOR THE GENERAL ELECTION TO BE CONDUCTED NOVEMBER 4, 2014, CONCERNING A PROPOSITION AUTHORIZING BEAUFORT COUNTY TO ISSUE GENERAL OBLIGATION BONDS TO ACQUIRE LANDS FOR PRESERVATION PURPOSES AND TO PAY CERTAIN COSTS AND DEBT SERVICE RELATED THERETO

The Chairman opened a public hearing at 6:01 p.m. for the purpose of receiving public comment on an ordinance authorizing the placement of a question on the official ballot for the General Election to be conducted November 4, 2014, concerning a proposition authorizing Beaufort County to issue General Obligation Bonds to acquire lands for preservation purposes and to pay certain costs and debt service related thereto. After calling once for public comment, the Chairman recognized Mr. Reed Armstrong, representing the Beaufort Office of the Coastal Conservation League, who stated there is about \$500 million of lands available within the focus areas as identified in the Greenprint Map, of which \$55 million are high priority, because of their ecological importance. He encouraged Council to allow the Beaufort County voters to decide whether the program should continue with the additional funding.

Mr. Henry Sanders, a resident of Hilton Head Island, supports the Rural and Critical Lands Program. He asked Council to place the \$20,000,000 bond referendum question on the November 2014 ballot.

Mr. George Johnston, a former member of the Rural and Critical Lands Preservation Review Board, supports the trendsetting Rural and Critical Lands Program. He encouraged Council to place the \$20,000,000 bond referendum question on the November 2014 ballot.

Mrs. Cindy Baysden, Executive Director of the Beaufort County Open Land Trust, pledges to stand behind Council in managing the Rural and Critical Lands Program.

Mr. Jim Minor, a resident of Seabrook Point, would like to see the \$20,000,000 bond referendum question on the November 2014 ballot, but he is a naysayer. The time for this program has come to an end. There are other projects in the County in need of funding.

After calling twice more for public comment and receiving none, the Chairman declared the hearing closed at 6:14 p.m.

It was moved by Mr. Flewelling, seconded by Mr. Fobes, that Council approve on third and final reading an ordinance authorizing the placement of a question on the official ballot for the General Election to be conducted November 4, 2014, concerning a proposition authorizing Beaufort County to issue General Obligation Bonds to acquire lands for preservation purposes and to pay certain costs and debt service related thereto. The vote: YEAS - Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. NAYS – Mrs. Bensch. The motion passed.

TEXT AMENDMENTS TO THE BEAUFORT COUNTY CODE, ARTICLE V, SECTION 46-151 THROUGH SECTION 46 – 163 OF THE HAZARDOUS MATERIALS ORDINANCE

The Chairman opened a public hearing at 6:34 p.m. for the purpose of receiving public comment text amendments to the Beaufort County Code, Article V, Section 46-151 through Section 46–163 of the Hazardous Materials Ordinance. After calling three times for public comment and receiving none, the Chairman declared the hearing closed at 6:35 p.m.

It was moved by Mr. Flewelling, seconded by Mr. Fobes, that Council approve on third and final reading text amendments to the Beaufort County Code, Article V, Section 46-151 through Section 46–163 of the Hazardous Materials Ordinance. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

AN ORDINANCE TO REGULATE UNFIT DWELLINGS AND UNSAFE BUILDINGS WITHIN THE UNINCORPORATED AREAS OF BEAUFORT COUNTY, TO PROVIDE FOR THE ENFORCEMENT THEREOF, AND MATTERS RELATED THERETO

The Chairman opened a public hearing at 6:36 p.m. for the purpose of receiving public comment on an ordinance to regulate unfit dwellings and unsafe buildings within the unincorporated areas of Beaufort County, to provide for the enforcement thereof, and matters related thereto. After calling three times for public comment and receiving none, the Chairman declared the hearing closed at 6:37 p.m.

It was moved by Mr. Dawson, seconded by Mr. Fobes, that Council approve on third and final reading an ordinance to regulate unfit dwellings and unsafe buildings within the unincorporated areas of Beaufort County, to provide for the enforcement thereof, and matters related thereto. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

AN ORDINANCE AUTHORIZING BEAUFORT COUNTY TO SELL THREE REAL PROPERTIES IDENTIFIED AS: 429 BROAD RIVER BOULEVARD, BEAUFORT, R100 028 00A 0252 0000; 1603 IVY LANE, BEAUFORT, R120 008 000 0210 0000; AND LEROY E. BROWN MEDICAL CENTER, 41 BALL PARK ROAD, ST. HELENA ISLAND, R300 016 000 183A 0000

The Chairman opened a public hearing at 6:37 p.m. for the purpose of receiving public comment on an ordinance authorizing Beaufort County to sell three real properties identified as: 429 Broad River Boulevard, Beaufort, R100 028 00A 0252 0000; 1603 Ivy Lane, Beaufort, R120 008 000 0210 0000; and Leroy E. Brown Medical Center, 41 Ball Park Road, St. Helena Island, R300 016 000 183A 0000. After calling three times for public comment and receiving none, the Chairman declared the hearing closed at 6:38 p.m.

It was moved by Mr. McBride, as Community Services Committee Chairman (no second required), that Council approve on third and final reading an ordinance authorizing Beaufort County to sell three real properties identified as: 429 Broad River Boulevard, Beaufort, R100 028 00A 0252 0000; 1603 Ivy Lane, Beaufort, R120 008 000 0210 0000; and Leroy E. Brown Medical Center, 41 Ball Park Road, St. Helena Island, R300 016 000 183A 0000. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

AN ORDINANCE TO PROVIDE AN APPROPRIATION FROM THE LOCAL ACCOMMODATIONS TAX FUND TO THE SANTA ELENA FOUNDATION IN THE AMOUNT OF \$75,000

The Chairman opened a public hearing at 6:38 p.m. for the purpose of receiving public comment on an ordinance to provide an appropriation from the Local Accommodations (3%) Tax fund to the Santa Elena Foundation in the amount of \$75,000. After calling three times for public comment and receiving none, the Chairman declared the hearing closed at 6:39 p.m.

It was moved by Mr. Flewelling, seconded by Mr. Caporale, that Council approve on third and final reading an ordinance to provide an appropriation from the Local Accommodations (3%)

Tax fund to the Santa Elena Foundation in the amount of \$75,000. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

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

The Chairman opened the first of two required public hearings at 6:43 p.m. for the purpose of receiving public comment on 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. After calling three times for public comment and receiving none, the Chairman declared the hearing closed at 6:44 p.m.

It was moved by Mr. Flewelling (no second required), that Council approve on second reading 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. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, Mr. Sommerville, Mr. Stewart, Mr. Vaux and Ms. Von Harten. The motion passed.

COUNTY ADMINISTRATOR'S REPORT

The County Channel / Broadcast Services

Mr. Gary Kubic, County Administrator, stated The County Channel has all programs, events and meetings available to watch online, on-demand at www.bcgov.net. The County Channel aired its annual Hurricane episode of Coastline last week. Guests included Capt. Neil Baxley, Emergency Management Director, Mrs. Tallulah Trice, Director, Animal Services Department; and Mr. Jeff Althoff, Lowcountry Insurance Services. A variety of issues were discussed during the episode, including what evacuation route should be taken based on your address, what preparations should be made for your pet, and how your Smartphone can be used to help your insurance agent. Coastline airs Thursday nights at 8:00 p.m.

The County Channel is updating its “Night Skies” videos with a four-part series based on the seasons. The episodes, hosted by Kristen Mattson, will focus on which constellations are visible during different times of the year. We have great visibility and very low light pollution in Beaufort County, and that results in excellent opportunities for stargazing. This series has been used as a teaching guide in Beaufort County Schools.

DEPUTY COUNTY ADMINISTRATION BRYAN HILL / ACCEPTANCE OF POSITION OF COUNTY ADMINISTRATOR IN JAMES CITY COUNTY, VIRGINIA

Mr. Gary Kubic, County Administrator, announced that Mr. Bryan J. Hill, Deputy County Administrator, has accepted the position of County Administrator in James City County, Virginia. Mr. Hill expects to begin with James City County, Monday, September 8, 2014. On behalf of the Administration, we wish Bryan all the best in his new position and, will miss his expertise and leadership skills.

PUBLIC COMMENT

The Chairman recognized Mr. Jim Minor, a resident of Seabrook Point subdivision, who asked Council to hold the B/J Water and Sewer Authority accountable to make a report to Council of how many pockets/communities that do not have adequate fire hydrants, water and sewer. “Why does not the Burton Fire District, that services a rural area, have a fire tanker truck?”

Mrs. Margaret Bukkosy, a resident of Seabrook Point subdivision, encouraged Council to adopt a mandatory water connection policy to all residents of Beaufort County.

ADJOURNMENT

Council adjourned at 7:00 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
D. Paul Sommerville, Chairman

ATTEST _____
Suzanne M. Rainey, Clerk to Council

Ratified:



Memorandum

DATE: August 22, 2014
TO: County Council
FROM: Gary Kubic, County Administrator *Gary Kubic*
SUBJ: County Administrator's Progress Report

The following is a summary of activities that took place August 11, 2014 through August 22, 2014:

August 11, 2014

- Employee orientation
- Meeting with Sheriff P.J. Tanner
- Compensation Subcommittee of Finance Committee
- Caucus
- County Council

August 12, 2014

- Staff meeting with Deputy County Administrator Bryan Hill and County Attorney Josh Gruber re: Modifications to fee ordinances / waivers / fee revisions
- Meeting with Arthur Middleton and PALS staff re: Community Centers
- Staff meeting re: Library Hiring Practices / Attorney General Opinion

August 13, 2014

- Meeting with Dick Stewart of 303 Associates
- Meeting with staff and Library Board of Trustees representatives re: Library Director / Hiring Practices / Budget / Attorney General Opinion

August 14, 2014

- Meeting with Town of Hilton Head Island and County Engineering staffs re: Windmill Harbour safety proposal

COUNTY COUNCIL
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August 15, 2014

- Meeting with Bryan Hill, Deputy County Administrator, and Scott Marshall, Director of Parks and Leisure Services re: PALS progress report
- Staff meeting re: Assessment of PALS recreation activities on Hilton Head Island

August 18, 2014

- Employee orientation
- Finance Committee meeting
- Public Facilities Committee meeting

August 19, 2014

- Bluffton Office hours
- Meeting with Nancy Schilling and Tony Mills re: Coastal Kingdom

August 20, 2014

- Agenda review with Chairman, Vice Chairman and Executive Staff re: Review draft agenda for August 25, 2014 Council meeting
- Meeting with Bryan Hill, Deputy County Administrator, and Eric Larson, Stormwater Engineer re: Stormwater issues
- Bimonthly meeting with Ed Hughes, County Assessor
- Meeting with Senator Tom Davis and County Attorney Josh Gruber
- Meeting with Ernie Lindblad re: Windmill Harbour

August 21, 2014

- Staff meeting with Bryan Hill, Deputy County Administrator; Josh Gruber, County Attorney; and Daniel Morgan, Director of MIS re: Central IT support
- Follow-up conference call with staff re: SC Work Ready Community Program
- Walk-through of potential Buckwalter dog park sites with staff

August 22, 2014

- Follow-up meeting re: Hilton Head Island PALS programming
- Conference call with Josh Gruber, County Attorney, and Jon Rembold, Director of Airports re: Status / airport projects



Memorandum

DATE: August 22, 2014
TO: County Council
FROM: Bryan Hill, Deputy County Administrator
SUBJECT: Deputy County Administrator's Progress Report

The following is a summary of activities that took place August 11, 2014 through August 22, 2014:

August 11, 2014 (Monday):

- Meet with Bluffton Fire District
- Meet with Mark Roseneau, Public Facilities Director
- County Council

August 12, 2014 (Tuesday):

- Meet with Eddie Bellamy, Public Works Director
- Meet with Gary Kubic, County Administrator
- Attend Waiver Language Modifications to Fee Ordinances Meeting
- Attend Scott & Coosaw Centers Future Meeting
- Meet with Marc Orlando, Town of Bluffton
- Attend Library Hiring Past Practices Meeting

August 13, 2014 (Wednesday)--Bluffton:

- Bluffton Hours

August 14, 2014 (Thursday)--Bluffton:

- Bluffton Hours
- Attend Library Meeting

August 15, 2014 (Friday):

- Visit Detention Center
- Meet with Gary Kubic, County Administrator and Scott Marshall, PALS Director
- Meet with Island Recreation Representatives
- Meet with Gary Kubic, County Administrator and Eric Larson, Stormwater Director

August 18, 2014 (Monday):

- Meet with Jon Rembold, Airports Director
- Meet with Alicia Holland, CFO
- Meet with Mark Roseneau, Public Facilities Director
- Meet with Jerry Stewart, Councilman
- Finance Committee
- Public Facilities Committee

August 19, 2014 (Tuesday)--Bluffton:

- Bluffton Hours
- Meet with Gary Kubic, County Administrator

August 20, 2014 (Wednesday):

- Meet with Suzanne Gregory, Employee Services
- Agenda Review
- Meet with Gary Kubic, County Administrator
- Meet with Gary Kubic, County Administrator and Eric Larson, Stormwater Director
- Meet with Colin Kinton, Traffic Engineer
- Meet with Phil Foot, Public Safety Director
- Meet with Suzanne Gregory, Employee Services

August 21, 2014 (Thursday):

- Attend Staff Meeting with Gary Kubic, Administrator, Dan Morgan, MIS/GIS Director and George Wright, MIS
- Conference Call re: SC Work Ready Community Follow-up
- Attend Walk Through of Buckwalter Dog Park Site

August 22, 2014 (Friday):

- Meet with Fred Leyda, Together for Beaufort
- Attend Island Recreation Follow-up Meeting
- Attend Detention Center Director Interview

FINANCE COMMITTEE

August 18, 2014

The electronic and print media duly notified in accordance with the State Freedom of Information Act.

The Finance Committee met Monday, August 18, 2014 beginning at 2:00 p.m. in the Building 3 Conference Room, Beaufort Industrial Village, located at 104 Industrial Village Road, Beaufort.

ATTENDANCE

Chairman Rick Caporale, Vice Chairman Steven Fobes and members Brian Flewelling, William McBride, Paul Sommerville, Stu Rodman and Jerry Stewart. Non-Committee members Cynthia Bensch, Gerald Dawson and Laura Von Harten present. (Paul Sommerville, as County Council Chairman, serves as an *ex-officio* member of each standing committee of Council and is entitled to vote.)

County staff: Morris Campbell, Division Director-Community Services; Joshua Gruber, County Attorney; Bryan Hill, Deputy County Administrator; Alicia Holland, Chief Financial Officer; Gary Kubic, County Administrator; Dan Morgan, MIS Director; Dave Thomas, Purchasing Director; and Wlodek Zaryczny, Library Director.

City of Beaufort: Lauren Kelly, Project Development Planner; Billy Keyserling, Mayor; and Kathy Todd, Finance Director.

School District: Jeffrey Moss, Superintendent; and Phyllis White, School District Chief Operational Services Officer.

Library Board: Joseph Bogacz, Peggy Martin, Jean Morgan, and Anna Marie Tabernik.

Public: Alice Howard.

Media: Joe Croley, Hilton Head Island-Bluffton Chamber of Commerce and Zach Murdaugh, *Beaufort Gazette/Island Packet*.

Councilman Caporale chaired the meeting.

ACTION ITEMS

1. Consideration of Contract Renewals / NWN Corporation (> \$100,000)

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Dave Thomas, Purchasing Director, reviewed this contract renewal with the Committee. This is a contract renewal to NWN Corporation for a Smartnet license. It is a three-year contract with an end date of August 31, 2016. This is a state contract. The cost is as follows: \$72,470 in the amount of FY 2015, \$86,964 for FY 2016, and \$14,493 for FY 2017. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts.

Motion: It was moved by Mr. Flewelling, seconded by Mr. McBride, that Finance Committee approve and recommend Council award a contract renewal to NWN Corporation, Greensboro, North Carolina, for a Smartnet license in the amount of \$173,000. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts. The vote: YEAS – Mr. Caporale, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman and Mr. Stewart. The motion passed.

Recommendation: Council award a contract renewal to NWN Corporation, Greensboro, North Carolina, for a Smartnet license in the amount of \$173,000. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts.

2. Consideration of Contract Renewals / Manatron, Inc. (> \$100,000)

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Dave Thomas, Purchasing Director, reviewed this contract renewal with the Committee. This is a contract renewal to Manatron, Inc. for annual maintenance and support for the property tax software used by the Treasurer, Assessor, and Auditor Departments. The cost is \$163,630 for FY 2015. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts.

Motion: It was moved by Mr. Flewelling, seconded by Mr. McBride, that Finance Committee approve and recommend Council award a contract renewal to Manatron, Inc., Chicago, Illinois for annual maintenance and support for the property tax software used by the Treasurer, Assessor, and Auditor Departments in the amount of \$163,630. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts. The vote: YEAS – Mr. Caporale, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman and Mr. Stewart. The motion passed.

Recommendation: Council award a contract renewal to Manatron, Inc., Chicago, Illinois for annual maintenance and support for the property tax software used by the Treasurer, Assessor, and Auditor Departments in the amount of \$163,630. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts.

3. Consideration of Contract Renewals / CompuCom (> \$100,000)

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Dave Thomas, Purchasing Director, reviewed this contract renewal with the Committee. This is a contract renewal to CompuCom to provide Microsoft license support. This is a state contract. The cost is \$139,468 for FY 2015. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts.

Motion: It was moved by Mr. Flewelling, seconded by Mr. McBride, that Finance Committee approve and recommend Council award a contract renewal to state vendor CompuCom, Dallas, Texas is to provide Microsoft license support in the amount of \$139,468. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts. The vote: YEAS – Mr. Caporale, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman and Mr. Stewart. The motion passed.

Recommendation: Council award a contract renewal CompuCom, Dallas, Texas to provide Microsoft license support in the amount of \$139,468. Funding for this renewal will come from account 10001150-51110, Maintenance Contracts.

4. Discussion / Bailey Bill

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mayor Billy Keyserling, City of Beaufort, provided an overview of this item to the Committee and introduced Mrs. Lauren Kelly, Project Development Planner, to provide the Committee with a PowerPoint presentation. The presentation included an overview of the State Enabling Legislation for local municipalities and the Bailey Bill. The City of Beaufort (City) is proposing a ten-year property assessment freeze for an improvement over 75% of the fair market value of the building. In order to qualify, a building must be located within the Beaufort Historic District, either at least 50 years old, or otherwise, listed on the 1997 Beaufort County Above Ground Historic Sites Survey. A map of vacant/abandoned/watchlist buildings in the Historic District was provided. The Bailey Bill is needed due to the following reasons:

- The City currently has 43 dilapidated properties on the Vacant/Abandoned list and an additional 20 on a watchlist
- Over the past ten years, the City has averaged less than two substantially rehabilitated vacant buildings per year
- Over the past 5 years, 20 demolitions have occurred in the Historic Districts

All of that is an average of two demolitions for every one rehabilitated, which needs to be resolved. An overview of the case studies on vacant buildings, rehabilitated buildings, and

building comparisons was provided to the Committee for review. The Bailey Bill will have a direct benefit. For the current 6% residential properties studied, vacant/abandoned buildings pay an average of \$204 per building annually in total County taxes, while a rehabilitated building pays an average of \$514 per building annually. That is a difference of \$310 per building or 153%.

Vacant buildings can reduce surrounding property values. She provided an overview of the potential benefits of selected examples.

Mrs. Kathy Todd, Finance Director, spoke before the Committee on the financial aspect of the Bailey Bill. A spreadsheet shows the total number of eligible properties classified between technical, realistically, and primarily targeted. The project will increase 53% of county property tax revenue on average. A diagram of the potential impact on the taxable assessed value was provided to the Committee. Mrs. Todd reviewed that the additional benefits of the Bailey Bill includes the following:

- Improve the condition of dilapidated buildings
- Encourage adjacent development and redevelopment which increases overall economic tax base
- Increase population, which has a positive impact on consumer-based sales tax
- Reverses the trend of declining property values

Main motion: It was moved by Mr. Flewelling, seconded by Mr. Fobes, that Finance Committee approve and recommend Council approve on first reading, by title only, an ordinance adopting the Bailey Bill, providing for special property tax assessment for rehabilitating historic properties; and other matters related thereto. The vote: YEAS – Mr. Caporale, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman, and Mr. Stewart. The motion passed.

Recommendation: Council approve on first reading, by title only, an ordinance adopting the Bailey Bill; providing for special property tax assessment for rehabilitated historic property; and other matters related thereto.

INFORMATION ITEMS

5. Consideration of Contract Renewal / Munis Tyler Technologies (< \$100,000)

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Dave Thomas, Purchasing Director, reviewed this contract renewal with the Committee. This is a contract renewal to Munis Tyler Technologies to provide support and update licensing. The cost is \$81,444 for FY 2015. Funding will come from the following Maintenance Contract accounts, 10001111-51110, 10001116-51110, 10001134/2001/2002/2010-51110, 10001150-51110, 10001160-51110, and 10001260-51110.

Motion: It was moved by Mr. Flewelling, seconded by Mr. McBride, that Finance Committee award a contract renewal to Munis Tyler Technologies, Inc., to provide support and update licensing. The cost is \$81,444 for FY 2015. Funding will come from the following Maintenance Contract accounts, 10001111-51110, 10001116-51110, 10001134/2001/2002/2010-51110, 10001150-51110, 10001160-51110, and 10001260-51110. The vote: YEAS – Mr. Caporale, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman and Mr. Stewart. The motion passed.

Status: Committee awarded a contract renewal to Munis Tyler Technologies, Inc. to provide support and update licensing. The cost is \$81,444 for FY 2015. Funding will come from the following Maintenance Contract accounts, 10001111-51110, 10001116-51110, 10001134/2001/2002/2010-51110, 10001150-51110, 10001160-51110, and 10001260-51110.

6. Consideration of Contract Renewal / New Vision System Corp. (< \$100,000)

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Dave Thomas, Purchasing Director, reviewed this contract renewal with the Committee. This is a contract renewal to New Vision System Corporation for real property software. The cost is \$51,028 for FY 2015. The contract cost \$51,028 for FY 2014. Funding will come from account 10001122-51110, Maintenance Contracts.

Motion: It was moved by Mr. Flewelling, seconded by Mr. McBride, that Finance Committee approve a contact renewal to New Vision System Corporation, New Canaan, Connecticut, for real property software. The cost is \$51,028 for FY 2015. The contract cost \$51,028 for FY 2014. Funding will come from account 10001122-51110, Maintenance Contracts. The vote: YEAS – Mr. Caporale, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman and Mr. Stewart. The motion passed.

Status: Finance Committee awarded a contract renewal to New Vision System Corporation, New Canaan, Connecticut, for real property software. The cost is \$51,028 for FY 2015. The contract cost \$51,028 for FY 2014. Funding will come from account 10001122-51110, Maintenance Contracts.

7. Presentation / Beaufort County School District

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Jeffrey Moss, Superintendent, is asking County Council to appropriate the millage rate necessary to generate the flat dollar amount Council approved in June. The District has structured its budget around the budget amount approved by County Council. If the rate stays as is, will required the District use \$4.0 million of fund balance. They had to use \$2.0 million of fund balance in FY 2014.

Mrs. White, Chief Financial Officer, stated when Council adopted the School District budget June 23, 2014, the millage rate was set at 101.70 to achieve a revenue amount of \$114,868,815. However, as of today 101.70 mills will generate \$110,900,000 based on a 100% collection rate, the switch from 6% to 4% property owners and uncollected amounts. Effective this date, Mrs. White has determined the District will need 105.6 mills; Mrs. Alicia Holland, County Chief Financial Officer, estimate is 105.2 mills.

Mr. Flewelling feels information should be provided prior to a meeting in order to allow Council adequate time to review the information.

Mrs. Alicia Holland, Chief Financial Officer, clarified she sent an email today that contained information on mills to provide an update to all of the taxing districts. It is not directly related to this agenda item.

Mr. Gruber, County Attorney, addressed how this item could be approached and whether or not it would require three readings. The budget was adopted June 23, 2014; therefore, in order to amend the budget ordinance, it would require three readings and a public hearing.

Mr. Caporale said the technical problem is the collection rate and the movement from 6% to 4% property owners. Regarding the School District's fund balance, we need to think about whether or not we want to do something about this and look into the possibility of a formula for the future.

Mr. McBride feels Council should set the millage rate that will generate the dollar amount approved in the ordinance.

Mr. Caporale is proposing the Finance Committee meet August 25, 2014 to continue discussion and possibly a recommendation on this item.

Mr. Kubic stated there would never be an absolute number.

Motion: It was moved by Mr. McBride, seconded by Mr. Rodman, that Finance Committee approve and recommend Council use new data for generation of millage to appropriate the \$114,868,815 approved for FY 2015 School District budget.

Motion to postpone: It was moved by Mr. Flewelling, that Finance Committee postpone this item until a later date. The motion died for lack of a second.

Vote on the motion: The vote: YEAS – Mr. Caporale, Mr. Flewelling, Mr. Fobes, Mr. McBride, Mr. Rodman and Mr. Stewart. The motion passed.

Recommendation: Council use new data for generation of millage to appropriate the \$114,868,815 approved for FY 2015 School District budget. This item will be discussed at August 25, 2014 Finance Committee meeting.

8. Library Board Presentation / FY2015 Budget

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mrs. Anna Marie Tabernik, Library Board member, provided the Committee with a PowerPoint presentation. The FY 2015 budget appropriations were set at the same rate as FY 2014. In FY 2014, the libraries only operated at 40 hours a week. The libraries are now operating 50 hours. She provided three scenarios as to what could happen with the current approved budget. These include having a shortfall that will not allow expenses to be covered, the laying off staff, or a mid-year increase from County Council, as well as additional cuts to programs, projects and liaisons. Library administration agrees that the current schedule cannot be maintained in the FY 2015 approved budget. There are three choices: (i) run a deficit through June 2015, (ii) receive a mid-year appropriation of \$330,000 in additional funds, and (iii) revert to 40 hours at all branches with the current budget.

Mr. Joe Bogacz, Library Board member, provided the Committee an overview of two different scenarios.

Mr. Rodman stated the actual expected when the budget was approved a year ago was \$3.7 million. The projected now is \$3.9 million. If Council were to provide an increase of \$330,000, that would make the budget exceed projections.

Mr. Bogacz stated the numbers presented are Munis numbers and excludes the benefits pool, etc.

Mr. Eisenman, Financial Analyst, said these are called pool benefits and the funds are grouped together rather than individually. The Library portion of the benefits is a part of their budget. Special Revenue has been taken out of the General Fund and put into a special fund for the Library. It is approximately \$202,000. This information will be presented to the Library Board next month.

Mr. Fobes said if you look at the total requested column, it assumes a spending of \$350,000 of library materials. If you cut that portion, then it will level out.

Mrs. Tabernik said the state aid is for support, not supplant.

Mr. Fobes pointed out, there are currently six vacancies, as well as the fact that the Director salary will not be funded for upwards of six months. Those dollars will make up approximately two-thirds of the requested amount.

Mr. Flewelling wants to know what services the Library would like Council to cut in order to fund the libraries further.

Ms. Tabernik stated they are before Council to demonstrate the options available and the situation at hand.

Mr. Kubic said he asked the Library Board to revise the Director's job description as well as the other positions, identify essential versus non-essential staff, and develop a plan that is accommodating and flexible. In trying to recover a value of 40 positions, there are challenges of replacing certain positions. This same task is being conducted by the Public Works, Assessor Parks and Leisure Services Departments. Those four departments have a larger number of employees.

Status: Information only. No action required.

DRAFT

PUBLIC FACILITIES COMMITTEE

August 18, 2014

The electronic and print media duly notified in accordance with the State Freedom of Information Act.

The Public Facilities Committee met Monday, August 18, 2014 at 4:00 p.m., in the Conference Room of Building 3, Beaufort Industrial Village, 104 Industrial Village Road, Beaufort, South Carolina.

ATTENDANCE

Chairman Gerald Dawson, Vice Chairman Steven Fobes and members Cynthia Bensch, Rick Caporale, Brian Flewelling, William McBride and Jerry Stewart present. Non-Committee member Paul Sommerville and Laura Von Harten present. (Paul Sommerville, as County Council Chairman, serves as an *ex-officio* member of each standing committee of Council and is entitled to vote.)

County Staff: Eddie Bellamy, Public Works Director; David Coleman, Capital Improvement Program Manager; Joshua Gruber, County Attorney; Bryan Hill, Deputy County Administrator; Alicia Holland, Chief Financial Officer; Colin Kinton, Traffic/Transportation Engineer; Gary Kubic, County Administrator; Eric Larson, Stormwater Engineer; Scott Marshall, Parks and Leisure Services Director; Rob McFee, Division Director—Engineering and Infrastructure; and Dave Thomas, Purchasing Director.

Public: Chief John Thompson, Bluffton Township Fire District; Ed Modzelewski, Chairman, Applied Technology & Management; and Tony Maglione, Vice President, Applied Technology & Management.

Media: Joe Croley, Hilton Head Island-Bluffton Chamber of Commerce, and Zach Murdock, *The Island Packet / The Beaufort Gazette*.

Mr. Dawson chaired the meeting.

ACTION ITEMS

1. Drainage Easement Acquisition Policy

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Eric Larson, Stormwater Engineer, presented a Standard Operating Procedure for the acquisition of all drainage easements and maintenance of the stormwater system.

Motion: It was moved by Mrs. Bensch, seconded by Mr. Fobes, that Committee recommend Council adopt the Standard Operating Procedure for the acquisition of all drainage easements and maintenance of the stormwater system. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Fobes, Mr. McBride and Mr. Stewart. ABSTAIN – Mr. Flewelling. The motion passed.

Recommendation: Council adopt the Standard Operating Procedure for the acquisition of all drainage easements and maintenance of the stormwater system.

2. Consideration of Contract Award / Buckwalter Regional Park Community Center Phase 2 Expansion Design Build Project

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Dave Thomas, Purchasing Director, reviewed this item with the Committee. Beaufort County issued a request for proposal from qualified firms to design and build the Phase 2 Expansion of Buckwalter Park Community Center. Phase 2 consists of a double gymnasium with two full basketball courts with a sky track, weight room, two racquetball courts, two multipurpose rooms, two indoor batting cages, equipment/support area, and common area to provide connectivity and circulation. Staff is recommending a contract award to Mashburn Construction Company, Inc., Charleston, South Carolina to design and build the Phase 2 Expansion in the amount of \$6,100,000. Funding would come from Bluffton Parks and Leisure Services impact fees.

Motion: It was moved by Mr. Flewelling, seconded by Mr. Fobes, that Committee recommend that Council award a contract to Mashburn Construction Company, Inc., Charleston, South Carolina to design and build the Phase 2 Expansion in the amount of \$6,100,000. Funding would come from Bluffton Parks and Leisure Services impact fees. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride and Mr. Stewart. The motion passed.

Recommendation: Council award a contract to Mashburn Construction Company, Inc., Charleston, South Carolina to design and build the Phase 2 Expansion in the amount of \$6,100,000. Funding would come from Bluffton Parks and Leisure Services impact fees.

3. Consideration of Contract Award / Government Complex Parking Lot Stormwater Retrofit Project

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Eric Larson, Stormwater Engineer, presented this item to the Committee. This project provides a highly visible location to create a stormwater demonstration venue illustrating the use of best management practices (BMP) required in the County Stormwater

Manual to improve the water quality in our local marshes and estuaries. The project involves the installation of 18,072 square feet of permeable clay pavers and 3,152 square feet of rain gardens, along with the associated infrastructure including curbs, landscape and irrigation. Staff is recommending a contract award to JS Construction, Bluffton, South Carolina in the amount of \$299,653 for the County Government Complex parking lot stormwater retrofit.

Motion: It was moved by Mr. Flewelling, seconded by Mrs. Bensch, that Committee recommend to Council an award of contract to JS Construction, Bluffton, South Carolina in the amount of \$299,653 for the County Government Complex parking lot stormwater retrofit. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride and Mr. Stewart. The motion passed.

Recommendation: Council award a contract to JS Construction, Bluffton, South Carolina in the amount of \$299,653 for the County Government Complex parking lot stormwater retrofit.

4. An Ordinance Authorizing the Bluffton Township Fire District to Give and Receive Mutual Access Easements with the Beaufort County School District

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Josh Gruber, County Attorney, reviewed this item with the Committee. The County has received a request from the Bluffton Township Fire District Board to authorize them to give and receive mutual ingress and egress easements with the School District for the Davis Road campus. They are looking to exchange easements with the School District to obtain access to the site once it goes into the construction stage. The mutually shared access road serves both the Fire District and school bus entrance, not the public entrance.

Motion: It was moved by Mr. McBride, seconded by Mr. Fobes, that Council approve on first reading an ordinance authorizing the Bluffton Township Fire District to give and receive Mutual Access Easements with the Beaufort County School District. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride and Mr. Stewart. The motion passed.

Recommendation: Council approve on first reading an ordinance authorizing the Bluffton Township Fire District to give and receive Mutual Access Easements with the Beaufort County School District.

5. An Ordinance Establishing, Developing and Constructing Multi-Use Recreation Trails and Restricting the Use Thereof to Non-Motorized Activities

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Josh Gruber, County Attorney, stated the County is establishing, developing and constructing multi-use recreational trails for the intended use of non-motorized activities such as walking, jogging, inline skating, rollerblading, skateboarding and bicycling. In order to provide for the safe use of these trails, it is necessary to adopt an ordinance regulating the use of these activities.

Motion: It was moved by Mr. Flewelling, seconded by Mr. McBride, that Council approve on first reading an ordinance establishing, developing and constructing multi-use recreation trails and restricting the use thereof for non-motorized activities. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride and Mr. Stewart. The motion passed.

Recommendation: Council approve on first reading an ordinance establishing, developing and constructing multi-use recreation trails and restricting the use thereof for non-motorized activities.

INFORMATION ITEMS

6. Consideration of Contract Renewal / Unifirst Rental Uniform Service (< \$100,000)

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Dave Thomas, Purchasing Director, reviewed this item with the Committee. This is a contract renewal to Unifirst Corporation to provide uniform services for various departments: Public Works, Facilities Management, Solid Waste, Mosquito Control and Stormwater Management. This is a unit price control. The FY 2015 estimated cost is \$60,000. Funding would come from Uniforms accounts 10001301-50250, 10001302-52050, 10001311-52050, 10001312-52050, 10001320-51050, 10001321-52050, 10001340-52050, 10001343-52050, 1000-1344-52050; 10001345-52050, 10001347-52050, 10001348-52050, 10001400-52050, and 50150011-52050.

Motion: It was moved by Mr. Fobes, seconded by Mrs. Bensch, that Committee award a contract to Unifirst Corporation in the amount of \$60,000 to provide uniform services for various departments: Public Works, Facilities Management, Solid Waste, Mosquito Control and Stormwater Management. This is a unit price control. The FY 2015 estimated cost is \$60,000. Funding would come from Uniforms accounts 10001301-50250, 10001302-52050, 10001311-52050, 10001312-52050, 10001320-51050, 10001321-52050, 10001340-52050, 10001343-52050, 1000-1344-52050; 10001345-52050, 10001347-52050, 10001348-52050, 10001400-52050, and 50150011-52050. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride and Mr. Stewart. The motion passed.

Status: Committee awarded a contract to Unifirst Corporation in the amount of \$60,000 to provide uniform services for various departments: Public Works, Facilities Management, Solid Waste, Mosquito Control and Stormwater Management. This is a unit price control. The

FY 2015 estimated cost is \$60,000. Funding would come from Uniforms accounts 10001301-50250, 10001302-52050, 10001311-52050, 10001312-52050, 10001320-51050, 10001321-52050, 10001340-52050, 10001343-52050, 1000-1344-52050; 10001345-52050, 10001347-52050, 10001348-52050, 10001400-52050, and 50150011-52050.

7. Status / Stormwater Utility Related to Pending MS4 Implementation

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Eric Larson, Stormwater Engineer, introduced the Municipal Separate Storm Sewer System (MS4) water quality program. As background, the United States Environmental Protection Agency's (EPA) Clean Water Act (CWA) was enacted in 1972 to address degrading water quality nationwide. The CWA addresses both point source and non-point source pollution. Stormwater is considered a non-point source of pollution since pollutants come from many sources, not just a single facility. In 1999, Phase I implementation of the non-point source program focused on MS4s with population over 100,000. Phase II started in 2003 and the "bar was lowered" to communities with 50,000 population or urban density thresholds. As a result of the 2010 U.S. Census, portions of southern Beaufort County met the density and population threshold and became designated as a MS4 by DHEC.

The coverage area roughly overlaps the Towns of Bluffton and Hilton Head Island with fragmented areas of unincorporated Beaufort County. More significantly, the MS4 boundary will not include the urbanized clusters "north of the Broad River," specifically the Town of Port Royal and the City of Beaufort. The Sun City urbanized cluster is also not included. The County maintains roads and storm sewer infrastructure that exists throughout the limits of the Towns of Bluffton and Hilton Head Island, resulting in an interwoven MS4 boundary of the County.

The MS4 Program will require new programs and activities that we will have to implement. The CWA and the DHEC MS4 General Permit defines a Stormwater Management Plan (SWMP) that addresses six Minimum Control Measures (MCM). They include:

- Public Education
- Public Outreach and Involvement
- Illicit Discharge, Detection, and Elimination (IDDE)
- Construction Run-Off
- Post Construction Best Management Practices (PC-BMP)

With the implementation of the MS4 permit, our monitoring efforts will increase. We will use the system mapping to identify our outfalls into the Waters of the State and establish a dry and wet weather-sampling plan. Our list of constituents of concern will grow and monitoring will involve field-testing in addition to, sampling and lab analysis.

The Stormwater Utility has been very successful since its formation. MS4 marks the next milestone for Beaufort County.

Status: Information only.

8. Update / Malphrus Road / Bluffton Parkway Intersection Estimate

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Rob McFee, Engineering and Infrastructure Division-Director, reviewed this item with the Committee. This item deals with the undulation and the attenuation between Malphrus Road and Bluffton Parkway 5A. The Preferred Materials quote is \$59,730 and Cleland Site Prep is \$81,816. This scope of work is to mill and replace the portion of Malphrus Road and Bluffton 5A overlap in order to maintain drainage as well as to make the ride more user-friendly. Because of the dollar amount of the improvements, this project will need to be advertised for bid.

Status: Information only.

9. Consideration of Contract Award / Stormwater Consulting for Engineering Services

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Dave Thomas, Purchasing Director, reviewed this item with the Committee. This is a contract award to assist the Stormwater Management Department with its programs and projects. The proposal requested that the vendor's consultants oversee, design, development and/or manage the department's various projects and program for the term of one year with the option to renew every year for four consecutive years. The Evaluation Committee selected and ranked Applied Technology & Managements, Inc. the number one firm. The yearly cost is \$50,000. Funding would come from account 52050011-51160, Stormwater Utility Fund, Professional Services.

Motion: It was moved by Mrs. Bensch, seconded by Mr. Fobes, that Committee award a contract to Applied Technology & Managements, Inc., Okatie, South Carolina to assist the Stormwater Management Department with its programs and projects. The yearly cost is \$50,000. Funding would come from account 52050011-51160, Stormwater Utility Fund, Professional Services. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Fobes, Mr. McBride and Mr. Stewart. NAYS – Mr. Flewelling. The motion passed.

Status: Committee awarded a contract to Applied Technology & Managements, Inc., Okatie, South Carolina to assist the Stormwater Management Department with its programs and projects. The yearly cost is \$50,000. Funding would come from account 52050011-51160, Stormwater Utility Fund, Professional Services.

10. Consideration of Contract Award / Burton Wells Regional Park Recreation Center Vestibule Improvements

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Dave Thomas, Purchasing Director, reviewed this item with the Committee. The County received bids from two firms for vestibule improvements at the Burton Wells Regional Park. The scope of improvements includes creation of a service window, reconfigured lobby area to provide access control, access control system, ADA door operators, security system improvements, and office remodeling. Staff is recommending contract awards as follows: (i) Patterson Construction Company in the amount of \$71,588.71 for vestibule improvements, (ii) Encore Technology group via state contract in the amount of \$91,025.69 for an access control system and door operators, and (iii) a budget of \$2,500 for security improvements. Additionally, recommend approval of a 10% project contingency for a total project budget of \$181,625.84.

Motion: It was moved by Mr. Flewelling, seconded by Mr. Fobes, that Committee award contracts to: (i) Patterson Construction Company in the amount of \$71,588.71 for vestibule improvements, (ii) Encore Technology group via state contract in the amount of \$91,025.69 for an access control system and door operators, and (iii) a budget of \$2,500 for security improvements. Additionally approve a 10% project contingency for a total project budget of \$181,625.84. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride and Mr. Stewart. The motion passed.

Status: Committee awarded contracts as follows: (i) Patterson Construction Company in the amount of \$71,588.71 for vestibule improvements, (ii) Encore Technology group via state contract in the amount of \$91,025.69 for an access control system and door operators, and (iii) a budget of \$2,500 for security improvements. Additionally approve a 10% project contingency for a total project budget of \$181,625.84.

11. Bluffton Parkway 5A Flyover Color Options

Notification: To view video of full discussion of this meeting please visit http://beaufort.granicus.com/ViewPublisher.php?view_id=2

Discussion: Mr. Colin Kinton, Transportation/Traffic Engineer, presented various paint color palettes for use on the steel beams of the Bluffton Parkway 5A Flyover.

Status: Committee members selected paint color 35550 (light blue).

12. Executive Session

Motion: It was moved by Mr. Flewelling, seconded by Mr. Fobes, that Committee go immediately into executive session for the discussion of negotiations incidence to proposed contractual arrangements and proposed purchase of property. The vote: YEAS – Mrs. Bensch, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Fobes, Mr. McBride and Mr. Stewart. The motion passed.

Status: No action required.

DRAFT



Quote

NWN Corporation
 7025 Albert Pick Rd Suite 302
 Greensboro NC 27409
 p: 336-294-0141
 REMIT TO:
 NWN Corporation

Date 8/11/2014
Quote # QT95752
Expires 7/24/2014
Sales Rep Roland, Stacy
TeleSales Rep
Project
Terms Net 30
Quote Title SMARTnet Renewal 2014-2016

Quote for:
 Finance Department
 Beaufort County Council - SC
 PO Drawer 1228
 Beaufort SC 29901-1228

Ship To:
 Information Systems
 Beaufort County Managemetn
 104 Ribaut Rd A.Horne Bldg
 Beaufort SC 29902

| Item | Qty | Description | Price | Amount |
|---------------|-----|--|-----------------|--------------|
| CON-ESW-1 | 1 | ****ESW/UCSS renewal Contract 93969041**** ESSENTIAL SW MAINT. RENEWAL | 12,906.95 | 12,906.95 |
| UCSS Coverage | 1 | Cisco Unified Communications Software Subscription | 26,441.47 | 26,441.47 |
| CON-SAS-1 | 1 | ****SAS Contract 93969042**** SmartNet SW App Support Package-Renewal | 6,214.66 | 6,214.66 |
| CON-SNT-1 | 1 | ****SNT Contract 93969052**** SmartNet 8x5xNBD-Renewal | 74,107.26 | 74,107.26 |
| CON-SNTP-1 | 1 | ****SNTP Contract 93969054**** SmartNet 24x7x4-Renewal Coverage co-termed to 8/31/2016 | 51,895.40 | 51,895.40 |
| | | | Subtotal | 171,565.74 |
| | | | Tax | 2,360.91 |
| | | | Total | \$173,926.65 |

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BEAUFORT SC 29901-1228

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|--------------------|-------------|-----|-------------|----------------|
| PAPP-S | | 1 | \$31,921.85 | \$31,921.85 |
| GRM-TAX BILL-S | | 1 | \$93,211.84 | \$93,211.84 |
| PROPERTYMAX-S | | 1 | \$7,239.88 | \$7,239.88 |
| WEBHOSTPROPERTY-S | | 1 | \$4,022.15 | \$4,022.15 |
| PROPERTYMAX-DATA-S | | 1 | \$4,826.59 | \$4,826.59 |
| COLLECTMAX-S | | 1 | \$7,239.88 | \$7,239.88 |
| WEBHOSTCOLLECT-S | | 1 | \$3,968.85 | \$3,968.85 |
| COLLECTMAX-DATA-S | | 1 | \$4,826.59 | \$4,826.59 |
| GEOANALYST-S | | 1 | \$6,372.21 | \$6,372.21 |

FOR THE PERIOD OF 7/1/2014-6/30/2015

2014 JUL 21 PM 2:39

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|----------|--------------|
| Subtotal | \$163,629.84 |
| Tax | \$0.00 |
| Total | \$163,629.84 |

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| ITEM NO. | DESCRIPTION | QTY | UNIT PRICE | EXTENDED PRICE |
|--------------------|-------------|-----|-------------|----------------|
| PAPP-S | | 1 | \$31,921.85 | \$31,921.85 |
| GRM-TAX BILL-S | | 1 | \$93,211.84 | \$93,211.84 |
| PROPERTYMAX-S | | 1 | \$7,239.88 | \$7,239.88 |
| WEBHOSTPROPERTY-S | | 1 | \$4,022.15 | \$4,022.15 |
| PROPERTYMAX-DATA-S | | 1 | \$4,826.59 | \$4,826.59 |
| COLLECTMAX-S | | 1 | \$7,239.88 | \$7,239.88 |
| WEBHOSTCOLLECT-S | | 1 | \$3,968.85 | \$3,968.85 |
| COLLECTMAX-DATA-S | | 1 | \$4,826.59 | \$4,826.59 |
| GEOANALYST-S | | 1 | \$6,372.21 | \$6,372.21 |

FOR THE PERIOD OF 7/1/2014-6/30/2015

| | |
|--------------|---------------------|
| Subtotal | \$163,629.84 |
| Tax | \$0.00 |
| Total | \$163,629.84 |

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| 1.00 SY | ANNUAL MAINTENANCE & SUPPORT | 0.00 | 0.00 |
| 1.00 PER | THE PERIOD 7/1/14-6/30/15 FOR | 0.00 | 0.00 |
| 1.00 CON | CONTRACT #SC2007.001.01 FOR | 0.00 | 0.00 |
| 1.00 PAPP-S | PROVAL PLUS SUPPORT | 31,921.85 | 31,921.85 |
| 1.00 GRM-TAX BILL-S | GRM Tax Bill&Collections Support | 93,211.84 | 93,211.84 |
| 1.00 GRM-CASHIERING-S | GRM Cashiering Support *Included* | 0.00 | 0.00 |
| 1.00 GRM-TAX ADMIN-S | GRM Records Admin Spt *Included* | 0.00 | 0.00 |
| 1.00 GRM-ASSMT ADMIN-S | GRM Assessment Admin Support *Included* | 0.00 | 0.00 |
| 1.00 GRM-PPC-S | GRM Personal Property Spt *Included* | 0.00 | 0.00 |
| 1.00 PROPERTYMAX-S | PROPERTYMAX SOFTWARE SUPPORT | 7,239.88 | 7,239.88 |
| 1.00 WEBHOSTPROPERTY-S | WEBHOSTING OF PROPERTY SITES | 4,022.15 | 4,022.15 |
| 1.00 PROPERTYMAX-DATA-S | PropertyMax Data Extract Spt | 4,826.59 | 4,826.59 |
| 1.00 COLLECTMAX-S | COLLECTMAX SOFTWARE SUPPORT | 7,239.88 | 7,239.88 |
| 1.00 WEBHOSTCOLLECT-S | WEBHOSTING FOR COLLECTMAX | 3,968.85 | 3,968.85 |
| 1.00 COLLECTMAX-DATA-S | CollectMax Data Extract Spt | 4,826.59 | 4,826.59 |
| 1.00 GEOANALYST-S | PV GeoAnalyst Support | 6,372.21 | 6,372.21 |

| | |
|--------------|-------------------|
| Subtotal | 163,629.84 |
| Tax | 0.00 |
| Total | 163,629.84 |

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100 Ribaut Road
Beaufort, SC 29901
(843) 255-7020
hhaase@bcgov.net
Enrollment # **6504128** (7/01/2012 - 6/30/2015)

Prepared by:
David Williams
CompuCom Systems, Inc.
Software Solutions Specialist
704-307-4723 (O)
David.Williams@CompuCom.com

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| <i>Microsoft Enterprise Agreement - Year 3 Anniversary:</i> | | | | | | | |
| 200 | 76A-00028 | EntCAL ALNG LicSAPk MVL UsrCAL wSrvcs | Enterprise 6 | D | Annual Payment 3 of 3 | \$134.48 | \$26,896.00 |
| 900 | 76A-00034 | EntCAL ALNG SA MVL UsrCAL wSrvcs | Enterprise 6 | D | Annual Payment 3 of 3 | \$80.85 | \$72,765.00 |
| 2 | 312-02177 | ExchgSvrStd ALNG LicSAPk MVL | Enterprise 6 | D | Annual Payment 3 of 3 | \$267.30 | \$534.60 |
| 2 | 312-02257 | ExchgSvrStd ALNG SA MVL | Enterprise 6 | D | Annual Payment 3 of 3 | \$114.68 | \$229.36 |
| 1 | 228-04433 | SQLSvrStd ALNG SA MVL | Enterprise 6 | D | Annual Payment 3 of 3 | \$145.20 | \$145.20 |
| 10 | 7NQ-00302 | SQLSvrStdCore ALNG LicSAPk MVL 2Lic CoreLic | Enterprise 6 | D | Annual Payment 3 of 3 | \$1,354.65 | \$13,546.50 |
| 14 | 7NQ-00292 | SQLSvrStdCore ALNG SA MVL 2Lic CoreLic | Enterprise 6 | D | Annual Payment 3 of 3 | \$580.80 | \$8,131.20 |
| 100 | 4ZF-00019 | VDA ALNG SubsVL MVL PerDvc | Enterprise 6 | D | Annual Payment 3 of 3 | \$66.00 | \$6,600.00 |
| 1 | 9JD-00053 | VSUftwMSDN ALNG SA MVL | Enterprise 6 | D | Annual Payment 3 of 3 | \$1,654.13 | \$1,654.13 |
| 10 | 6VC-01254 | WinRmtDsktpSrvcsCAL ALNG SA MVL UsrCAL | Enterprise 6 | D | Annual Payment 3 of 3 | \$14.03 | \$140.30 |
| 2 | P71-01031 | WinSvrDataCtr ALNG LicSAPk MVL 1Proc | Enterprise 6 | D | Annual Payment 3 of 3 | \$908.33 | \$1,816.66 |
| 18 | P71-00886 | WinSvrDataCtr ALNG SA MVL 1Proc | Enterprise 6 | D | Annual Payment 3 of 3 | \$389.40 | \$7,009.20 |

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BEAUFORT COUNTY BOARD OF EDUCATION

Resolution

BILL EVANS
Chairman, District 2
Lady's Island, Beaufort

Whereas, the Beaufort County Council, in its June 2014 Budget Ordinance, appropriated revenue to the Beaufort County School District for Fiscal Year 2015 in the amount of \$114.9 million;

MARY CORDRAY
Vice Chairman, District 8
Bluffton

Whereas, the Beaufort County School District has acted in full and complete reliance on such appropriation;

LAURA BUSH
Secretary, District 9
Bluffton, Daufuskie

Whereas, the Beaufort County School District set and implemented its budget in compliance with such appropriation;

EARL CAMPBELL
District 1
Burton, Dale, Lobeco, Seabrook

Whereas, the 2014-2015 School Year is underway;

MICHAEL RIVERS, SR.
District 3
St. Helena Island

Therefore, be it resolved, the Beaufort County School District requests the Beaufort County Council establish a millage rate sufficient to generate revenue equal to the June 2014 appropriation amount.

JIM BECKERT
District 4
Beaufort, Port Royal

Done in meeting duly assemble this 19th day of August, 2014.

GERI KINTON
District 5
Burton, Okatie

BEAUFORT COUNTY, SOUTH CAROLINA

PAUL ROTH
District 6
Bluffton

William M. Evans, Chairman
Beaufort County School District Board of Education

EVVA ANDERSON
District 7
Bluffton

BILL PAYNE
District 10
Hilton Head Island

(SEAL)

JOANN ORISCHAK
District 11
Hilton Head Island

DR. JEFFREY MOSS
Superintendent

ATTEST:

ROBYN CUSHINGBERRY
Executive Assistant to the Board

Robyn Cushingberry, Executive Assistant
Beaufort County School District Board of Education

**Beaufort County School District
(Detailed)**

Item 8.

| | | A | B | C | D | E | F | G |
|--------------------|---|------------------------------------|---|----------------------------|------------------------------------|--|---|-------------------------------------|
| Revenues by Source | | FY 2013-2014 Approved Budget | FY 2013-2014 Projected Actual at 8/25/2014 | Variance From Budget | FY 2014-2015 Proposed Budget | Opening of Davis Rd PK-8 FY 2015-2016 Projected Budget | Opening of New Riverside HS FY 2016-2017 Projected Budget | FY 2017-2018 Projected Budget |
| Millage Rate | | 97.45 mils | | | 101.7 | | | |
| 1 | Local | | | | | | | |
| 2 | Ad Valorem (Current and Delinquent)-Net of TIFs | 114,868,815 | 110,096,911 | (4,771,904) | 114,868,815 | 116,017,503 | 120,277,678 | 121,480,455 |
| 3 | Penalties and Interest | 800,000 | 731,642 | (68,358) | 800,000 | 800,000 | 800,000 | 800,000 |
| 4 | HHI TIF (2015-2016) | - | | - | | 3,100,000 | | |
| 5 | Rent | 583,500 | 553,172 | (30,328) | 563,500 | 563,500 | 563,500 | 563,500 |
| 6 | Other Local | 80,000 | 516,180 | 436,180 | 370,000 | 370,000 | 370,000 | 370,000 |
| 7 | Total Local Revenue | \$ 116,332,315 | \$ 111,897,905 | (4,434,410) | \$ 116,602,315 | \$ 120,851,003 | \$ 122,011,178 | \$ 123,213,955 |
| 8 | State | | | | | | | |
| 9 | Sales Tax Reimbursement on Owner Occupied | 42,761,119 | 42,510,619 | (250,500) | 43,360,281 | 43,960,281 | 44,560,281 | 45,160,281 |
| 10 | Proviso 1.101/EFA | | | - | 697,308 | | | |
| 11 | Fringe Benefits/Retiree Insurance | 5,476,221 | 5,938,827 | 462,606 | 6,000,000 | 6,000,000 | 6,000,000 | 6,000,000 |
| 12 | Education Finance Act | 3,929,748 | 3,560,563 | (369,185) | 6,692,187 | 8,000,000 | 8,100,000 | 8,100,000 |
| 13 | Reimbursement for Local Property Tax Relief | 7,036,261 | 7,033,488 | (2,773) | 7,036,261 | 7,036,261 | 7,036,261 | 7,036,261 |
| 14 | Other State Property Tax (Homestead/Merchant Inv) | 2,442,079 | 2,377,946 | (64,133) | 2,442,079 | 2,442,079 | 2,442,079 | 2,442,079 |
| 15 | Other State Revenue (Bus Driver Salary/Misc) | - | 1,099,487 | 1,099,487 | 1,200,179 | 1,200,179 | 1,200,179 | 1,200,179 |
| 16 | Total State Revenue | \$ 61,645,428 | \$ 62,520,930 | 875,502 | \$ 67,428,295 | \$ 68,638,800 | \$ 69,338,800 | \$ 69,938,800 |
| 17 | Federal | | | | | | | |
| 18 | Other Federal Sources | 900,000 | 991,885 | 91,885 | 900,000 | 900,000 | 900,000 | 900,000 |
| 19 | Total Federal Revenue | \$ 900,000 | \$ 991,885 | 91,885 | \$ 900,000 | \$ 900,000 | \$ 900,000 | \$ 900,000 |
| 20 | Total Revenue | \$ 178,877,743 | \$ 175,410,720 | (3,467,023) | \$ 184,930,610 | \$ 190,389,803 | \$ 192,249,978 | \$ 194,052,755 |
| 21 | Other Financing Sources | | | | | | | |
| 22 | Transfers from Special Revenue | 3,994,372 | 3,916,005 | (78,367) | 3,994,372 | 4,000,000 | 4,000,000 | 4,000,000 |
| 23 | Transfers from Other Funds | 362,882 | 479,969 | 117,087 | 450,000 | 450,000 | 450,000 | 450,000 |
| 24 | Total Other Financing Sources (Uses) | \$ 4,357,254 | \$ 4,395,974 | 38,720 | \$ 4,444,372 | \$ 4,450,000 | \$ 4,450,000 | \$ 4,450,000 |
| 25 | Total Revenue and Other Financing Sources | \$ 183,234,997 | \$ 179,806,694 | (3,428,303) | \$ 189,374,982 | \$ 194,839,803 | \$ 196,699,978 | \$ 198,502,755 |
| 26 | Expenditures | 182,906,012 | 182,162,717 | (743,295) | 189,558,841 | 195,386,301 | 201,754,385 | 205,754,385 |
| 27 | Increase(Decrease) in Fund Balance | \$ 328,985 | \$ (2,356,023) | (2,685,008) | \$ (183,859) | \$ (546,498) | \$ (5,054,407) | \$ (7,251,630) |
| 28 | | | | | | | | |
| 29 | Beginning Fund Balance | 30,503,375 | 30,503,375 | | 28,147,352 | 27,963,493 | 27,416,995 | 22,362,588 |
| 30 | Ending Fund Balance | \$ 30,832,360 | \$ 28,147,352 | \$ (2,685,008) | \$ 27,963,493 | \$ 27,416,995 | \$ 22,362,588 | \$ 15,110,958 |
| 31 | % of Next Year's Expenditure or Budget | 16.9% | 14.8% | | 14.3% | 13.6% | 10.9% | |

ORDINANCE NO. 2014 / 15

FY 2014-2015 BEAUFORT COUNTY SCHOOL DISTRICT BUDGET

An Ordinance to provide for the levy of tax for school purposes for Beaufort County for the fiscal year beginning July 1, 2014 and ending June 30, 2015, and to make appropriations for said purposes.

BE IT ORDAINED BY COUNTY COUNCIL OF BEAUFORT COUNTY:

SECTION 1. TAX LEVY

The County Council of Beaufort County hereby appropriates the funds as detailed in Sections 3 and 4 of this Ordinance and establishes the millage rates as detailed in Section 2 of this Ordinance. The County Council of Beaufort County reserves the right to modify these millage rates at its August 25, 2014 meeting.

SECTION 2. MILLAGE

In Fiscal Year 2014-2015 and in accordance with the laws of South Carolina, the County Auditor is hereby authorized and directed to levy a tax on the following mills on the dollar of assessed value of property within the County.

| | |
|---|--------|
| School Operations | 101.70 |
| School Bond Debt Service (Principal and Interest) | 31.71 |

The values listed above are in accordance with Section 6-1-320(A)(2) of the *Code of Laws of South Carolina, 1976*, as amended.

| | Prior Year Millage | % Average CPI | % Population Growth | Allowable Annual % Increase of Millage of Millage Rate | Millage Bank Used | Millage Bank Balance |
|------|-----------------------|------------------|------------------------|--|-------------------------|----------------------------|
| 2012 | 90.26 | 1.64% | 1.71% | 3.35% | 0.00% | 3.35% |
| 2013 | 91.26 | 3.16% | 1.03% | 4.19% | -1.10% | 6.44% |
| 2014 | 97.45 | 2.07% | 2.21% | 4.28% | 0.00% | 10.72% |

These taxes shall be collected by the County Treasurer, as provided by law, and distributed in accordance with the provisions of this Ordinance and subsequent appropriations as may be hereafter passed by the County Council of Beaufort County.

SECTION 3. SCHOOL OPERATIONS APPROPRIATION

An amount of \$190,400,000 is hereby appropriated to the Beaufort County Board of Education to fund school operations. This appropriation is to be spent in accordance with the school budget approved by the County Council of Beaufort County, and will be funded from the following revenue sources:

- A. \$114,868,815 to be derived from tax collections;
- B. \$ 67,428,295 to be derived from State revenues;
- C. \$ 900,000 to be derived from Federal revenues;
- D. \$ 1,733,500 to be derived from other local sources;
- E. \$ 4,444,372 to be derived from inter-fund transfers; and
- F. \$ 1,025,018 to be derived from fund balance.

The Beaufort County Board of Education is responsible for ensuring that the school expenditures do not exceed those amounts herein appropriated without first receiving the approval of a supplemental appropriation from County Council.

SECTION 4. BUDGETARY ACCOUNT BREAKOUT

The line-item budgets submitted by the Beaufort County Board of Education under separate cover for FY 2014-2015 are incorporated herein by reference and shall be part and parcel of this Ordinance.

SECTION 5. OUTSTANDING BALANCE APPROPRIATION

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

SECTION 6. TRANSFERS VALIDATED

All duly authorized transfers of funds heretofore made from one account to another, or from one fund to another during Fiscal Year 2015 are hereby approved.

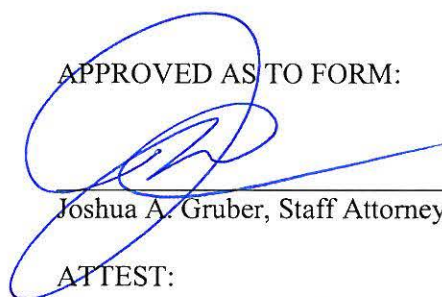
SECTION 7. EFFECTIVE DATE

This Ordinance shall be effective July 1, 2014. Approved and adopted on third and final reading this 23rd day of June, 2014.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: 
D. Paul Sommerville, Chairman

APPROVED AS TO FORM:


Joshua A. Gruber, Staff Attorney

ATTEST:


Suzanne M. Rainey, Clerk to Council

First Reading, By Title Only: May 27, 2014
Second Reading: June 9, 2014
Public Hearings: June 9, 2014 and June 23, 2014
Third and Final Reading: June 23, 2014

Millage Analysis

Item 8.

| | Beaufort County Council | | | | Beaufort County School District | | | | County Staff Estimate | BCSD Staff Estimate |
|--|-------------------------|--------------|--------------------|--------------|---------------------------------|--------------|--------------------|--------------|-----------------------|---------------------|
| | FY 2014 | | FY 2015 | | FY 2014 | | FY 2015 | | | |
| | <u>Preliminary</u> | <u>Final</u> | <u>Preliminary</u> | <u>Final</u> | <u>Preliminary</u> | <u>Final</u> | <u>Preliminary</u> | <u>Final</u> | | |
| Date of Distribution | 4/9/2013 | 8/22/2013 | 3/26/2014 | 8/18/2014 | 4/9/2013 | 8/22/2013 | 3/26/2014 | 8/18/2014 | | |
| Data as of Date | 3/26/2013 | 8/21/2013 | 2/28/2014 | 7/31/2014 | 3/26/2013 | 8/21/2013 | 2/28/2014 | 7/31/2014 | | |
| Estimated Value of Mill | 1,687,980 | 1,677,376 | 1,659,329 | 1,646,084 | 1,206,341 | 1,244,831 | 1,172,920 | 1,148,494 | 1,148,494 | 1,148,494 |
| Mill Rate established by Ordinance | 46.48 | 46.48 | 46.48 | 46.48 | 100.55 | 97.45 | 101.7 | 101.7 | 105.28 | 105.69 |
| Gross Revenue (100%)* | 78,457,310 | 77,964,436 | 77,125,612 | 76,509,984 | 121,297,588 | 121,308,781 | 119,285,964 | 116,801,840 | 120,913,448 | 121,384,331 |
| Appropriated Revenue** | 71,086,377 | 71,086,377 | 72,479,000 | 72,479,000 | 114,868,815 | 114,868,815 | 114,868,815 | 114,868,815 | 114,868,815 | 114,868,815 |
| Difference | (7,370,933) | (6,878,059) | (4,646,612) | (4,030,984) | (6,428,773) | (6,439,966) | (4,417,149) | (1,933,025) | (6,044,633) | (6,515,516) |
| Percentage of Difference (Discount) | -9.4% | -8.8% | -6.0% | -5.27% | -5.3% | -5.3% | -3.7% | -1.65% | -5.0% | -5.4% |
| Percentage of Gross Revenue | 90.61% | 91.18% | 93.98% | 94.73% | 94.70% | 94.69% | 96.30% | 98.345% | 95.00% | 94.63% |
| Estimated Year-End Actual Revenue | | | | | | 110,096,911 | | | | |
| Percentage of Difference (True Discount) | | | | | | -9.2% | | | | |
| Percentage of Gross Revenue | | | | | | 90.8% | | | | |

*Value of mill multiplied by mill rate

**Per Ordinance



COUNTY COUNCIL OF BEAUFORT COUNTY
BEAUFORT COUNTY ENGINEERING DIVISION
104 Industrial Village Road, Building #3, 29906
Post Office Drawer 1228, Beaufort, SC 29901-1228
Telephone: 843-255-2700 Facsimile: 843-255-9420

TO: Councilman Gerald Dawson, Chairman, Public Facilities Committee
VIA: Gary Kubic, County Administrator
Bryan Hill, Deputy County Administrator
Alicia Holland, Chief Financial Officer
Monica Spells, Compliance Officer
Dave Thomas, Purchasing Director
FROM: Robert McFee, Director of Engineering and Infrastructure
SUBJ: BUCKWALTER REGIONAL PARK COMMUNITY CENTER PHASE 2 EXPANSION
DESIGN BUILD PROJECT RFP #112113
DATE: August 8, 2014

BACKGROUND. Beaufort County issued a Request for Proposals for qualified firms to design and build the Phase 2 Expansion of the Buckwalter Regional Park Community Center. Phase 2 consist of a double Gymnasium with 2-full Basketball Courts with a sky track, a Weight Room, 2-Racquetball Courts, 2-Multipurpose Rooms, 2- Indoor Batting Cages, Equipment/Support Areas, and common area to provide connectivity and circulation. There will also be minor upgrades/renovations to the existing facility.

The following firms responded and provided proposals for the project on January 9, 2014.

| PROPOSER | LOCATION | AMOUNT |
|--|----------------|-------------|
| Mashburn Construction /Clancy Wells Architecture | Charleston, SC | \$5,550,000 |
| BES, Inc. | Beaufort, SC | \$4,786,862 |

A selection committee consisting of the CIP Manager, Construction Manager, Facilities Director, PALS Director, and PALS Deputy Director reviewed, evaluated and ranked the proposals using established criteria focused on the "best value offered". As a result of the interviews, Mashburn Construction/Clancy Wells Architecture team was selected as the proposer providing the best understanding and value for the design and construction of Phase 2. The Mashburn/Clancy Wells team designed and built Phase 1 of the Buckwalter Community Center in 2008/2009. This team's proposal was also reviewed for compliance with the County's Small & Minority Business Subcontractor Guidelines and it has been determined that they made a "Good Faith Effort" and are in compliance with respect to Beaufort County's requirements. On the basis of the qualification of the firm and the value offered, the selection committee recommends award of a design/build contract to Mashburn Construction/Clancy Wells Architecture for the Buckwalter Regional Park Community Center Phase 2 Expansion Design Build Project.

FUNDING. Staff is requesting a contingency of 10% (\$550,000.00) of the total bid price. The project will be funded by the 2015 CIP Program with a budget of \$5,000,000 and Bluffton PALS Impact Fees with a current balance of \$2,247,118. The total project budget for design and construction is \$6,100,000.

ACTION. Public Facilities Committee Meeting on August 18, 2014.

RECOMMENDATION. The Public Facilities Committee approve and recommend to County Council approval of a contract award to Mashburn Construction Company, Inc., to design and build the Phase 2 Expansion of the Buckwalter Regional Park Community Center for a total contract amount of \$5,550,000. Additionally, approve and recommend to County Council a project design and construction budget of \$6,100,000 which includes a 10% contingency.

JRM/DC/mjh

Attachments: 1) Phase 2 Building Plan
2) SMBE Documents

cc: Scott Marshall
rfn/BWCamCtrPh2DesignBuild

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BEAUFORT COUNTY GOVERNMENT

Small and Minority Business Bid Compliance Review of Good Faith Efforts (1 of 2)
Buckwalter Community Center Phase II Expansion – RFP #112113

| | Prime Bidder/Proposer | BES | Mashburn |
|----|---|-----------|-----------|
| 1 | Included Good Faith Efforts Checklist Form | 1 | 1 |
| 2 | Requested Beaufort County SMBE Vendor List | 1 | 1 |
| 3 | Included Copy of Written Notice to SMBE | 1 | 1 |
| 4 | Provided Proof of Sending Written Notice to SMBE | 1 | 1 |
| 5 | Sent Bid Notice to SMBE 10 Days in Advance | 1 | 1 |
| 6 | Included Copy of Written Notice to Good Faith Agencies | 1 | 1 |
| 7 | Provided Proof of Sending Written Notice to Good Faith Agencies | 1 | 1 |
| 8 | Signed Non-Discrimination Statement Form (Exhibit 1) | 1 | 1 |
| 9 | Included Outreach Documentation Log (Exhibit 2) | 1 | 1 |
| 10 | Included Proposed Utilization Plan (Exhibit 3) | 1 | 1 |
| | Total | 10 | 10 |

Beaufort Engineering Services, Inc. (Beaufort, SC)
Mashburn Construction (Charleston, SC)

Total of 10 Possible Points

Scoring:
0 = No
1 = Yes



Prepared by Monica Spalls, Compliance Officer
July 23, 2014

BEAUFORT COUNTY GOVERNMENT

Small and Minority Business Bid Compliance Review of Good Faith Efforts (2 of 2)
Buckwalter Community Center Phase II Expansion – RFP #112113

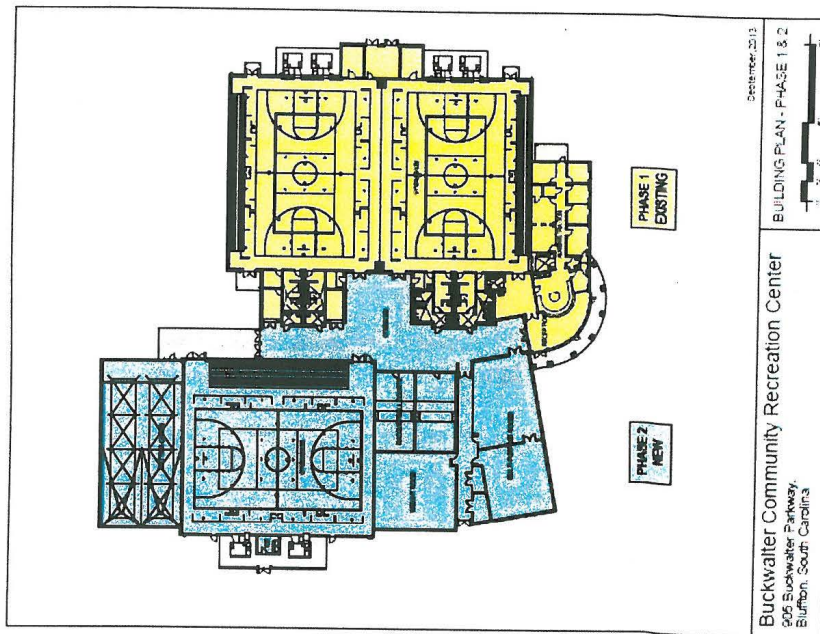
| Prime Bidder/Proposer | Proposed Local SBE Firm Name | Type | Location | Scope |
|--|------------------------------|------|------------------------|-------------------|
| Beaufort Engineering Services Beaufort, SC | BES Services, LLC | WBE | Bluffton, SC | A/E Services |
| Mashburn Construction Charleston, SC | 3-Way Electric, LLC | SBE | Bluffton, SC | Electrical |
| | Heritage Pest Control, Inc. | SBE | Hilton Head Island, SC | Termite Treatment |
| | Professional Landscape, LLC | SBE | Bluffton, SC | Landscaping |
| | Pender Brothers, Inc. | SBE | Port Royal, SC | Plumbing |

Note: This solicitation sought proposals only and did not involve actual quotes from potential subcontractors

MBE = Minority Business Enterprise
SBE = Small Business Enterprise
WBE = Woman Business Enterprise



Prepared by Monica Spella, Compliance Officer
July 23, 2014



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

TO: Councilman Gerald Dawson, Chairman, Public Facilities Committee

FROM: Dave Thomas, CPPO, Purchasing Director *AT*

SUBJ: CONTRACT AWARD RECOMMENDATION FOR THE BEAUFORT COUNTY
 GOVERNMENT COMPLEX PARKING LOT STORM WATER RETROFIT PROJECT

DATE: August 15, 2014

BACKGROUND: The project provides a highly visible location to create a stormwater demonstration venue illustrating the use of best management practices (BMP) required in the Beaufort County Stormwater Manual to significantly improve the water quality in our local marshes and estuaries. The project involves the installation of 18,072 square feet of permeable clay pavers and 3,152 square feet of rain gardens along with the associated infrastructure including curbs, landscape, and irrigation.

Beaufort County advertised for bid submittals on this project on two previous occasions. In November 2012, the County prequalified contractors for the project and then requested that the prequalified contractors submit bid proposals. None of the prequalified contractors responded. In April 2014, the County advertised for bids again and for a second time did not receive any responses. In July 2014, the County requested quotes from five (5) contractors and on August 7, 2014 Beaufort County received the following quotes for the referenced project.

| <u>Contractors</u> | <u>Total Quote</u> |
|--|--------------------|
| Lane Construction, Beaufort, SC | \$ 292,989 |
| JS Construction, Bluffton, SC | \$ 299,653 |
| JoCo Construction, Beaufort, SC | \$ 299,807 |
| Cleland Site Prep, Inc., Ridgeland, SC | \$ 339,794 |
| JH Heirs Construction, Walterboro, SC | \$ 366,363 |

Due to the critical nature of permeable paver construction, the specifications clearly stated that contractors must include relevant project experience including the installation of this type of paver system. Lane Construction did not provide project references meeting this criterion and was therefore rejected. JS Construction provided the lowest responsible/responsive quote and a notarized 100% self-performance affidavit in compliance with the County's SMB Participation Ordinance. An analysis of their quote prices revealed no apparent cause for rejecting their bid. The other four (4) contractors demonstrated good faith outreach efforts for SMB participation.

FUNDING: Primary Funding – 50260011-51160, Stormwater Capital Improvement Fund. The budget for this project has a current balance of \$326,518.

FOR ACTION: Public Facilities Committee meeting August 18, 2014.

RECOMMENDATION: The Public Facilities Committee approve and recommend to County Council an award to JS Construction, Bluffton, SC in the amount of \$299,653 for the County Government Complex Parking Lot Storm Water Retrofit.

CC: Gary Kubic, County Administrator
 Bryan Hill, Deputy County Administrator *BH*
 Alicia Holland, Chief Financial Officer *AK*
 Joshua Gruber, County Attorney *JG*
 Robert McFee, Director of Engineering and Infrastructure *RM*
 Eric Larson, Stormwater Manager *EL*
 Monica Spells, Compliance Officer *Spells*

Robert McFee
Eric Larson



BEAUFORT COUNTY STORMWATER UTILITY
120 Shanklin Road
Beaufort, South Carolina 29906
Voice (843) 255-2801 Facsimile (843) 255-9478



TO: Councilman Gerald Dawson, Chairman, Public Facilities Committee

FROM: Robert McFee, PE, Division Director for Engineering and Infrastructure
 Eric W. Larson, Beaufort County Stormwater Utility

SUBJECT: Discussion of a Policy for Acquisition of Storm Water Drainage Easements.

Date: August 6, 2014

BACKGROUND: The following Standard Operating Procedure is recommended for all drainage easement acquisitions:

- 1) Stormwater Engineer, assisted by Easement Manager, determines easement needs; the easement acquisition process is initiated
 - a) identification of adjacent property owners (names and mailing addresses)
 - b) preparation of easement request letters
 - c) drafting of easement deeds or easement agreements
 - d) initial request letter is mailed
 - e) second request letter, if necessary, is mailed
 - f) if all the easement requests are granted, Easement manager records the documents and the drainage project proceeds
 - g) if the requested easement is not granted, County Staff attorney reports the same to Public Facilities Committee/County Council and recommends one of two courses of action
 - 1) Council designates the drainage as private and removes it from the drainage maintenance inventory; property owners are notified of this action by mail
 - 2) Council agrees to provide funding for the condemnation of the easement; drainage project proceeds when County takes title to the condemned easement
- 2) Stormwater department conducts/oversees the contract letting process
- 3) Contract is awarded
- 4) Construction phase commences

FOR ACTION: Public Facilities Committee meeting occurring on August 18, 2014.

RECOMMENDATION: Staff recommends the above process to be endorsed by the Public Facilities Committee of County Council for the acquisition of drainage easements and maintenance of the stormwater system.

CC: Gary Kubic, County Administrator
 Bryan Hill, Deputy Administrator

/ewl

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING, DEVELOPING AND CONSTRUCTING MULTI-USE RECREATION TRAILS AND RESTRICTING THE USE THEREOF TO NON-MOTORIZED ACTIVITIES

WHEREAS, Beaufort County, South Carolina is establishing, developing and constructing multi – use recreational trails to include, but not be limited to the Spanish Moss Trail; and

WHEREAS, these multi – use trails are for the intended use of non-motorized activities such as walking, jogging, inline skating, roller blading, skate boarding and bicycling; and

WHEREAS, in order to provide for the safe use of these trails, it is necessary to adopt an ordinance regulating the use of same; and

WHEREAS, Beaufort County Council believes to best provide for the health, safety, and welfare of its citizens it is appropriate to amend Part II, Chapter 90 of the Beaufort County Code of Ordinances by adding Article V thereto and to provide for additional terms to said Article; and

WHEREAS, all text that is underscored shall be added text;

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL, that Article V of the Beaufort County Code is hereby amended as follows:

Sec. 90-100. Purpose

The Beaufort County Council recognizes that the multi-use recreational trails in Beaufort County, South Carolina are for the use and enjoyment of its citizens and that it is in the public’s interest that laws be promulgated to protect the safety and welfare of its patrons while using these trails.

Sec. 90-101. Definitions

Multi – use trail means any trail or path designated by County Council to be used for pleasure or as an alternative mode of transportation for use by walking, jogging, inline skating, roller blading, skate boarding, bicycling, and other non-motorized recreation.

Motorized vehicle means any motorized conveyance including, but not limited to: cars, trucks, motorcycles, tractors, farm machinery, four-by-four’s, golf carts, motorized scooters, minibikes, dune buggies or ATV’s. This shall not include motorized wheelchairs or other devices, which are necessary to facilitate movement due to a disability.

Sec. 90-102 Prohibitions

- (1) Vehicles. No person shall operate a motorized vehicle of any kind or nature over, through, across or upon the multi-use trail, provided that county vehicles operated while cleaning or working on the trail and law enforcement and emergency vehicles shall be exempt from the application of this section.
- (2) Hours of Use. No person shall be allowed access to or use a multi – use recreational trail from one hour after sunset to one hour before sunrise unless specially authorized by the Beaufort County Council.
- (3) Alcoholic Beverages. The consumption and possession of alcoholic beverages shall be prohibited on any multi-use recreational trail.
- (4) Litter. Throwing, depositing or causing or permitting to be thrown or deposited any glass, bottle, glassware, can or pieces thereof or any garbage, waste or refuse of any kind on the multi – use trail or the lands adjacent thereto shall be unlawful. All trash or litter shall be placed in designated trash receptacles.
- (5) Animals. No person shall fail to exercise proper care and control of his animal while using the multi – use trail. All animals must be on a leash and properly restrained. All animal refuse shall be placed in designated trash receptacles.

Sec. 90-103 Penalties

Any person violating any provision of this article shall be guilty of a misdemeanor and, upon conviction thereof shall pay such penalties as the court may decide, not to exceed \$500.00 or 30 days imprisonment for each violation.

DONE this ____ day of _____, 2014.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
D . Paul Sommerville, Chairman

APPROVED AS TO FORM:

Joshua A. Gruber, Staff Attorney

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

2014 /

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 ____ day of _____, 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
Third and Final Reading:

Walter J. Nester, III

wnester@mcnair.net
T 843.785.2171
F 843.686.5991

MEMORANDUM

Via E-mail Only (jgruber@bcgov.net)

TO: Joshua A. Gruber, Esq.

CC: Allison Coppage, Esq. (*via e-mail*)
Mr. Tony Criscitiello (*via e-mail*)

FROM: Walter J. Nester, III

DATE: July 2, 2014

RE: Development Agreement for Cherokee Farms
(Revisions to Page 10, version 9)
Our File No. 060462.00001

Josh:

Attached, please find a clean copy of Page 10 (version 9) of the above-referenced Development Agreement, which was revised pursuant to the Development Agreement Subcommittee's agreements on June 25th. I have also enclosed a blackline, which shows the recent revisions made, but am not including the entire document as only Page 10 has been revised.

Please let me know if this is acceptable. Upon your approval, I will forward the final version of the Development Agreement, together with all exhibits, to Sue Rainey so that it may be published in time for the July 28th Natural Resources Committee meeting.

Best regards.

WJN:llm:amb
Attachments

McNair Law Firm, P. A.
Shelter Cove Executive Park
23-B Shelter Cove Lane, Suite 400
Hilton Head Island, SC 29928

Mailing Address
Post Office Drawer 3
Hilton Head Island, SC 29938

mcnair.net

DEVELOPMENT AGREEMENT

FOR

CHEROKEE FARMS

BEAUFORT COUNTY, SOUTH CAROLINA

_____, 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 ____ day of _____, 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. Variations. 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.

Exhibit A
Property Description



CHEROKEE FARMS

EXISTING CONDITIONS

The following section is intended to supply detailed information on the existing conditions of the Cherokee Farms Project.

A. Current Ownership

Cherokee Beaufort, LLC currently owns the Cherokee Farms Tract. The Owner and the Applicant have entered into a joint venture agreement. Upon approval of a Development Agreement, Cherokee Beaufort, LLC will transfer ownership of the Tract to the joint venture, Burton Development, LLC.

B. Location and Adjacent Property Owners

The 104.85 acre site, referred to as Cherokee Farms, is located on Port Royal Island in the Burton community and is bounded on the north by a number of small, single family subdivisions, on the south by the Habersham PUD, on the east by Joe Frazier Road and the former Bellamy Farms site and on the west by single family residential and undeveloped land.

The predominant use of property north, east and west of the site is single family residential. The most predominant neighbor, on the southern border of the site, is the Habersham PUD. There are several small undeveloped land parcels immediately northwest and southeast of the Cherokee Farms Phase. The largest undeveloped land parcel is the Burlington Plantation PUD, which is west of the site and fronts Cherokee Farms Road.

The precise location of all of the individual property owners is detailed on the Boundary Survey.

C. Current Zoning

The Cherokee Farms Phase is part of Official Land Use Zoning Map 100-27 and is specifically identified as District 100, Map 27, Parcels 13 and 13A. The current zoning classification is Suburban (S).

D. Boundary Survey

A boundary survey is attached and includes the following information:

- 1) Computed Acreage
- 2) Control Points, Dimensions and Coordinate Data
- 3) Existing Roads and Easements
- 4) Adjacent Property Owners
- 5) FEMA Zones



CHEROKEE FARMS

E. Topographical Survey

Beaufort Surveying has completed a topographical survey of the property. There is currently a 9-acre active farm, which will remain in place as part of the development plan. There are no other infrastructure improvements on the property. Elevations vary from over 33 feet above sea level to 12 feet along the isolated freshwater wetlands at the northwest corner of the property. The existing drainage pattern is limited to natural sheet flow that runs to a series of agricultural drainage ditches.

F. Soils

The soils inherent to the Cherokee Farms Phase are Wando, Coosaw, Murad, Seabrook and Tonges.

G. Natural Resources Survey

The last known use of the property was agricultural, and therefore, a large part of Cherokee Farms has been cleared by previous owners. In general, what tree canopy there is on the property is limited to the isolated freshwater wetlands at the northwest corner of the property. Young native over story specimens such as white oak, water oak, southern magnolia and pignut hickory can be found on certain sections of the property. However, the dominant vegetation on the site is an under-story of dense tangle of brambles, vines and shrubs. A more detailed discussion of the forest type occurring on the Cherokee Farms Phase is included in the threatened and endangered species report. Except for the area at the northwest corner of the property, the environmental consultant has also concluded that there are no major stands of trees that would be classified as protected natural areas under the Beaufort County Development Standards. The isolated freshwater wetlands on the property were previously delineated and categorized in 2002 and were previously reviewed by Beaufort County as part of the Suburban rezoning of Cherokee Farms in 2006. The delineation has since been renewed for another 5 years.

H. Delineated Wetlands

An analysis of the freshwater wetlands was previously performed by Soil and Wetlands Consulting and recently updated. The extent of the wetlands has been delineated and is depicted on the wetlands survey. Specifically, there are two freshwater wetlands, .71 acres of jurisdictional wetlands and 4.20 acres of non-jurisdictional wetlands. A letter from the U.S. Army Corps of Engineers – Charleston District, dated December 31, 2002, represents the final determination of wetlands on the property. The South Carolina Department of Health and Environmental Control (Office of Ocean and Coastal Resource Management) has also provided a wetlands determination letter. The Applicant does intend to impact and improve the 4.20 acres of non-jurisdictional wetlands and has done a wetlands mitigation plan. The .71 acres of jurisdictional wetlands will be preserved.



CHEROKEE FARMS

I. Threatened and Endangered Species

A Threatened and Endangered Species Report has been completed by Simkins Environmental Consulting. The survey concluded that there is no presence or likely presence of any threatened and endangered species on the Cherokee Farms Phase.

J. Archeological Survey

The Cherokee Farm property has already been evaluated by Beaufort County's Historic Preservationist. The Historic Preservationist issued a letter dated January 5, 2005 stating that no archeological resources will be affected by the development of the property. However, as required, the Applicant will cease work if archaeological or paleontological materials are encountered prior to or during construction.

K. Marine Corps Air Station – AICUZ Zone

A portion of the Cherokee Farms Phase is located in the MCAS Runway 05 approach corridor. Approximately 45.5 acres of the 104.85 acre site is situated within AICUZ noise zone 2a (65 to 70 DNL). A diagram that approximates the extent of the noise zone is attached. The Liaison Office has previously issued a findings letter as part of the Suburban rezoning of Cherokee Farms in March 2006.

On February 1, 2007, the Applicant, Planning Director and Assistant Planning Director met with the Liaison Officer for the MCAS. The purpose of this meeting was to discuss the new zoning standards for the MCAS Overlay District (which were adopted in December 2006), and its potential impact on the Cherokee Farms project. Pursuant to Appendix A1 - Section 5(d) of the Beaufort County Zoning and Development Standards Ordinance, the new ordinance states that single family residential development within noise zone 2a (DNL 65 to 70) shall not be permitted at a gross density that exceeds two dwelling units per acre. The Master Plan for the Cherokee Farms Phase does meet these standards.

L. FEMA Zones

According to the Flood Insurance Rate Map (Community Panel # 450025-0065-D Index Dated September 29, 1986), there are two FEMA zones on the Cherokee Farms Phase. The two zones include Zone C (minimal hazard) and Zone A9 (subject to a 100-year flood event). All habitable structures and other qualifying facilities within Zone A9 must be constructed above an elevation of 13 feet mean sea level.

M. Easements

There are no known easements that affect the Cherokee Farms Project.

Exhibit B

Unified Development Plan
(for Habersham PUD and Property)

Development Summary:

- I. Allowed Density and Open Space Requirements**
- a. 275 Acre Habersham PUD Zoning District
 - a. Density Allowed: 630 Single Family, 350 Multi-Family, 55 Acres
 - b. Open Space Required: 84 Multi-Family, 10 Acres, 10,000 Square Feet
 - b. 48 Acre Sunrise Tract Amended PUD Zoning District
 - a. Density Allowed: 85 Single Family, 84 Multi-Family
 - b. Open Space Required: 10 Acres, 10,000 Square Feet
 - c. Commercial Allowed: 36 Acres
 - c. 105 Acre Cherokee Farms Tract Suburban Zoning District/TNO Overlay
 - a. Density Allowed: 203 Units, 36 Acres
 - b. Open Space Required: 466,664 Square Feet
 - c. Commercial Allowed: 36 Acres

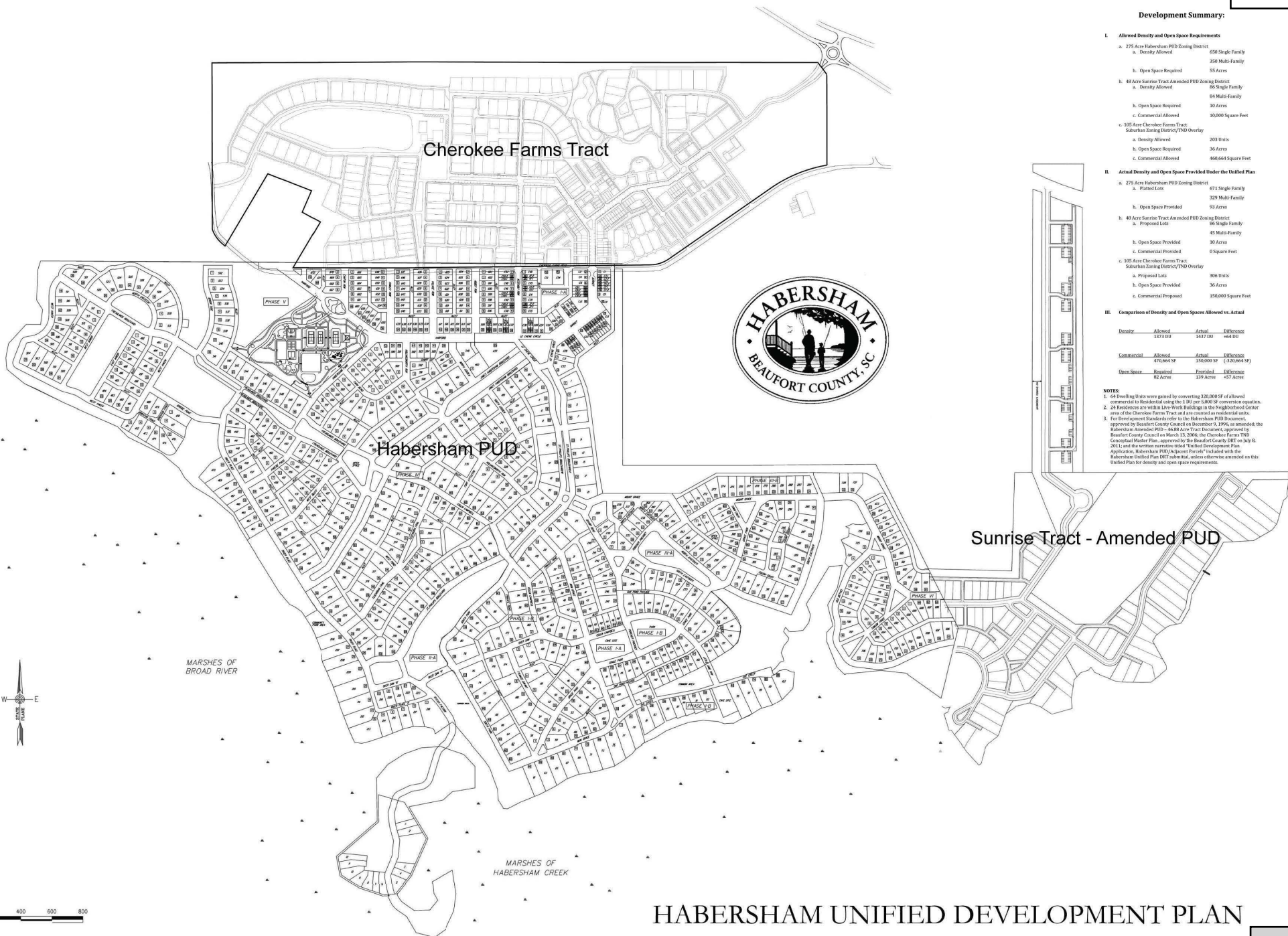
- II. Actual Density and Open Space Provided Under the Unified Plan**
- a. 275 Acre Habersham PUD Zoning District
 - a. Planned Lots: 672 Single Family, 329 Multi-Family
 - b. Open Space Provided: 93 Acres
 - b. 48 Acre Sunrise Tract Amended PUD Zoning District
 - a. Proposed Lots: 95 Single Family, 81 Multi-Family
 - b. Open Space Provided: 10 Acres
 - c. Commercial Provided: 0 Square Feet
 - c. 105 Acre Cherokee Farms Tract Suburban Zoning District/TNO Overlay
 - a. Proposed Lots: 306 Units, 36 Acres
 - b. Open Space Provided: 36 Acres
 - c. Commercial Proposed: 150,000 Square Feet

III. Comparison of Density and Open Spaces Allowed vs. Actual

| Density | Allowed | Actual | Difference |
|------------|------------|------------|--------------|
| | 1373 DU | 1837 DU | +464 DU |
| Commercial | Allowed | Actual | Difference |
| | 470,664 SF | 150,000 SF | (320,664 SF) |
| Open Space | Required | Provided | Difference |
| | 82 Acres | 139 Acres | +57 Acres |

NOTES:

- 64 Dwelling Units were gained by converting 320,000 SF of allowed commercial to Residential using the 1:80 per 4,000 SF conversion equation.
- 29 Residences are within Live-Work Buildings in the Neighborhood Center area of the Cherokee Farms Tract and are counted as residential units.
- For Development Standards refer to the Habersham PUD Document, approved by Beaufort County Council on December 9, 1996, as amended; the Habersham Amended PUD - 48 Acre Tract Document, approved by Beaufort County Council on March 12, 2006; the Cherokee Farms TNO Conceptual Master Plan, approved by the Beaufort County CRT on July 8, 2011 and the website narrative titled "Unified Development Plan Application, Habersham PUD/Adjacent Parcels" included with the Habersham Unified Plan DWF submittal, unless otherwise amended on this Unified Plan for density and open space requirements.



HABERSHAM UNIFIED DEVELOPMENT PLAN



HABERSHAM UNIFIED DEVELOPMENT PLAN PROJECT NARRATIVE (APPLICATION)

I. APPLICANT INFORMATION

Robert J. “Bob” Turner and **Stephen Davis** are the principals of Cherokee Investments, LLC as well as the town founders of the Habersham neighborhood. As agents of the Rentz family, Messieurs Turner and Davis have worked together for over sixteen years in a variety of roles with other development companies and partnerships in Beaufort County.

Stephen Davis is also a Manager and Development Consultant with the prestigious engineering firm of Davis and Floyd. Stephen has worked along side a number of respected developers throughout South Carolina and thus, has gained valuable insight into the development process. While working on projects in environmentally pristine areas of Beaufort such as Spring Island, Brays Island and Newpoint, Stephen has developed a unique skill set in the areas of storm water management, preservation of water quality and alternative engineering methods.

For a number of years, Bob Turner was the Development Manager for Spring Island and Callawassie Island. In 1992, Mr. Turner struck out on his own as a Managing Partner of the Newpoint community, a new urbanist project, which quickly gained national recognition and honors for its traditional design and architecture. As Newpoint neared completion, Mr. Turner led a partnership that developed in-fill residential and commercial sites for the Town of Port Royal, South Carolina. Today, Mr. Turner is the primary development manager for the Habersham project.

II. PROJECT INTRODUCTION

Cherokee Investments, LLC (hereinafter, referred to as the “Applicant”) is pleased to submit this application for a Unified Development Plan that combines several tracts of land with a singular intent. An 104.85 acre tract (hereinafter, referred to as “Cherokee Farms Tract”) adjoins the northern edge of the present-day Habersham Tract. An additional 46.88 acre tract lies to the immediate east of the Habersham Tract and is referred to as the Sunrise Tract. A location map of the three tracts is included. Although the Cherokee Farms Tract is not part of the Habersham PUD, the Applicant plans to develop the Cherokee Farms project in such a way that it interconnects and blends seamlessly with the existing design elements and development standards of the Habersham neighborhood. The Applicant is seeking Approval for a Unified Development Plan consisting of the Habersham Tract, Sunrise Tract-Amended PUD, and the Cherokee Farms Tract, which would allow a more cohesive overall residential density and appropriate amount of commercial square footage.

A. History of the Habersham Development

On June 11, 1997, the Beaufort County Council ratified the Applicant’s request for a change of zoning for 275.1 acres located along the northern marshes of the Broad River at its confluence with Habersham Creek. However, this “change” represented a significant departure from the suburban cul-de-sac design that was initially approved for the site in 1988. In essence, the old design was supplanted by New Urbanism – which is a traditional village format of walkable, mixed-use, neighborhoods. Since the “change”, the Applicant has pursued a development strategy that places a major emphasis on designing and building both a quality private and public realm. The Habersham neighborhood has received numerous design awards (including the Platinum award for “Best Neighborhood in America” from The National Association of Home Builders) as well as plaudits from some of the nation’s most influential



HABERSHAM UNIFIED DEVELOPMENT PLAN PROJECT NARRATIVE (APPLICATION)

magazines and newspapers. In March 2006, Habersham added a second phase to the project by rezoning 46.88 acres located along Habersham Creek to PUD Zoning District (hereinafter, referred to as the "Sunrise Tract").

In March 2006, the current owner of the Cherokee Farms property, Cherokee Beaufort, LLC, rezoned the site from Rural – Transitional Overlay (R-TO) to Suburban (S). The original intent behind this Suburban rezoning request was to allow for development of the property in a manner that would complement and be similar to Habersham. To achieve this, the Owner hired the same new urbanist land planning firm that designed Habersham (Duany Plater-Zyberk & Company), and in July 2002, a land planning charrette was completed for the Cherokee Farms project. The design codes and site plan created by Duany Plater-Zyberk & Company (hereinafter, referred to as "DPZ") were a key component of the Owner's rezoning submission to the Planning Department in October 2003, and the cohesiveness of the Cherokee Farms project to Habersham was referenced by the Planning Staff as a significant feature of the project in Staff memorandums to the Planning Commission and Land Management Committee.

In December 2005, the Applicant became involved in the Cherokee Farms project as a joint venture partner and at this juncture, assumed responsibility for the rezoning as the project moved through Second and Final Readings of County Council. The goal of this joint venture is to allow Habersham and Cherokee Farms to be developed as a seamless community. To accomplish this goal, the applicant is proposing to develop the project using the Traditional Neighborhood Development option, as described in Article XI of the ZDSO, so that special design controls can be implemented to ensure a cohesive connection and character with the neighboring community of Habersham. This allows a residential density of 3 units/acre and an appropriate amount of commercial square footage. Using this allowance, the Cherokee Farms master plan is allowed 203 residential units and 460,664 square feet of commercial space. Since 45.5 acres of Cherokee Farms exists in the AICUZ Noise Zone 2a, only 2 units/acre are allowed in this zone, therefore, the master plan proposes just 91 units in the Noise Zone. Live-work units designated for residences are counted towards this residential density requirement.

B. Project Description and Rationale

Again, the Applicant is petitioning that the Cherokee Farms property, encompassing some 104.85 acres, be included as part of an overall Unified Development Plan that encompasses the Habersham PUD and Amended PUD so that residential densities can be shifted amongst the tracts to create a more cohesive overall density. With the Cherokee Farms conceptual Master Plan activating the Traditional Neighborhood Development option under Suburban (S) zoning, as described in Article XI of the ZDSO, it can have similar site design and development standards as the Habersham PUD and therein, become a seamless part of the overall Habersham community.

One of the most compelling reasons for creating a Unified Development Plan with the Cherokee Farms tract and the two Habersham PUD Tracts is that this represents a tried and cohesive development model, which benefits the region. The Habersham PUD has become a symbol and an exemplar of the principles underlying the New Urbanism that is sweeping the nation. Habersham has provided Beaufort County and the Low Country with an alternative to suburban sprawl. With its growing town center and the addition of a true "commercial node", the Habersham PUD and Cherokee Farms will serve as an urban hub for the surrounding Burton community and the region. The different street sections and assortment of building types afford a varied and authentic environment.



HABERSHAM UNIFIED DEVELOPMENT PLAN PROJECT NARRATIVE (APPLICATION)

II. EXISTING CONDITIONS

A. Location and Adjacent Property Owners

The Tracts included in the Unified Development Plan are located on Port Royal Island in the Burton community and are bounded on the north by a number of small, single family subdivisions, on the south by the Broad River, on the east by Joe Frazier Road and the former Bellamy Farms site and on the west by single family residential and undeveloped land.

The predominant use of property north, east and west of the site is single family residential. There are several small, undeveloped land parcels immediately northwest and southeast of the Cherokee Farms Tract. The largest undeveloped land parcel is the Burlington Plantation PUD, which is west of the tracts and fronts Cherokee Farms Road. The Beaufort County School System owns approximately 19.51 acres of undeveloped land that is surrounded on three sides by the Sunrise Tract. The School System site is situated at the northern part of the Tract and incorporates a shared access easement with the owner. Beaufort County Schools had originally planned to construct a neighborhood Elementary School on this site; however, the schedule and ultimate reality of the school is unclear at this time.

B. Current Zoning

The Cherokee Farms Tract is part of Official Land Use Zoning Map 100-27 and is specifically identified as District 100, Map 27, Parcels 13 and 13A. The current zoning classification is Suburban (S).

The Habersham Tract is part of Official Land Use Zoning Map 100-27. It is currently zoned PUD and is completely platted.

The Sunrise Tract is part of Official Land Use Zoning Map 100-28 and is specifically identified as District 100, Map 28, Parcel 77. The current zoning is PUD since it the Habersham PUD was amended in 2006 to include the Sunrise Tract.

C. Marine Corps Air Station – AICUZ Zone

A portion of the Cherokee Farms Tract is located in the MCAS Runway 05 approach corridor. Approximately 45.5 acres of the 104.85 acre site is situated within AICUZ noise zone 2a (65 to 70 DNL). The Liaison Office has previously issued a findings letter as part of the Suburban rezoning of Cherokee Farms in March 2006.

On February 1, 2007, the Applicant, Planning Director and Assistant Planning Director met with the Liaison Officer for the MCAS. The purpose of this meeting was to discuss the new zoning standards for the MCAS Overlay District (which were adopted in December 2006), and its potential impact on the Cherokee Farms Tract. Pursuant to Appendix A1 - Section 5(d) of the Beaufort County Zoning and Development Standards Ordinance, the new ordinance states that single family residential development within noise zone 2a (DNL 65 to 70) shall not be permitted at a gross density that exceeds two dwelling



HABERSHAM UNIFIED DEVELOPMENT PLAN PROJECT NARRATIVE (APPLICATION)

units per acre. The Master Plan for the Cherokee Farms Tract with this Unified Development Plan does meet these standards.

**UNITED STATES MARINE CORPS**MARINE CORPS AIR STATION
BEAUFORT, SOUTH CAROLINA 29904-5001

IN REPLY REFER TO:

1754

CP&L

January 30, 2004

Beaufort County Planning Department
Attention: Mr. Anthony Criscitiello
1000 Ribaut Road
Beaufort, S.C. 29902

Dear Mr. Criscitiello,

Subj: CHEROKEE FARMS

The MCAS Beaufort Community Plans and Liaison Office reviewed the proposed development plans for Cherokee Farms for compatibility with the Air Station 2003 AICUZ Plan recommendations. The following are the findings of this review:

a. Cherokee Farms is adjacent to Habersham Plantation, located in the MCAS Runway 05 approach corridor, and approximately 3.5 miles southwest of the runway threshold. Approximately 30 acres of the 105-acre development is situated within AICUZ Noise Zone 2 (65-69 DNL). The development is beyond any existing or planned aircraft accident potential zones.

b. The 2003 AICUZ Plan recommendations discourage residential developments in noise zones 65-69 DNL. However, where there is a demonstrated community need for residential housing in noise zones, and the community determines that these uses must be allowed, measures to achieve outdoor to indoor noise level reduction (NLR) of at least 25dB should be incorporated in the construction of the residential or commercial units. Normal permanent construction can be expected to provide a NLR of 20dB. Other proposed uses within the AICUZ Noise Zone 2 such as recreation buildings or community centers should also incorporate the 25dB NLR standard. Mobile Homes are not recommended in Noise Zone 2.

c. Noise attenuation efforts will not eliminate outdoor noise problems. Potential buyers of homes or properties located in AICUZ Noise Zones should be notified of the existence of low flying military aircraft, and the possibility of late night operations that may be accompanied by noticeable noise levels.

d. The proposed development plans did not include any plans for towers or structures that might exceed recommended height limitations.

If you have any questions, please contact LtCol. P.D. Noonan, Community Plans and Liaison Officer at 843-228-7119 or Bruce Jackson, Deputy Community Plans and Liaison Officer at 843-228-7131.

Sincerely,



P.D. NOONAN

By direction

Sent to George Johnson of Habersham
to illustrate the AICUZ footprint on the
focus site.

By TN Beaufort County Planning
11.14.06

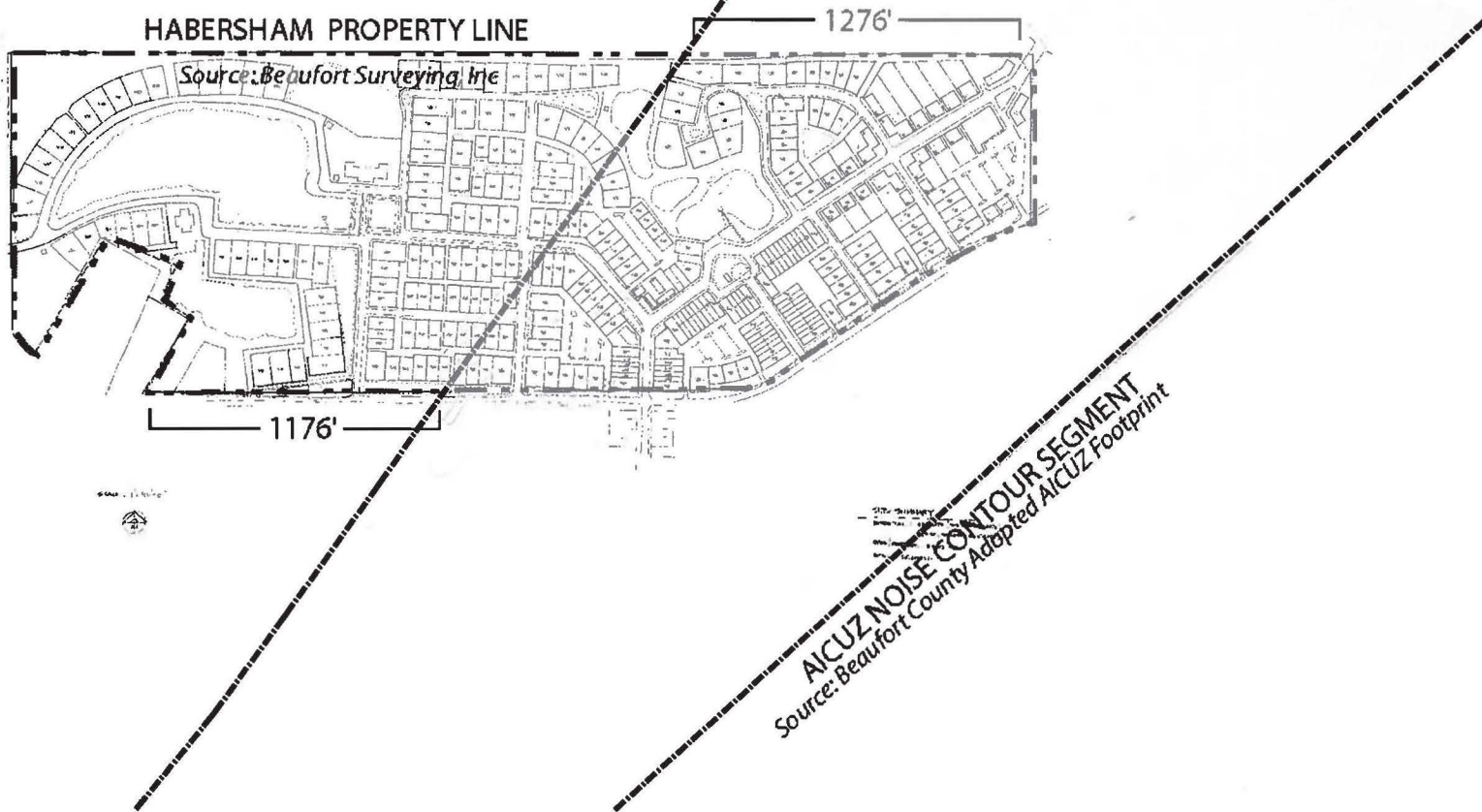


Exhibit C

Development Schedule

Redevelopment of the Property is expected to occur in phases over the Term of the Development Agreement, with the sequence and timing of Development dictated largely by market conditions. The following estimate of expected Development is hereby included, to be updated by the Owner as the same evolves over the Term:

| <u>Development</u> | <u>Date of Commencement / Completion</u> |
|--------------------|--|
| Phase 1 | 0 - 15 months |
| Phase 2 | 16 - 24 months |
| Phase 3 | 25 - 36 months |
| Phases 4 & 5 | 37 - 48 months |
| Phases 6 & 8 | 48 – 60 months |

As stated in Article III of the Development Agreement, actual Development may occur more or less rapidly based on market conditions and other factors.

CHEROKEE FARMS

PHASING PLAN

Beaufort County, SC
August 15, 2013

0' 50' 100' 250'



KEY

- Phase 1 - Approximately 9 Acres - 70 Residential Units
- Phase 2 - Approximately 20 Acres - 91 Residential Units
- Phase 3 - Approximately 4 Acres - 19 Residential Units
- Phase 4 - Approximately 9 Acres - 42 Residential Units
- Phase 5 - Approximately 35 Acres - 34 Residential Units, 150,000 sq. ft. of Commercial
- Phase 6 - Approximately 6 Acres - 23 Residential Units
- Phase 7 - Approximately 22 Acres - 27 Residential Units

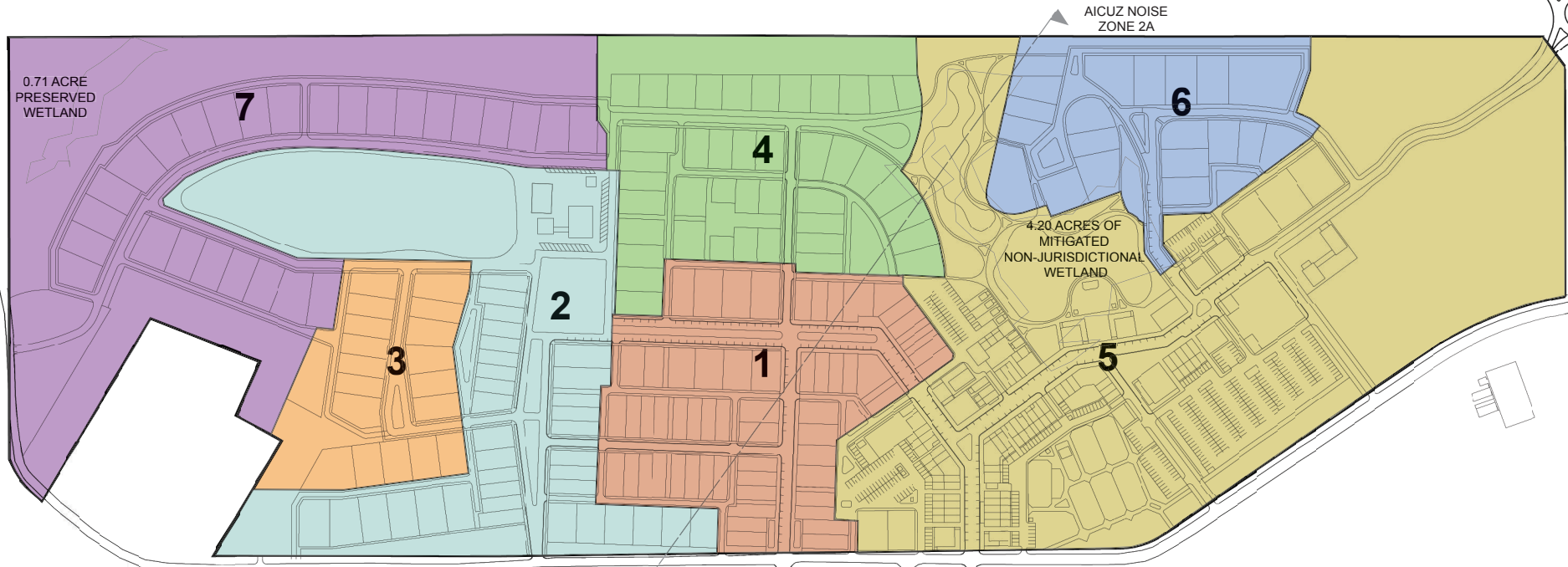


Exhibit D

Plans prepared by Davis & Floyd, Inc.
(for Joe Frazier Road Round-a-bout)

PIN 00000

| FED. RD. DIST. NO. | STATE | COUNTY | FILE NO. | PROJECT NO. | ROUTE NO. | SHEET NO. | TOTAL SHEETS |
|--------------------|-------|----------|----------|-------------|-----------|-----------|--------------|
| 3 | S.C. | BEAUFORT | 0.0000 | 0000 | S-40 | 1 | 37 |

| SHEET # | DESCRIPTION | SHEET TOTALS |
|-----------|--|--------------|
| 1 | Title Sheet | 1 |
| 2 | Summary of Estimated Quantities | 1 |
| 3 - 3B | Typical Sections | 3 |
| 5 | General Construction Note | 1 |
| 5A | Reference Data Sheets | 1 |
| 6 - 6D | Plan and Profile Sheets | 4 |
| TC1 - TC3 | Traffic Control and Construction Phasing | 3 |
| PMI | Pavement Markings and Signing Plans | 1 |
| LS | Landscaping Plan | 1 |
| EC1 - EC2 | Erosion Control Plans | 2 |
| XI - XI9 | Cross Sections | 19 |
| | TOTAL SHEETS | 37 |

NOTE: SHEET 4 OMITTED.

IMPROVEMENTS FOR BEAUFORT COUNTY

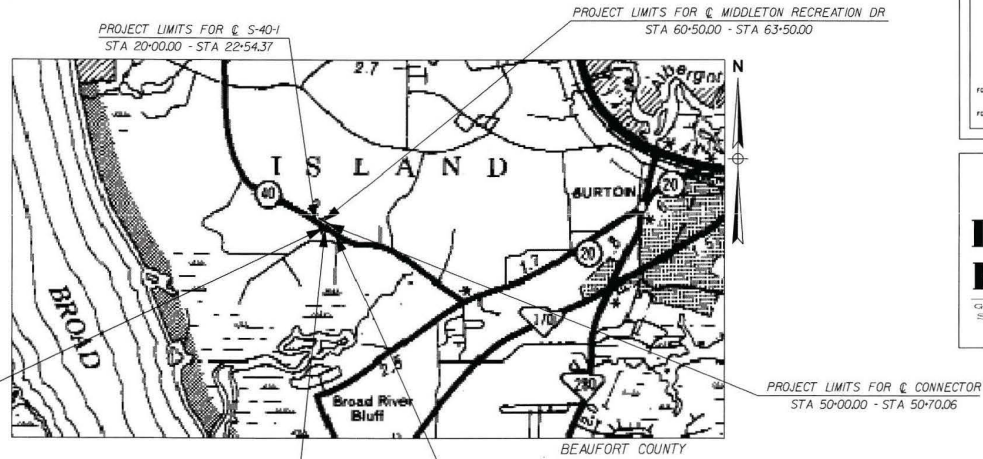


PLAN AND PROFILE OF PROPOSED STATE HIGHWAY

BEAUFORT COUNTY
FILE 0.0000 PROJ. 0000

S-40 (JOE FRAZIER ROAD) ROUNDBOUT DESIGN AT S-40 & NEEDLES ROAD

Design Reference for these plans is the
2001
AASHTO "A Policy on Geometric Design of
Highways and Streets"



CONSULTANT - CONSULTING ENGINEERING
PROJECT ENGINEER FIRM
FOR PERMITTING ONLY

DAVIS & FLOYD, INC.
No. 000538
SOUTH CAROLINA
REGISTERED PROFESSIONAL ENGINEERS

FOR RIGHT-OF-WAY: _____ DATE: _____
FOR CONSTRUCTION: *[Signature]* 8/19/10 DATE: _____

240 STONERIDGE DRIVE
SUITE 305
COLUMBIA, SC 29210
803-258-4121

DAVIS & FLOYD Engineering
Architecture
Environmental
Laboratory Services

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SOUTH CAROLINA

Certification Statement

These plans were prepared and certified by the Consultants for completeness. No reviews or signatures by the SCDOT are required.

TRAFFIC DATA

| | | |
|------|--------|-------|
| 2008 | ADT | 8500 |
| 2028 | ADT | 14800 |
| | TRUCKS | 11 % |

LEGEND

| | |
|------------------|-----|
| PROPOSED PROJECT | --- |
| OTHER ROADS | --- |

3 DAYS BEFORE DIGGING IN
SOUTH CAROLINA
CALL 1-800-922-0983
PALMETTO UTILITY PROTECTION SERVICE

PROJECT LIMITS FOR @ HABERSHAM
STA 32+00.00 - STA 33+36.45

PROJECT LIMITS FOR @ S-40
STA 17+60.29 - STA 19+35.73

LAYOUT

| | S-40 | S-40-1 | ROUND | HABERSHAM | CONNECTOR | MIDDLETON | TOTAL | |
|-------------------------|-------|--------|-------|-----------|-----------|-----------|-------|-------|
| NET LENGTH OF ROADWAY | 0.033 | 0.048 | 0.071 | 0.026 | 0.013 | 0.057 | 0.222 | MILES |
| NET LENGTH OF BRIDGES | | | | | | | | MILES |
| NET LENGTH OF PROJECT | 0.033 | 0.048 | 0.071 | 0.026 | 0.013 | 0.057 | 0.222 | MILES |
| LENGTH OF EXCEPTIONS | | | | | | | | MILES |
| GROSS LENGTH OF PROJECT | 0.033 | 0.048 | 0.071 | 0.026 | 0.013 | 0.057 | 0.222 | MILES |

NOTE: ALL WORKMANSHIP AND MATERIAL ON THIS PROJECT TO CONFORM WITH SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR HIGHWAY CONSTRUCTION (LATEST EDITION), AND BOOK OF STANDARD DRAWINGS FOR ROAD CONSTRUCTION (LATEST PUBLISHED ENGLISH REVISION).

NPDES PERMIT INFORMATION

NPDES Disturbed
Area = 1.17 Acres

Approximate Location of Roadway is:
Longitude 80° 46' 11"
Latitude 32° 26' 00"

RAILROAD INVOLVEMENT?
YES / NO

std form2.dgn

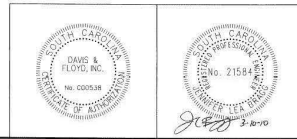
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|-------------------|-------|----------|----------|-------------|-----------|-----------|--------------|
| FED. RD. DIV. NO. | STATE | COUNTY | FILE NO. | PROJECT NO. | ROUTE NO. | SHEET NO. | TOTAL SHEETS |
| 3 | S.C. | BEAUFORT | | | S-40 | 2 | |

SUMMARY OF ESTIMATED QUANTITIES

| ITEM NO. | PAY ITEM | QUANTITY | PAY UNIT |
|----------|--|----------|----------|
| 1031000 | MOBILIZATION | NEC | LS |
| 1050800 | CONST. STAKES, LINES & GRADES | 1 | EA |
| 1061100 | QUALITY CONTROL FOR EARTHWORK | 1 | LS |
| 1061200 | QUALITY CONTROL FOR BASES AND SUBBASES | 1 | LS |
| 1071000 | TRAFFIC CONTROL | 1 | LS |
| 2012000 | CLEARING AND GRUBBING WITHIN ROADWAY | 1 | LS |
| 2025000 | REMOVAL AND DISPOSAL OF EXISTING ASPHALT PAVEMENT | 2000 | SY |
| 2031000 | UNCLASSIFIED EXCAVATION | 633 | CY |
| 2033000 | BORROW EXCAVATION | 2100 | CY |
| 2034000 | MUCK EXCAVATION | 50 | CY |
| 2091300 | SELECT MATERIAL FOR LANDSCAPING | 210 | CY |
| 3050103 | GRADED AGGREGATE BASE COURSE - 3" | 280 | SY |
| 3069900 | MAINTENANCE STONE | 20 | TON |
| 3100320 | HOT MIX ASPHALT BASE COURSE - TYPE B | 780 | TON |
| 4011004 | LIQUID ASPHALT BINDER PG64-22 | 80 | TON |
| 4013990 | MILL EXISTING ASPHALT PAVEMENT - VARIABLE | 100 | SY |
| 4020330 | HOT MIX ASPHALT INTERMEDIATE COURSE - TYPE C | 470 | TON |
| 4030340 | HOT MIX ASPHALT SURFACE COURSE - TYPE C | 350 | TON |
| 5011100 | PORTLAND CEMENT CONCRETE PAVEMENT - 8" | 280 | SY |
| 6020005 | PERMANENT CONSTRUCTION SIGNS (GROUND MOUNTED) | 144 | SF |
| 6040010 | 4" WHITE SOLID LINE - PVT. EDGE - F.D.PNT | 6794 | LF |
| 6040015 | 8" WHITE SOLID LINE (CROSSWALKS) - F.D.PNT | 472 | LF |
| 6040025 | 24" WHITE SOLID LINE (STOPBAR) - F.D.PNT | 25 | LF |
| 6040110 | 4" YELLOW SOLID LINE - F.D.PNT | 8241 | LF |
| 6041010 | 4" WHITE SOLID LINE - PVT. EDGE - TH-90 ML | 2020 | LF |
| 6041015 | 8" WHITE SOLID LINE - TH-125 ML | 472 | LF |
| 6041025 | 24" WHITE SOLID LINE - TH-125 ML | 25 | LF |
| 6041074 | 4" YELLOW SOLID LINE - TH-90 ML | 2717 | LF |
| 6049505 | REMOVAL OF PAVEMENT MARKINGS | 1401 | LF |
| 6051100 | PERMANENT YELLOW PAV. MARK BI-DIR 4X4 | 80 | EA |
| 6092155 | TEMPORARY YELLOW PAV. MARK BI-DIR 4X4 | 56 | EA |
| 6271023 | 12"X18" WHITE TRIANGULAR YIELD BAR (GAPS EXCLUDED) | 71 | LF |
| 7141162 | 18" RC PIPE - CL3 - AASHTO M315JNT | 300 | LF |
| 7191005 | CATCH BASIN - TYPE 1 | 1 | EA |

| ITEM NO. | PAY ITEM | QUANTITY | PAY UNIT |
|----------|---|----------|----------|
| 7191605 | CATCH BASIN - TYPE 1B | 6 | EA |
| 7192300 | SPRING BOX | 1 | EA |
| 7203110 | CONCRETE CURB & GUTTER (1'-6") VERT. | 1570 | LF |
| 7203130 | CONCRETE CURB & GUTTER (1'-6" OGEE) | 264 | LF |
| 7204100 | CONCRETE SIDEWALK (4" UNIFORM) | 210 | SY |
| 7204900 | DETECTABLE WARNING SURFACE | 105 | SF |
| 7206000 | CONCRETE MEDIAN | 15 | SY |
| 8041010 | RIP-RAP (CLASS A) | 32 | TON |
| 8048200 | GEOTEXTILE/EROSION CONTROL (CLASS 2) TYPE A | 40 | SY |
| 8100001 | PERMANENT VEGETATION | 4.00 | MSY |
| 8103000 | TEMPORARY VEGETATION | 2.00 | MSY |
| 8110001 | LANDSCAPING PER PLAN, INCLUDES SPECIALTY SIGNS AND LIGHTING | 1 | LS |
| 8115505 | DRIP IRRIGATION SYSTEM | 1 | LS |
| 8132000 | SODDING - CENTIPEDE GRASS | 145 | SY |
| 8152007 | SEDIMENT TUBE | 150 | LF |
| 8153000 | SILT FENCE | 850 | LF |
| 8153090 | REPAIR/REPLACE SILT FENCE | 85 | LF |
| 8154000 | SILT BASINS | 20 | CY |
| 8154050 | REMOVAL OF SILT RETAINED BY SILT FENCE | 215 | LF |
| 8021904 | 4" PVC PIPE | 308 | LF |
| 8021908 | 8" PVC PIPE UNDERDRAIN | 46 | LF |
| | TEXTURED CONCRETE | 1 | LS |

PLOTTED: 3/10/2000 5:00:03 PM FILE NAME: #115#



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 SOUTH CAROLINA

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 SUITE 300
 COLUMBIA, SC 29902
 (803) 734-4000

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| 2 | | | | |
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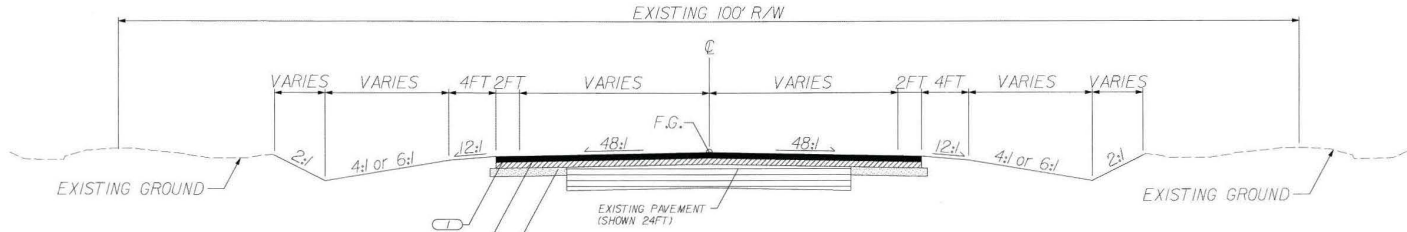
BEAUFORT COUNTY

SUMMARY OF QUANTITIES
S-40

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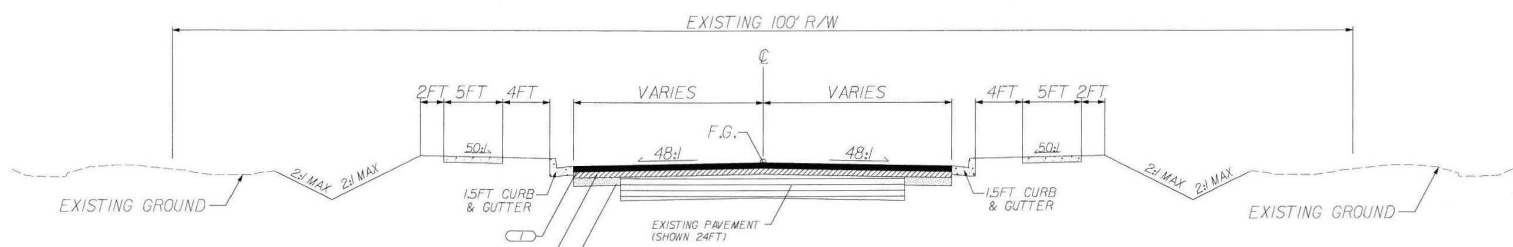
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|--------------------|-------|----------|----------|-------------|-----------|-----------|--------------|
| 3 | S.C. | BEAUFORT | 0.0000 | 0000 | S-40 | 3 | |

TYPICAL SECTION OF IMPROVEMENT



S-40-1
 STA 20+00.00 - STA 21+65.00
 S-40 (JOE FRAZIER RD)
 STA 18+35.00 - STA 19+35.73

- NOTES:
- SEE STANDARD DRAWING 720-105-00 FOR CURB & GUTTER AND ISLANDS (CONCRETE).
 - SEE STANDARD DRAWINGS 720-905-01 AND 720-905-02 FOR CURB & GUTTER AND SIDEWALK RAMPS WITH DETECTABLE WARNINGS FOR PEDESTRIANS.
 - SEE SHEET 5 GENERAL NOTES FOR DETAIL OF CURB & GUTTER ADA RAMP AT PAVED SHOULDER.



S-40-1
 STA 21+65.00 - STA 22+54.37
 S-40 (JOE FRAZIER RD)
 STA 17+60.29 - STA 18+35.00

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 PLOTTED: 3/10/2010

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| 2 | ASPHALT INTERMEDIATE COURSE TYPE C (200 PSY) |
| 3 | ASPHALT BASE COURSE TYPE B (200 PSY) |
| 4 | 8" CONCRETE |
| 5 | 3" GRADED AGGREGATE BASE COURSE |



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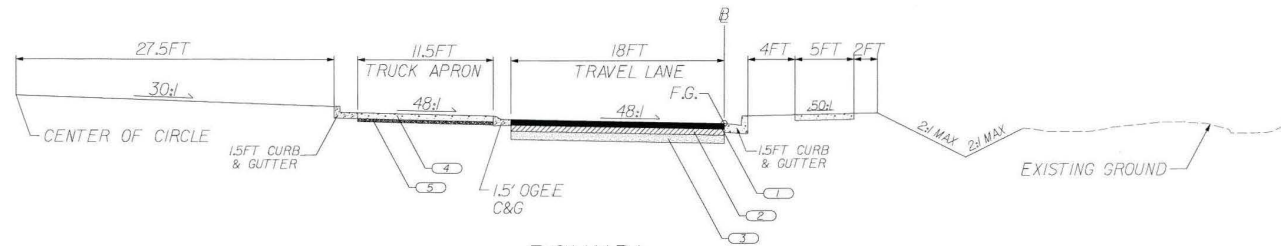
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| MPH | FROM STA | TO STA | |
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| 45 | 18+35.00 | 19+35.73 | 2 |
| 25 | 21+65.00 | 22+54.37 | 1 |
| 25 | 17+60.29 | 18+35.00 | |
| APPROVED BY | | DATE | |
| DATE | | | |

| REV. NO. | BY | DATE | DESCRIPTION OF REVISION |
|----------|----|------|-------------------------|
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| BEAUFORT COUNTY | |
| TYPICAL SECTION S-40-1 & S-40 | |
| SCALE - NTS RTE. S-40 DWG. NO. PN1 | |

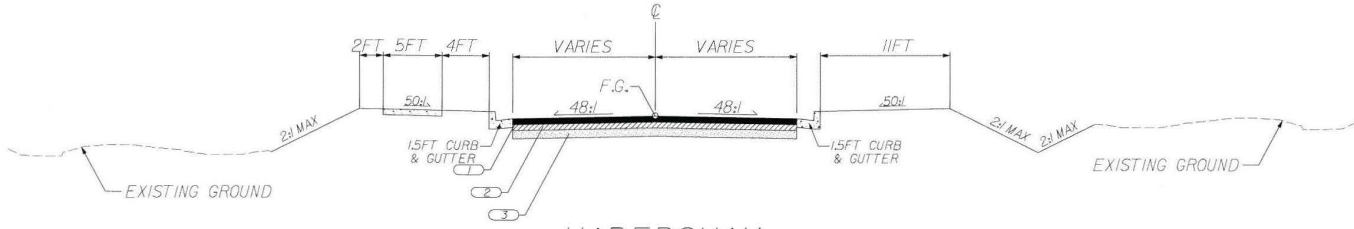
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|--------------------|-------|----------|----------|-------------|-----------|-----------|--------------|
| 3 | S.C. | BEAUFORT | 0.0000 | 0000 | S-40 | 3A | |

TYPICAL SECTION OF IMPROVEMENT



ROUND1
 STA 40+00.00 - STA 41+79.19
 ROUND2
 STA 41+79.19 - STA 43+76.99

- NOTES:
 1. SEE STANDARD DRAWING 720-105-00 FOR CURB & GUTTER AND ISLANDS (CONCRETE).
 2. SEE STANDARD DRAWINGS 720-905-01 AND 720-905-02 FOR CURB & GUTTER AND SIDEWALK RAMPS WITH DETECTABLE WARNINGS FOR PEDESTRIANS.
 3. THE TRUCK APRON WILL BE TEXTURED CONCRETE. SEE SPECIFICATIONS FOR DETAILS.



HABERSHAM
 STA 32+00.00 - STA 33+36.45
 CONNECTOR
 STA 50+00.00 - STA 50+70.06

- 1 ASPHALT SURFACE COURSE TYPE C (150 PSY)
- 2 ASPHALT INTERMEDIATE COURSE TYPE C (200 PSY)
- 3 ASPHALT BASE COURSE TYPE B (800 PSY)
- 4 8" CONCRETE
- 5 3" GRADED AGGREGATE BASE COURSE



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| | | | |
|-----------------|--------------------|--------------|----------|
| PAVEMENT DESIGN | RT. ROUND1&2, CONN | DESIGN SPEED | 4 |
| | Mph | FROM STA | TO STA |
| APPROVED BY | 20 | 40+00.00 | 43+76.99 |
| | 20 | 50+00.00 | 50+70.06 |
| | 20 | 32+00.00 | 33+36.45 |
| DATE | | | |

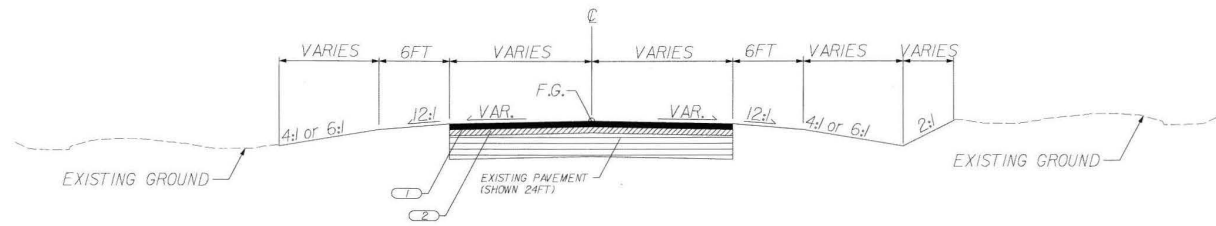
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| 1 | | | |
| TOPD. | DATE | | |
| DWC. | DATE | | |
| R/W | DATE | | |

BEAUFORT COUNTY
 TYPICAL SECTION
 ROUND1, ROUND2
 HABERSHAM & CONNECTOR
 SCALE - NTS RTE, S-40 DWG. NO. PN1

SCALE: 5.000007 FT / IN.
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 FILE: J:\jobss\04\11769-05\cvt\l.dgn\ppr\03A.tyo.dgn
 PLOTTED: 3/10/2010

| FED. RD DIST. NO. | STATE | COUNTY | FILE NO. | PROJECT NO. | ROUTE NO. | SHEET NO. | TOTAL SHEETS |
|-------------------|-------|----------|----------|-------------|-----------|-----------|--------------|
| 3 | S.C. | BEAUFORT | 0.0000 | 0000 | S-40 | 38 | |

TYPICAL SECTION OF IMPROVEMENT



MIDDLETON RECREATION DR
STA 60+50.00 - STA 63+50.00

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PLOTTED: 3/10/2010
FILE: F:\pbaosod\1769-05\c\1_dgn\pdr\038typ.dgn

- 1 ASPHALT SURFACE COURSE TYPE C (150 PSY)
- 2 ASPHALT INTERMEDIATE COURSE TYPE C (FOR BUILDUP)
- 3 ASPHALT BASE COURSE TYPE B (800 PSY)
- 4 8" CONCRETE
- 5 3" GRADED AGGREGATE BASE COURSE



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SOUTH CAROLINA
COLUMBIA, SC 29210
(803)254-6200

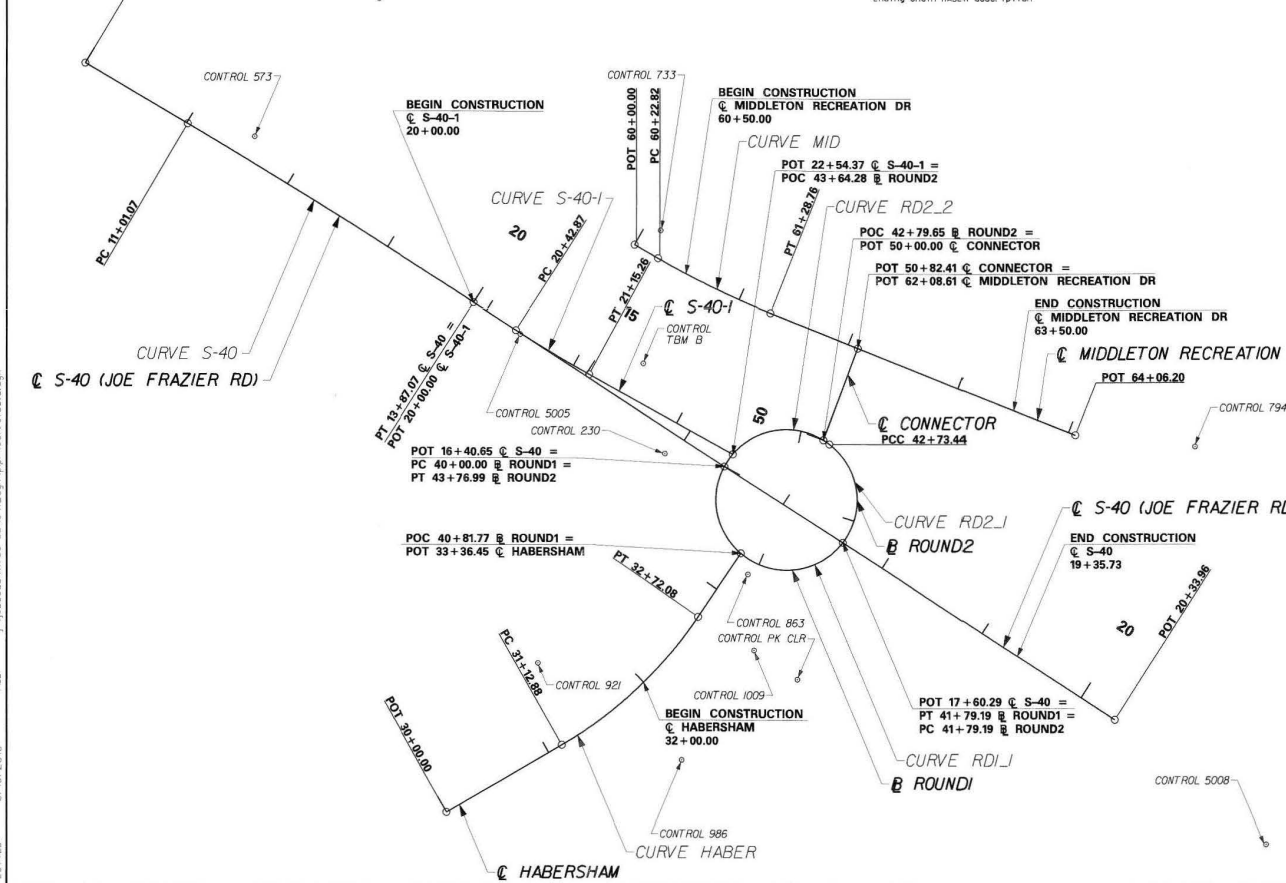
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| PAVEMENT DESIGN | MPH | FROM STA | TO STA | DESIGN SPEED | 4 | | | |
| | 25 | 60+50.00 | 63+50.00 | | 3 | | | |
| APPROVED BY | | | | | 2 | | | |
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| DATE | | | | | | | | |

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|--|------------------------|
| BEAUFORT COUNTY | |
| TYPICAL SECTION MIDDLETON RECREATION DR | |
| SCALE - NTS | RTE. S-40 DWG. NO. PN1 |

| Beginning chain ROUND1 description | | | | Beginning chain ROUND2 description | | | | Beginning chain CDNN description | | | | | |
|------------------------------------|--------------|----------------------|----------------|------------------------------------|--------------|---------------------|----------------|---|---|---------------------|--------------------|----------------|--|
| Curve Data | | | | Curve Data | | | | Curve Data | | | | | |
| Curve RD1.1 | P.I. Station | 47+72.35 N | 217.766.7920 E | Curve RD2.1 | P.I. Station | 42+39.19 N | 218.428.8219 E | Point 21 | N | 218.468.6904 E | 2.071.045.4273 Sta | 50+00.00 | |
| Delta | = | 171° 06' 56.74" (LT) | | Delta | = | 90° 00' 00.00" (LT) | | Course from 21 to 28 N 20° 44' 34.67" E Dist 82.4056 | | | | | |
| Length | = | 772.3468 | | Length | = | 60.0000 | | Point 28 | N | 218.545.7543 E | 2.071.074.6134 Sta | 50+82.41 | |
| Radius | = | 175.1920 | | Radius | = | 60.0000 | | Ending chain CDNN description | | | | | |
| External | = | 60.0000 | | External | = | 24.8528 | | Beginning chain HABER description | | | | | |
| Long Chord | = | 119.6395 | | Long Chord | = | 11.5738 | | Point 15 | N | 218.155.0815 E | 2.070.725.4992 Sta | 30+00.00 | |
| Mid. Ord. | = | 95.2529 | | Mid. Ord. | = | 84.8528 | | Course from 15 to PC HABER N 60° 12' 23.69" E Dist 112.8764 | | | | | |
| P.C. Station | = | 40+00.00 N | 218.446.0264 E | P.C. Station | = | 41+79.19 N | 218.381.0993 E | Curve Data | | | | | |
| P.T. Station | = | 41+79.19 N | 218.381.0993 E | P.T. Station | = | 42+39.19 N | 218.465.1888 E | Delta | = | 31+89.98 N | 218.251.4153 E | 2.070.893.1524 | |
| C.C. | = | 37° 18' 32.58" E | | C.C. | = | 37° 18' 32.58" E | | Delta | = | 26° 03' 43.17" (LT) | | | |
| Chord Bear | = | S 28° 25' 29.32" N | | Chord Bear | = | S 37° 18' 32.58" E | | Length | = | 22' 12.90" | | | |
| | | | | | | | | Radius | = | 81.0033 | | | |
| | | | | | | | | Length | = | 139.2036 | | | |
| | | | | | | | | External | = | 350.0000 | | | |
| | | | | | | | | Long Chord | = | 9.2514 | | | |
| | | | | | | | | Mid. Ord. | = | 157.8347 | | | |
| | | | | | | | | P.C. Station | = | 31+12.88 N | 218.211.1668 E | 2.070.823.4559 | |
| | | | | | | | | P.T. Station | = | 32+72.08 N | 218.318.4556 E | 2.070.939.2182 | |
| | | | | | | | | Chord Bear | = | N 47° 10' 32.11" E | 218.514.9047 E | 2.070.649.5499 | |
| | | | | | | | | | | | | | |

| CONTROL POINTS/BENCHMARKS | | | |
|---------------------------|-------------|--------------|-----------|
| Point ID | North | East | Elevation |
| 230 | 218457.0027 | 2070910.9582 | 32.61 |
| 273 | 218723.3270 | 2070266.1652 | 32.85 |
| 646 | 218841.7502 | 2070667.8082 | 31.68 |
| 713 | 218664.5251 | 2070901.1022 | 31.28 |
| 794 | 218463.0132 | 2071359.8756 | 30.47 |
| 863 | 218351.8223 | 2070803.2678 | 37.39 |
| 921 | 218275.5571 | 2070803.2678 | 37.39 |
| 986 | 218188.7642 | 2070925.2792 | 32.32 |
| 1009 | 218290.4685 | 2070886.7130 | 32.22 |
| 5005 | 218557.1017 | 2070788.2026 | 32.57 |
| 5008 | 218158.5265 | 2071420.2308 | 32.32 |
| PK CLR | 218265.8888 | 2071023.5217 | 32.99 |
| TM B | 218532.5859 | 2070892.5645 | 35.20 |

ALL CONTROL POINTS ARE NAIL AND SHINER UNLESS OTHERWISE NOTED
 VERTICAL - NATIONAL GEODETIC VERTICAL DATUM - 1988 (NGVD 88)
 HORIZONTAL - NORTH AMERICAN DATUM - 1983 (NAD 83)
 COORDINATES - SOUTH CAROLINA STATE PLANE COORDINATE SYSTEM
 ALL DISTANCES AS SHOWN ON PLANS ARE GRID DISTANCES
 COMBINED SCALE FACTOR 0.99993705



| Beginning chain S-40 description | | | | |
|--|--------------|--------------------|--------------------|----------------|
| Point 1 | N | 218.785.8074 E | 2.070.418.3851 Sta | 10+00.00 |
| Course from 1 to PC S-40 S 59° 19' 04.46" E Dist 101.0717 | | | | |
| Curve Data | | | | |
| Curve S-40 | P.I. Station | 12+44.09 N | 218.661.2565 E | 2.070.628.3021 |
| Delta | = | 0° 41' 05.41" (RT) | | |
| Length | = | 45.5000 | | |
| Radius | = | 143.0145 | | |
| External | = | 285.9844 | | |
| Long Chord | = | 7.500.0000 | | |
| Mid. Ord. | = | 285.9770 | | |
| P.C. Station | = | 11+40.07 N | 218.734.2331 E | 2.070.505.3079 |
| P.T. Station | = | 13+47.07 N | 218.583.6460 E | 2.070.748.4247 |
| C.C. | = | 114° 01' 07" N | 212.284.1448 E | 2.066.678.2515 |
| Chord Bear | = | S 59° 19' 04.46" E | | |
| Chord Bear | = | S 57° 07' 59.05" E | | |
| Chord Bear | = | S 58° 13' 31.75" E | | |
| Course from PT S-40 to S 57° 07' 59.05" E Dist 646.8940 | | | | |
| Point 3 | N | 218.232.5813 E | 2.071.291.7725 Sta | 20+33.96 |
| Ending chain S-40 description | | | | |
| Beginning chain S-40-1 description | | | | |
| Point 10 | N | 218.583.6440 E | 2.070.748.4247 Sta | 20+00.00 |
| Course from 10 to PC S-40-1 S 57° 07' 59.05" E Dist 42.8658 | | | | |
| Curve Data | | | | |
| Curve S-40-1 | P.I. Station | 20+79.08 N | 218.540.7297 E | 2.070.814.8442 |
| Delta | = | 4° 08' 51.70" (LT) | | |
| Length | = | 43' 46.48" | | |
| Radius | = | 35.2113 | | |
| External | = | 72.3909 | | |
| Long Chord | = | 1.000.0000 | | |
| Mid. Ord. | = | 0.6554 | | |
| P.C. Station | = | 19+35.73 N | 218.560.3812 E | 2.070.784.4291 |
| P.T. Station | = | 21+15.26 N | 218.523.3295 E | 2.070.846.6009 |
| C.C. | = | 136.832 | 218.400.3146 E | 2.071.327.1189 |
| Chord Bear | = | S 57° 07' 59.05" E | | |
| Chord Bear | = | S 59° 12' 24.90" E | | |
| Course from PT S-40-1 to 20 S 61° 16' 50.75" E Dist 135.1152 | | | | |
| Point 20 | N | 218.456.4822 E | 2.070.968.6028 Sta | 22+54.37 |
| Ending chain S-40-1 description | | | | |
| Beginning chain MID description | | | | |
| Point 25 | N | 218.632.4414 E | 2.070.885.2085 Sta | 60+00.00 |
| Course from 25 to PC MID S 60° 15' 12.91" E Dist 22.8186 | | | | |
| Curve Data | | | | |
| Curve MID | P.I. Station | 60+75.88 N | 218.594.7932 E | 2.070.951.0887 |
| Delta | = | 8° 05' 36.62" (LT) | | |
| Length | = | 38' 21.97" | | |
| Radius | = | 53.0601 | | |
| External | = | 105.9437 | | |
| Long Chord | = | 1.8746 | | |
| Mid. Ord. | = | 105.8557 | | |
| P.C. Station | = | 60+22.82 N | 218.621.1196 E | 2.070.905.0203 |
| P.T. Station | = | 61+48.16 N | 218.575.2168 E | 2.071.000.4047 |
| C.C. | = | S 60° 15' 12.91" E | | |
| Chord Bear | = | S 68° 20' 49.53" E | | |
| Chord Bear | = | S 64° 18' 01.22" E | | |
| Course from PT MID to 27 S 68° 20' 49.53" E Dist 277.4391 | | | | |
| Point 27 | N | 218.472.8446 E | 2.071.258.2666 Sta | 64+06.20 |
| Ending chain MID description | | | | |

SCALE: 50.0001' / IN.
 PLOT DRIVER: 3rd of V8-RW DGN4.plt
 FILE: I:\bbs\dwg\17769-05\A1.dgn\p8\A05A.dwg

BEAUFORT COUNTY
 REFERENCE DATA SHEET
 S-40
 PLAN SCALE 1"=50'

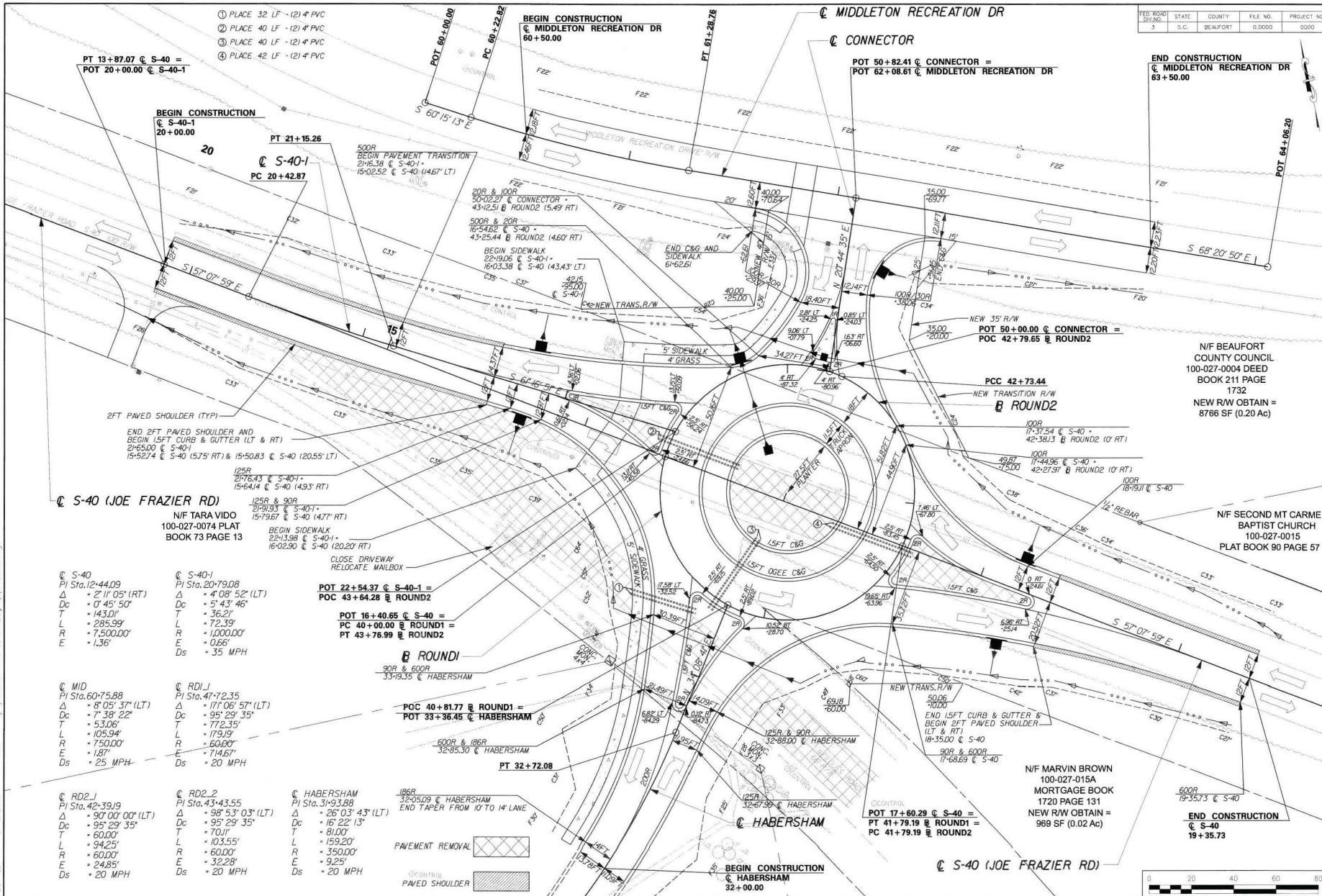
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|-----|------|----|-------------------------|
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DATE OF ISSUE: 03/10/2010
 TIME OF ISSUE: 10:00 AM
 DRAWN BY: [Signature]
 CHECKED BY: [Signature]
 PROJECT NO.: 17769-05
 SHEET NO.: 5-A
 TOTAL SHEETS: 5-A

DAVIS Engineering Architecture Environmental Laboratory Services
 1010 W. 10th Street, Suite 200
 Columbia, SC 29201
 Phone: 803.799.8800
 Fax: 803.799.8801
 Email: info@davisinc.com

REGISTERED PROFESSIONAL ENGINEER
 STATE OF SOUTH CAROLINA
 No. 21558
 EXPIRES 12/31/2011

REGISTERED PROFESSIONAL ENGINEER
 STATE OF SOUTH CAROLINA
 No. 21558
 EXPIRES 12/31/2011

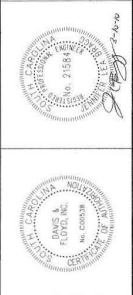


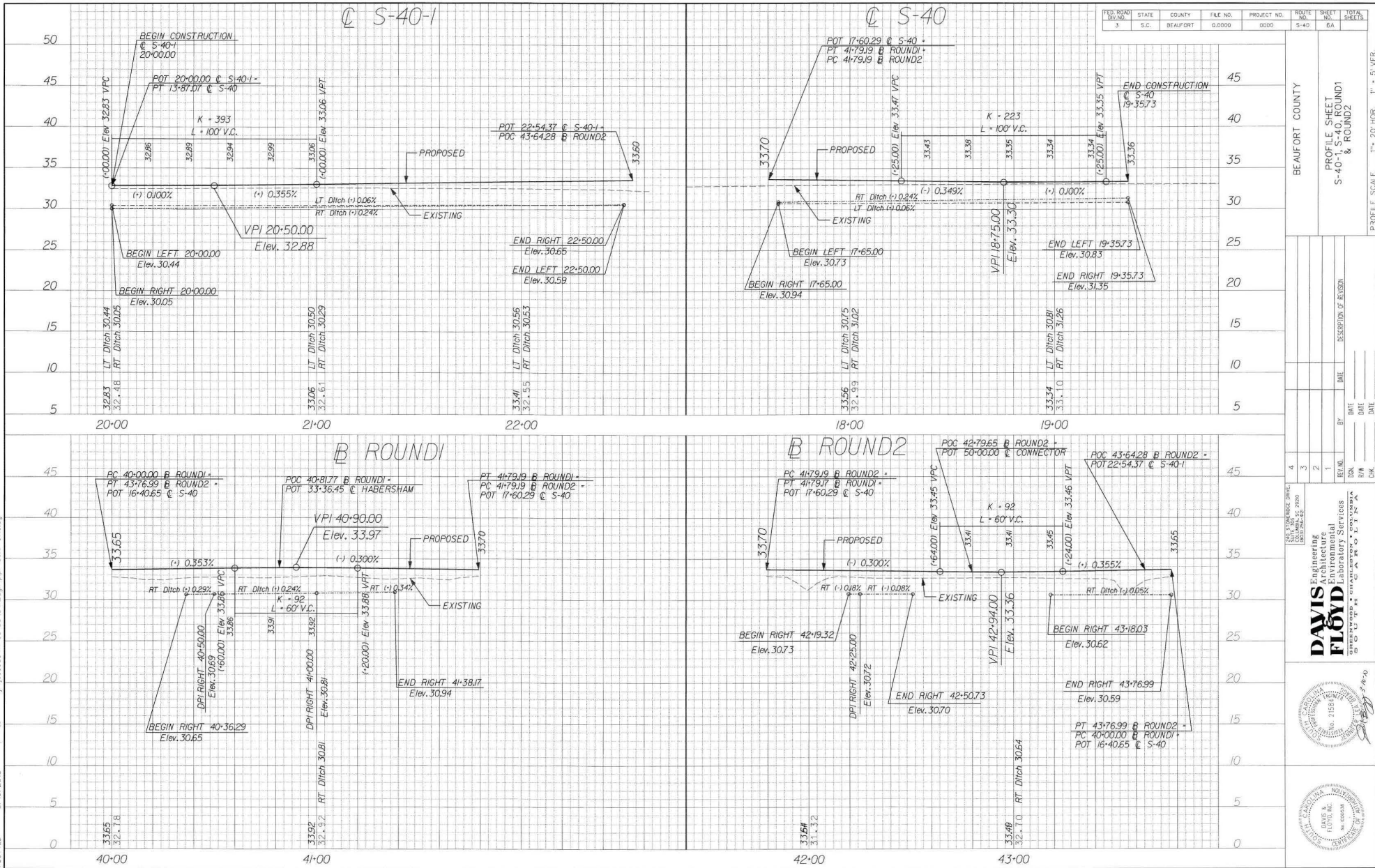
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| 3 | S.C. | BEAUFORT | 0.0000 | 0000 | S-40 | 6 | |

BEAUFORT COUNTY
 PLAN SHEET
 S-40
 PLAN SCALE 1"=20'

| REV. | BY | DATE | DESCRIPTION OF REVISION |
|------|----|------|-------------------------|
| 4 | | | |
| 3 | | | |
| 2 | | | |
| 1 | | | |

DAVIS Engineering
 Architecture
 Environmental
 Laboratory Services
 910 S. W. 13th St., 2nd Floor
 Ft. Lauderdale, FL 33304
 Phone: (954) 546-1111
 Fax: (954) 546-1112
 Email: info@davisflo.com

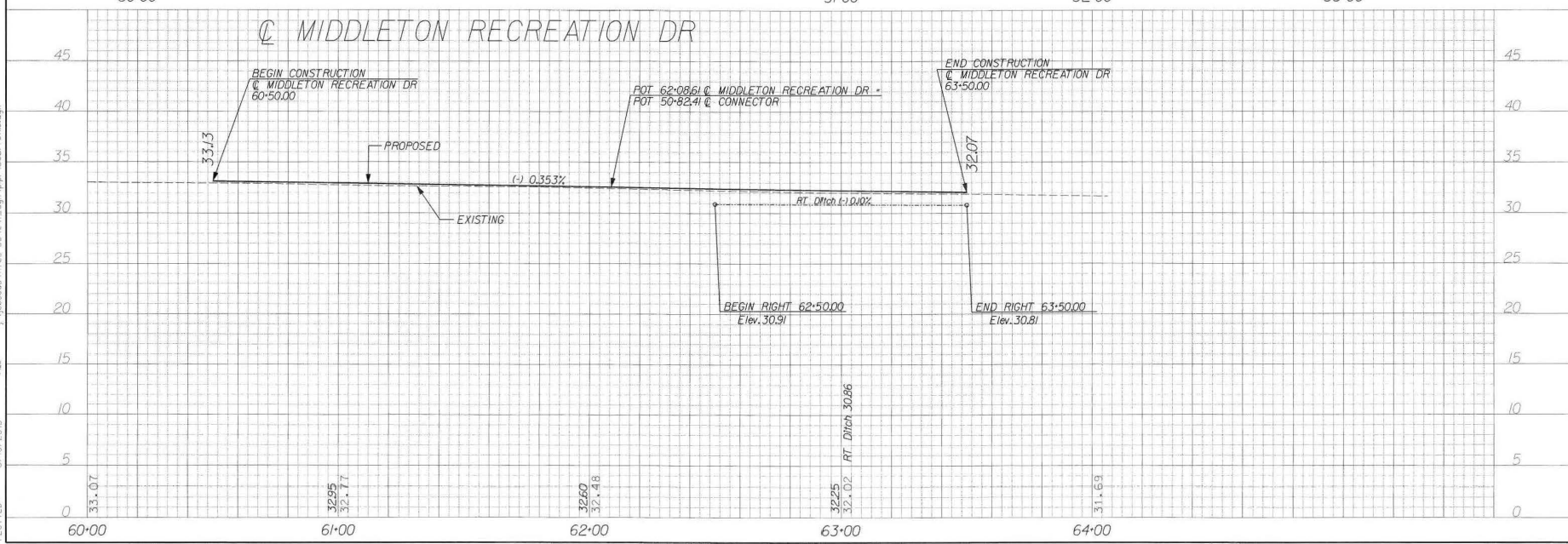




SCALE: 20.0000' / IN.
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 PLOTTED: 3/10/2010
 PEN TABLE: VB-COLA.3RD.tbl
 FILE: J:\job\04\11769-05\c\l\dpn\ppr\06Apr\06Apr.dgn

DAVIS FLOYD
 Engineering
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 Environmental
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 100 W. 11th St., Suite 100
 Columbia, SC 29201
 Phone: 803.799.1111
 Fax: 803.799.1112
 Email: info@davisfloyd.com

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 State of South Carolina



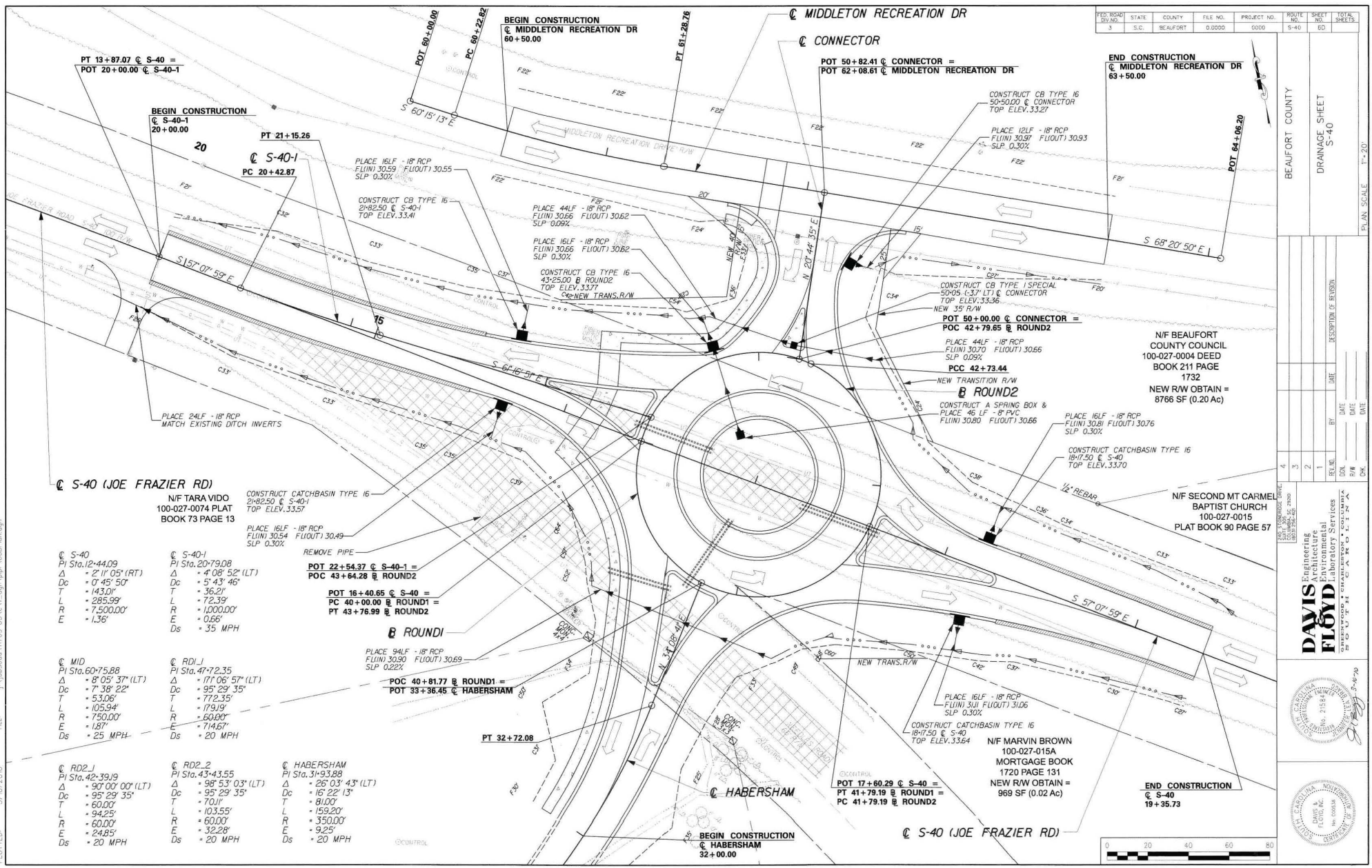
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| FED. ROAD DIST. NO. | STATE | COUNTY | FILE NO. | PROJECT NO. | ROUTE NO. | SHEET NO. | TOTAL SHEETS |
| 3 | S.C. | BEAUFORT | 0.0000 | 0000 | 5-40 | 68 | |

| | | | |
|-----------------|------|--|-------------------------|
| BEAUFORT COUNTY | | PROFILE SHEET CONNECTOR, HABERSHAM & MIDDLETON RECREATION DR | |
| REV. NO. | DATE | BY | DESCRIPTION OF REVISION |
| 4 | | | |
| 3 | | | |
| 2 | | | |
| 1 | | | |
| DATE | DATE | DATE | DATE |
| DM | DM | DM | DM |

DAVIS & FLOYD
 Engineering
 Architecture
 Environmental
 Laboratory Services
 100 S. W. 10th St., Tallahassee, FL 32301
 TEL: 904.302.1234 FAX: 904.302.1235
 WWW.DAVISANDFLOYD.COM

DAVIS & FLOYD, INC.
 No. 00004
 PROFESSIONAL ENGINEER
 STATE OF FLORIDA
 EXPIRES 12/31/2010

SCALE: 20.0000' / IN.
 PLOT DRIVER: 3rd of VB-RW DGN.plt
 FILE: R:\pssoda\1769-05\cvt_dgn\vlpr\Degprn01e.dgn
 PLOTTED: 3/10/2010



| FEED SHEET | STATE | COUNTY | FILE NO. | PROJECT NO. | ROUTE NO. | SHEET NO. | TOTAL SHEETS |
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| 3 | S.C. | BEAUFORT | 0.0000 | 0000 | S-40 | 60 | |

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|-----------------|------|----------------|------|------|------|
| BEAUFORT COUNTY | | DRAINAGE SHEET | | S-40 | |
| REV. | DATE | BY | DATE | REV. | DATE |
| 1 | | | | 1 | |
| 2 | | | | 2 | |
| 3 | | | | 3 | |
| 4 | | | | 4 | |

N/F BEAUFORT COUNTY COUNCIL
100-027-0004 DEED
BOOK 211 PAGE
1732
NEW R/W OBTAIN =
8766 SF (0.20 AC)

N/F SECOND MT CARMEL
BAPTIST CHURCH
100-027-0015
PLAT BOOK 90 PAGE 57

N/F MARVIN BROWN
MORTGAGE BOOK
1720 PAGE 131
NEW R/W OBTAIN =
969 SF (0.02 AC)

END CONSTRUCTION
S-40
19+35.73

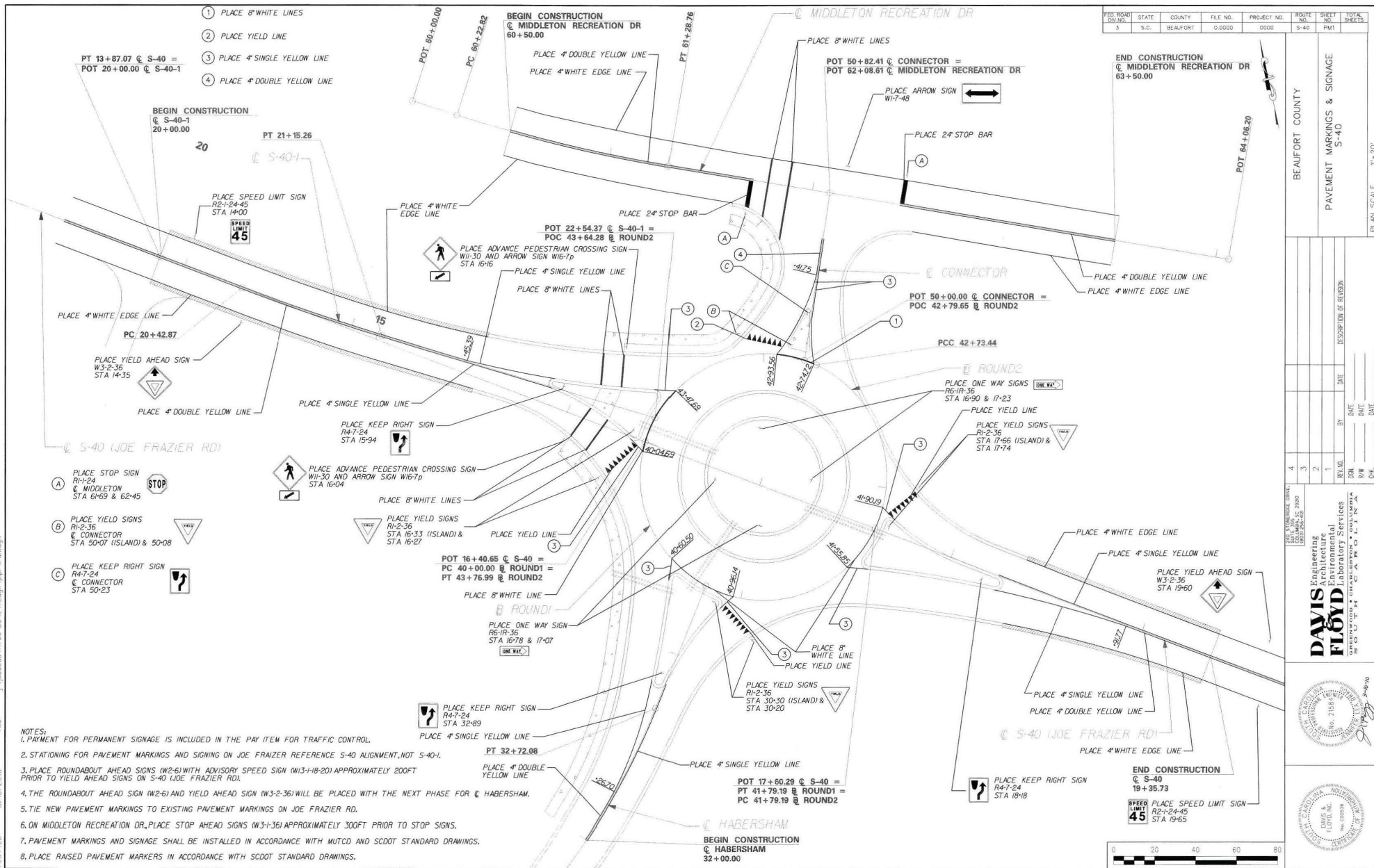
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PLOTTED: 3/10/2010
PEN TABLE: V8-COLA-3RD.tbl
FILE: J:\labroad\17769-05\A\1.dgn\p8\06DPlan.dgn

| | |
|--|--|
| <p>© S-40 PI Sta. 12+44.09 Δ = 2' 11" 05' (RT) Dc = 0' 45' 50" T = 143.01' L = 285.99' R = 7500.00' E = 1.36'</p> | <p>© S-40-1 PI Sta. 20+79.08 Δ = 4' 08' 52" (LT) Dc = 5' 43' 46" T = 36.21' L = 72.33' R = 1000.00' E = 0.66' Ds = 35 MPH</p> |
| <p>© MID PI Sta. 60+75.88 Δ = 8' 05' 37" (LT) Dc = 7' 38' 22" T = 53.06' L = 105.94' R = 750.00' E = 1.87' Ds = 25 MPH</p> | <p>© RD1-J PI Sta. 47+72.35 Δ = 171' 06' 57" (LT) Dc = 95' 29' 35" T = 772.35' L = 17919' R = 60.60' E = 714.67' Ds = 20 MPH</p> |
| <p>© RD2-1 PI Sta. 42+39.9 Δ = 90' 00' 00" (LT) Dc = 95' 29' 35" T = 60.00' L = 94.25' R = 60.00' E = 24.85' Ds = 20 MPH</p> | <p>© RD2-2 PI Sta. 43+43.55 Δ = 98' 53' 03" (LT) Dc = 95' 29' 35" T = 70.11' L = 103.55' R = 60.00' E = 32.28' Ds = 20 MPH</p> |
| <p>© HABERSHAM PI Sta. 31+93.88 Δ = 26' 03' 43" (LT) Dc = 16' 22' 13" T = 81.00' L = 159.20' R = 350.00' E = 9.25' Ds = 20 MPH</p> | |

DAVIS FLOYD ARCHITECTURAL ENGINEERS
Environmental Laboratory Services
1000 W. 10th St., Suite 200
Beaufort, NC 28520
Tel: 252-738-1234
Fax: 252-738-1234

Professional Engineer
No. 2155
State of North Carolina
Exp. 12/31/2010

Professional Engineer
No. 2155
State of North Carolina
Exp. 12/31/2010



SCALE: 20.0000' = 1" IN.
 PLOT DRIVER: 3rd of VB-RW DGN.plt
 FILE: J:\bea\04\1769-05\A\1_dgn\p10\PM1.dgn

2025 WORKING DRAFT
 (THIS DRAWING IS UNFORNISHED AND NOT TO BE USED FOR CONSTRUCTION)

DAVIS FLOYD
 Engineering
 Architecture
 Environmental
 Laboratory Services

1000 W. UNIVERSITY AVENUE, SUITE 200
 BEAUFORT, NC 28516
 TEL: 252.738.2200 FAX: 252.738.2201

NO. 7156
 DATE: 11/11/2020
 BY: JDF
 CHECKED: JDF

BEAUFORT COUNTY
 ENGINEER
 DATE: 11/11/2020
 BY: JDF

EROSION CONTROL NOTES

| FED ROAD DIST NO. | STATE | COUNTY | FILE NO. | PROJECT NO. | ROUTE NO. | SHEET NO. | TOTAL SHEETS |
|-------------------|-------|----------|----------|-------------|-----------|-----------|--------------|
| 3 | S.C. | BEAUFORT | 0.0000 | 0000 | S-40 | EC2 | |



MAP SHOWING LOCATION OF
BEAUFORT COUNTY IN SOUTH CAROLINA

- IF NECESSARY, SLOPES, WHICH EXCEED EIGHT (8) VERTICAL FEET SHOULD BE STABILIZED WITH SYNTHETIC OR VEGETATIVE MATS, IN ADDITION TO HYDROSEEDING, IT MAY BE NECESSARY TO INSTALL TEMPORARY SLOPE DRAINS DURING CONSTRUCTION. TEMPORARY BERMS MAY BE NEEDED UNTIL THE SLOPE IS BROUGHT TO GRADE.
- STABILIZATION MEASURES SHALL BE INITIATED AS SOON AS PRACTICABLE IN PORTIONS OF THE SITE WHERE CONSTRUCTION ACTIVITIES HAVE TEMPORARILY OR PERMANENTLY CEASED, BUT IN NO CASE MORE THAN FOURTEEN (14) DAYS AFTER WORK HAS CEASED, EXCEPT AT STATED BELOW.
 - WHERE STABILIZATION BY THE 14th DAY IS PRECLUDED BY SNOW COVER OR FROZEN GROUND CONDITIONS STABILIZATION MEASURES MUST BE INITIATED AS SOON AS PRACTICABLE.
 - WHERE CONSTRUCTION ACTIVITY ON A PORTION OF THE SITE IS TEMPORARILY CEASED, AND EARTH-DISTURBING ACTIVITIES WILL BE RESUMED WITHIN 14 DAYS, TEMPORARY STABILIZATION MEASURES DO NOT HAVE TO BE INITIATED ON THAT PORTION OF THE SITE.

3. ALL SEDIMENT AND EROSION CONTROL DEVICES SHALL BE INSPECTED EVERY SEVEN (7) DAYS. IF SITE INSPECTIONS IDENTIFY BMPs THAT ARE DAMAGED OR ARE NOT OPERATING EFFECTIVELY, MAINTENANCE MUST BE PERFORMED AS SOON AS PRACTICAL OR AS REASONABLY POSSIBLE AND BEFORE THE NEXT STORM EVENT WHENEVER PRACTICABLE.

OR

ALL SEDIMENT AND EROSION CONTROL DEVICES SHALL BE INSPECTED AT LEAST ONCE EVERY FOURTEEN (14) CALENDAR DAYS AND WITHIN 24 HOURS OF THE END OF A STORM EVENT OF 0.5 INCHES OR GREATER. IF SITE INSPECTIONS IDENTIFY BMPs THAT ARE DAMAGED OR ARE NOT OPERATING EFFECTIVELY, MAINTENANCE MUST BE PERFORMED AS SOON AS PRACTICAL OR AS REASONABLY POSSIBLE AND BEFORE THE NEXT STORM EVENT WHENEVER PRACTICABLE.

4. PROVIDE SILT FENCE AND/OR OTHER CONTROL DEVICES, AS MAY BE REQUIRED, TO CONTROL SOIL EROSION DURING UTILITY CONSTRUCTION. ALL DISTURBED AREAS SHALL BE CLEANED, GRADED, AND STABILIZED WITH GRASSING IMMEDIATELY AFTER THE UTILITY INSTALLATION. FILL, COVER, AND TEMPORARY SEEDING AT THE END OF EACH DAY ARE RECOMMENDED. IF WATER IS ENCOUNTERED WHILE TRENCHING, THE WATER SHOULD BE FILTERED TO REMOVE ANY SEDIMENTS BEFORE BEING PUMPED BACK INTO ANY WATERS OF THE STATE.

5. ALL EROSION CONTROL DEVICES SHALL BE PROPERLY MAINTAINED DURING ALL PHASES OF CONSTRUCTION UNTIL THE COMPLETION OF ALL CONSTRUCTION ACTIVITIES AND ALL DISTURBED AREAS HAVE BEEN STABILIZED. ADDITIONAL CONTROL DEVICES MAY BE REQUIRED DURING CONSTRUCTION IN ORDER TO CONTROL EROSION AND/OR OFF-SITE SEDIMENTATION. ALL TEMPORARY CONTROL DEVICES SHALL BE REMOVED ONCE CONSTRUCTION IS COMPLETE AND THE SITE IS STABILIZED.

6. THE CONTRACTOR MUST TAKE NECESSARY ACTION TO MINIMIZE THE TRACKING OF MUD ONTO PAVED ROADWAY(S) FROM CONSTRUCTION AREAS AND THE GENERATION OF DUST. THE CONTRACTOR SHALL DAILY REMOVE MUD/ SOIL FROM PAVEMENT, AS MAY BE REQUIRED.

7. RESIDENTIAL SUBDIVISIONS REQUIRE EROSION CONTROL FEATURES FOR INFRASTRUCTURE AS WELL AS FOR INDIVIDUAL LOT CONSTRUCTION. INDIVIDUAL PROPERTY OWNERS SHALL FOLLOW THESE PLANS DURING CONSTRUCTION OR OBTAIN APPROVAL OF AN INDIVIDUAL PLAN IN ACCORDANCE WITH S.C. REG. 72-300 et seq. AND SCRI00000.

8. TEMPORARY DIVERSION BERMS AND/OR DITCHES WILL BE PROVIDED AS NEEDED DURING CONSTRUCTION TO PROTECT WORK AREAS FROM UPSLOPE RUNOFF AND/OR TO DIVERT SEDIMENT-LADEN WATER TO APPROPRIATE TRAPS OR STABLE OUTLETS.

9. ALL WATERS OF THE STATE (W6S), INCLUDING WETLANDS, ARE TO BE FLAGGED OR OTHERWISE CLEARLY MARKED IN THE FIELD. A DOUBLE ROW OF SILT FENCE IS TO BE INSTALLED IN ALL AREAS WHERE A 50-FOOT BUFFER CAN'T BE MAINTAINED BETWEEN THE DISTURBED AREA AND ALL W6S. A 10-FOOT BUFFER SHOULD BE MAINTAINED BETWEEN THE LAST ROW OF SILT FENCE AND ALL W6S.

10. LITTER, CONSTRUCTION DEBRIS, OILS, FUELS, AND BUILDING PRODUCTS WITH SIGNIFICANT POTENTIAL FOR IMPACT (SUCH AS STOCKPILES OF FRESHLY TREATED LUMBER) AND CONSTRUCTION CHEMICALS THAT COULD BE EXPOSED TO STORM WATER MUST BE PREVENTED FROM BECOMING A POLLUTANT SOURCE IN STORM WATER DISCHARGES.

BEAUFORT COUNTY

EROSION CONTROL NOTES
S-40

PLAN SCALE 1"=50'

| REV. NO. | DATE | DESCRIPTION OF REVISION |
|----------|------|-------------------------|
| 4 | | |
| 3 | | |
| 2 | | |
| 1 | | |

250 S. WASHINGTON STREET
COLUMBIA, SOUTH CAROLINA 29903
TEL: 803.732.1111 FAX: 803.732.1112

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REGISTERED PROFESSIONAL ENVIRONMENTAL ENGINEERS

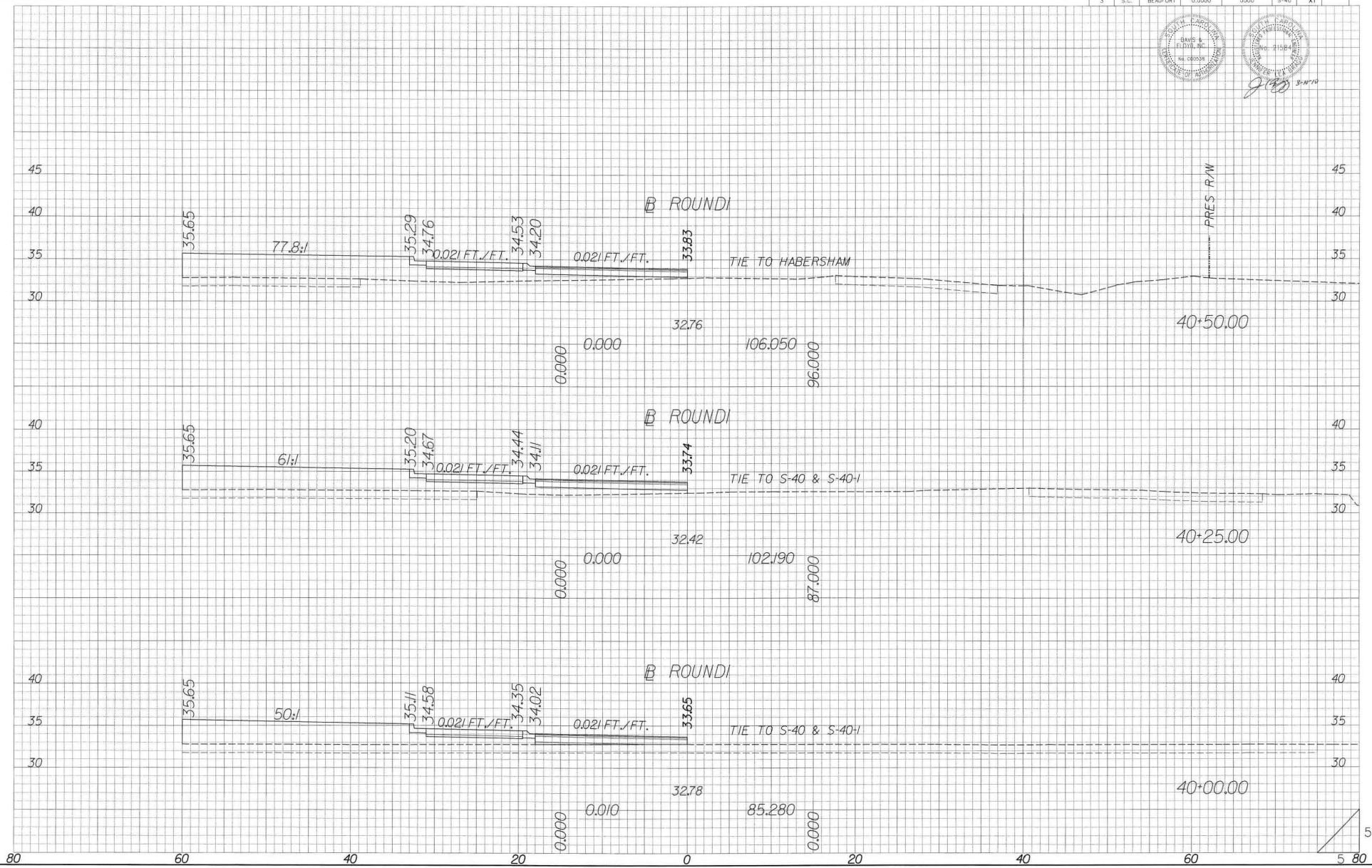
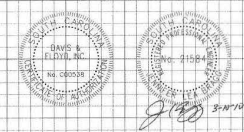


SCALE: 50.0000' = 1" IN.
PLOT DRIVER: 3rd of V8-RW DGN.plt
PLOTTED: 3/10/2010
FILE: F:\pbase04\1769-05\1769-05.dgn\pbase04.ec2.dgn

xborder.dgn

CONSTRUCTION PLANS

| FED. RD. DIST. NO. | STATE | COUNTY | FILE NO. | PROJECT NO. | ROUTE NO. | SHEET NO. | TOTAL SHEETS |
|--------------------|-------|----------|----------|-------------|-----------|-----------|--------------|
| 5 | S.C. | BEAUFORT | 0.0000 | 0000 | S-40 | X1 | |

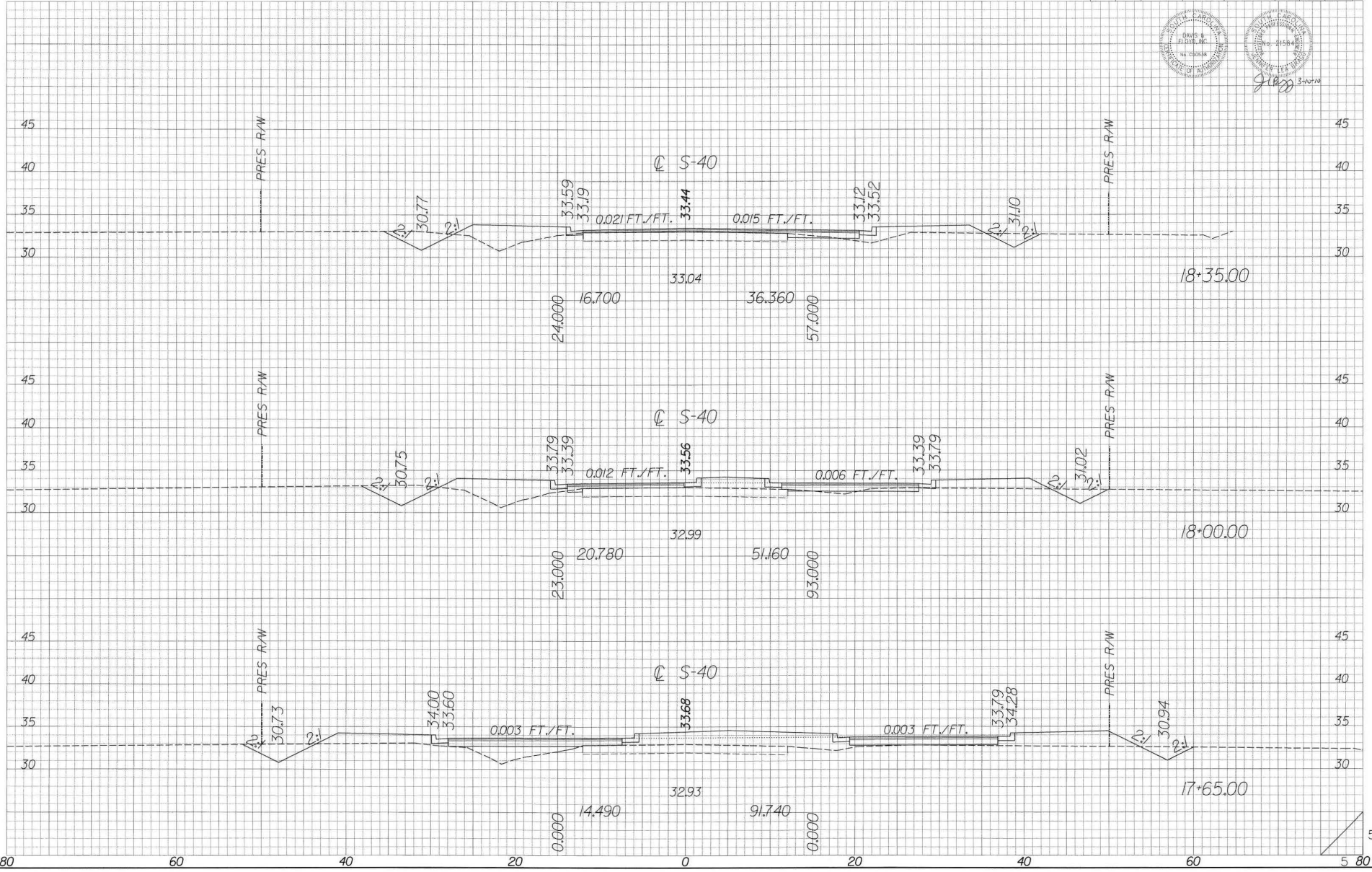
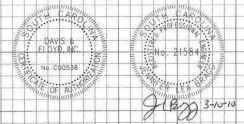


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xsborder.dgn

CONSTRUCTION PLANS

| FED. PROJ. NO. | STATE | COUNTY | FILE NO. | PROJECT NO. | ROUTE | SHEET | TOTAL |
|----------------|-------|----------|----------|-------------|-------|-------|---------|
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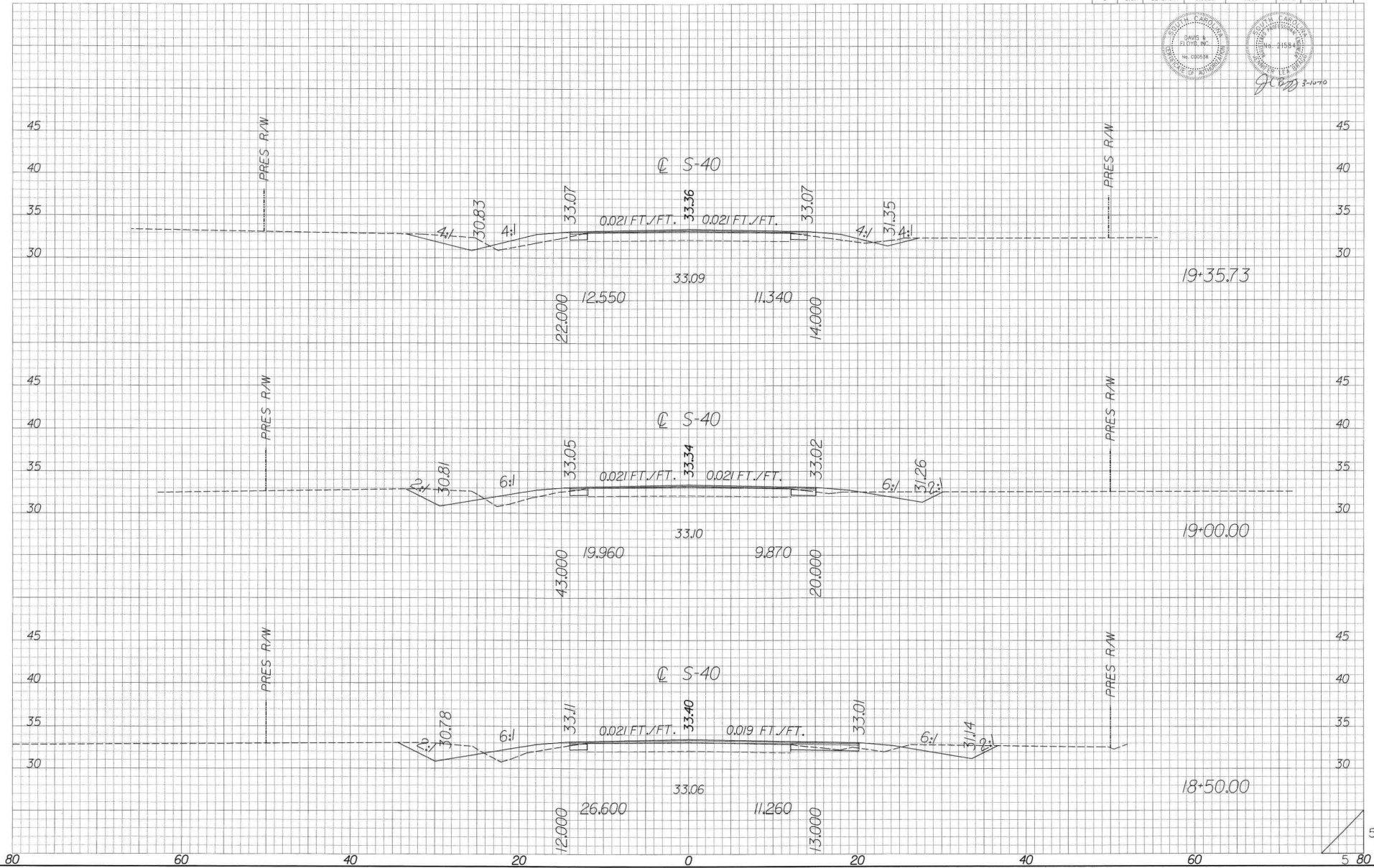
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CONSTRUCTION PLANS

| FED. RD. DIST. NO. | STATE | COUNTY | FILE NO. | PROJECT NO. | ROUTE NO. | SHEET NO. | TOTAL SHEETS |
|--------------------|-------|----------|----------|-------------|-----------|-----------|--------------|
| 3 | S.C. | BEAUFORT | 0.0000 | 0000 | S-40 | X11 | |



JLW 3-11-79



PRINTED: 3/10/2000 4:57:08 PM FILE NAME: 811EX

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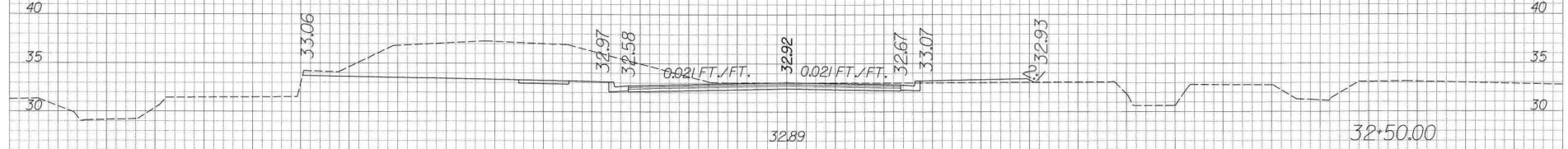
CONSTRUCTION PLANS

| FED. RD. DIST. NO. | STATE | COUNTY | FILE NO. | PROJECT NO. | ROUTE NO. | SHEET NO. | TOTAL SHEETS |
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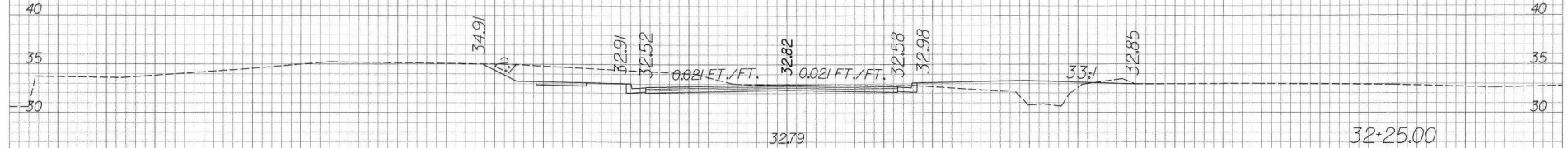


J. Long 3-1-70

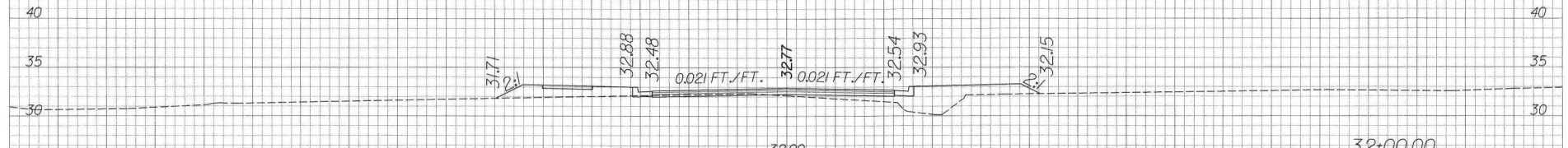
☉ HABERSHAM



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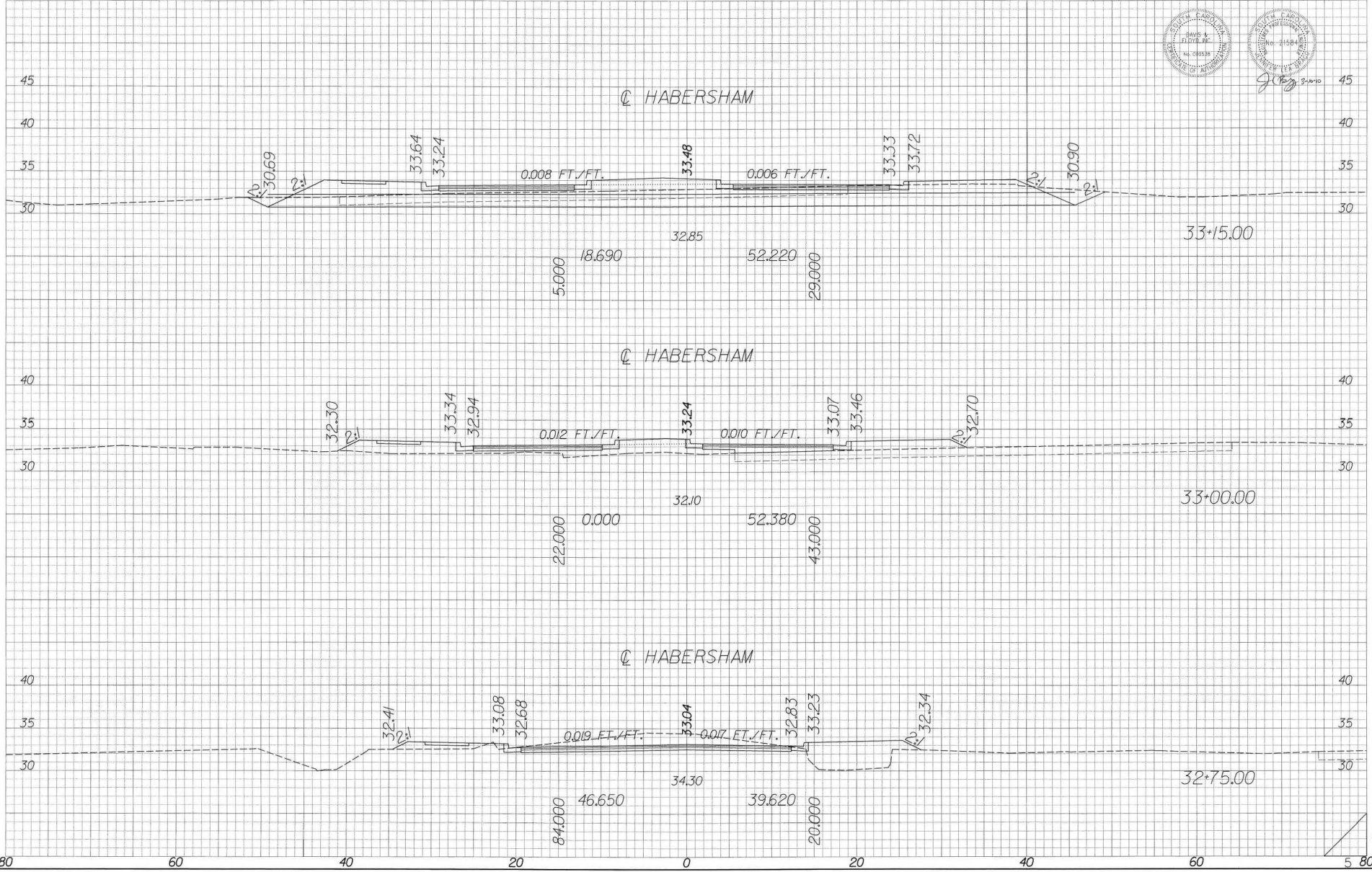


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CONSTRUCTION PLANS

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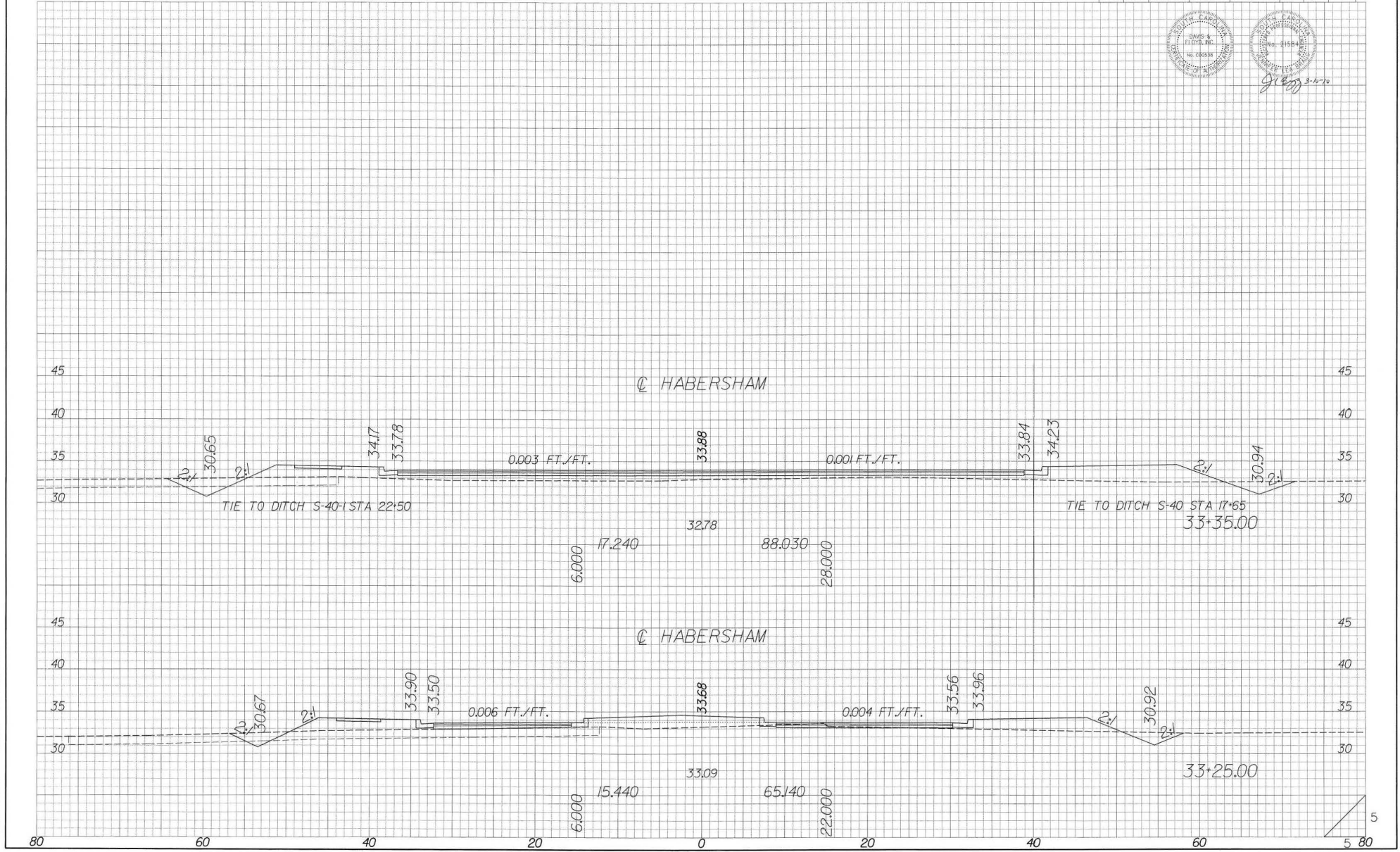
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CONSTRUCTION PLANS

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J. Elvick 3-11-70

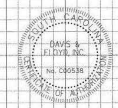


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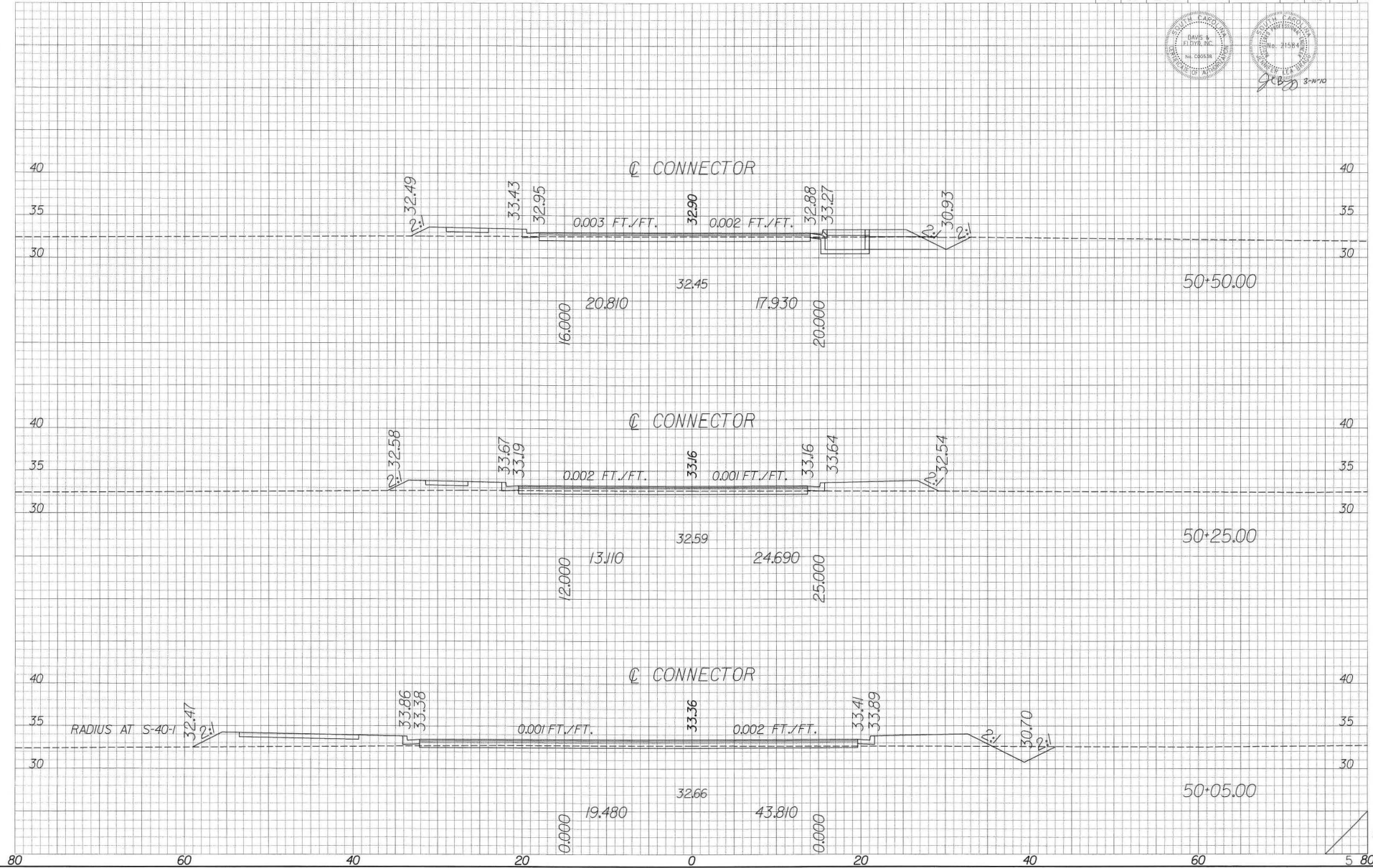
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CONSTRUCTION PLANS

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G.C.B. 8-10-02



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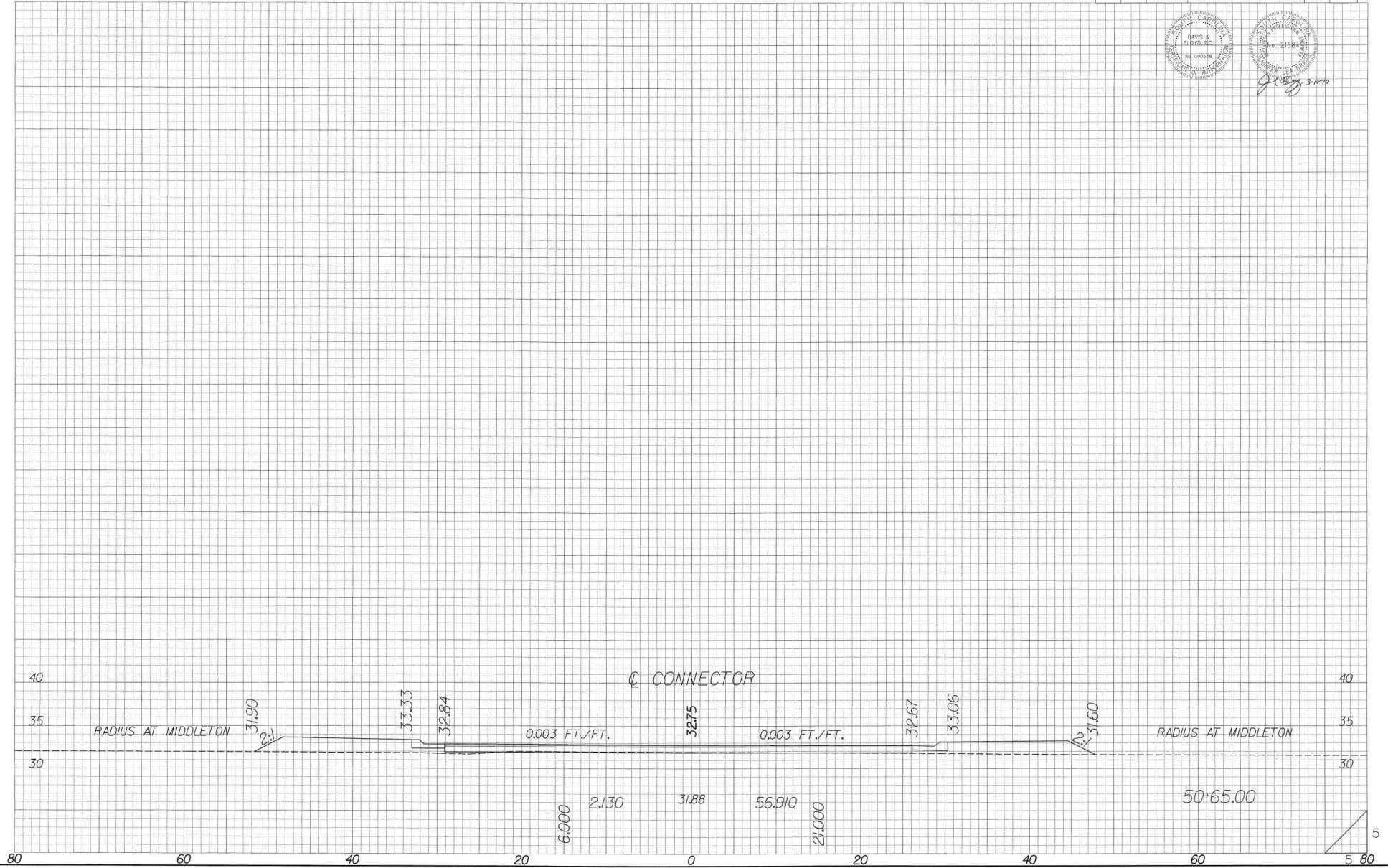
CONSTRUCTION PLANS

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J. R. Egan 3-17-10

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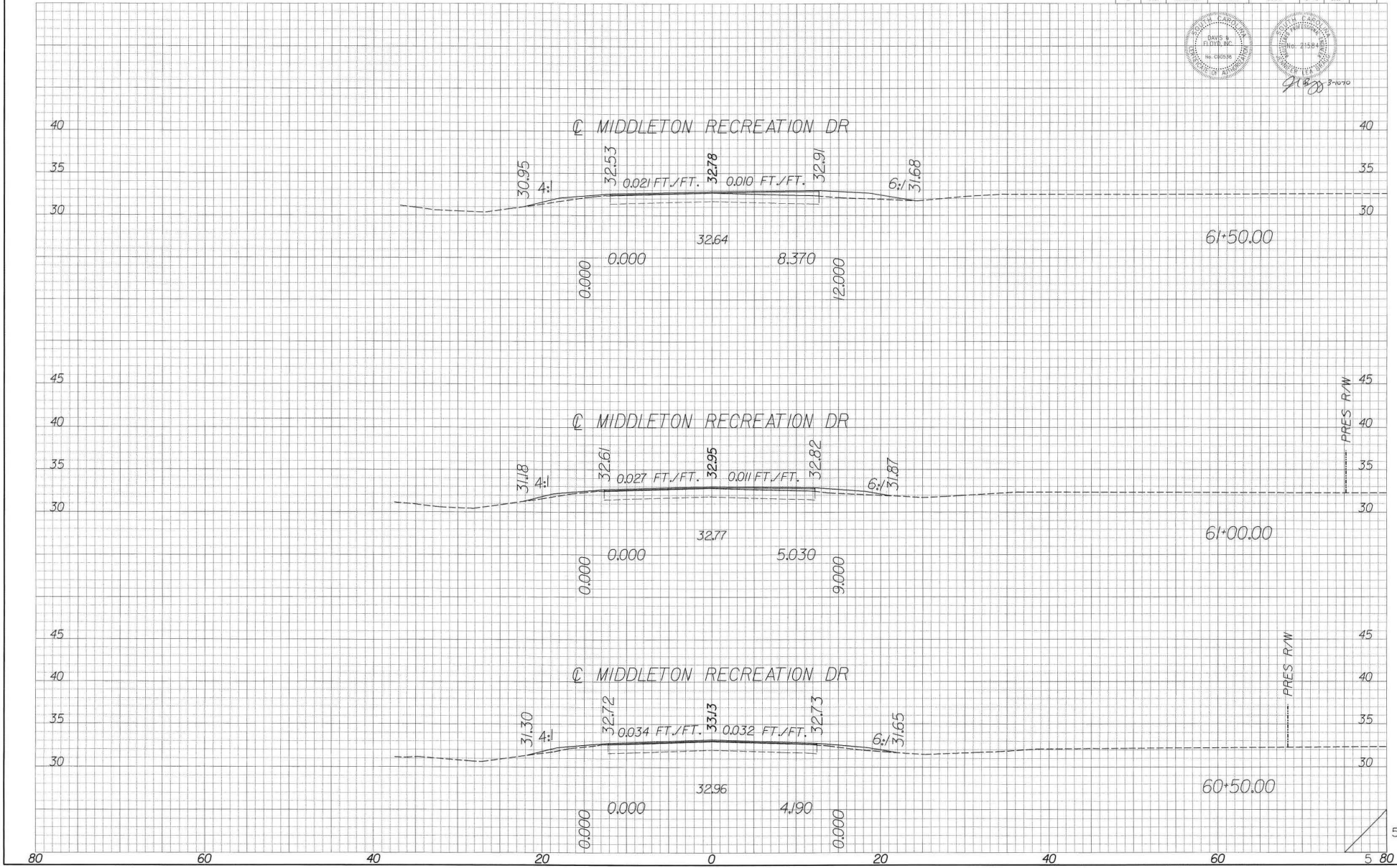
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CONSTRUCTION PLANS

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3-10-10



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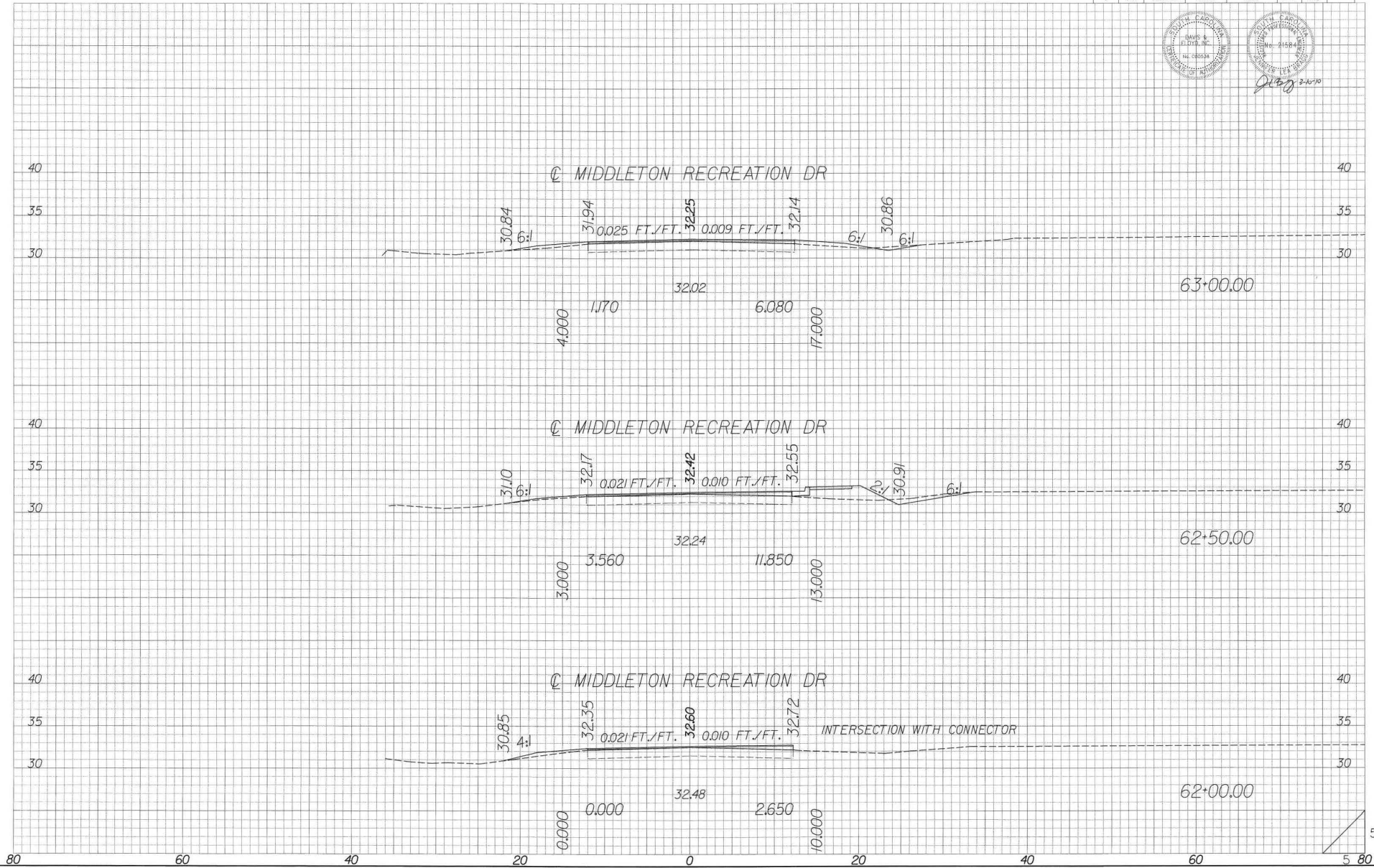
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CONSTRUCTION PLANS

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Travis E. Edwards 2-1-10



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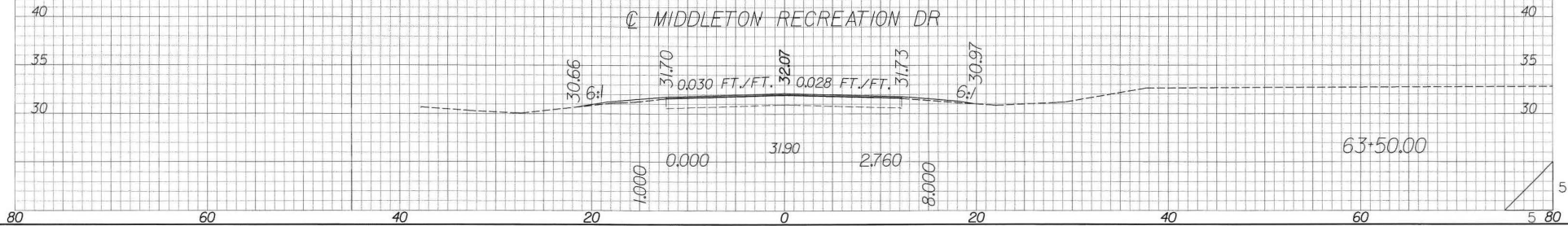
CONSTRUCTION PLANS

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J. Fildes 3-14-20

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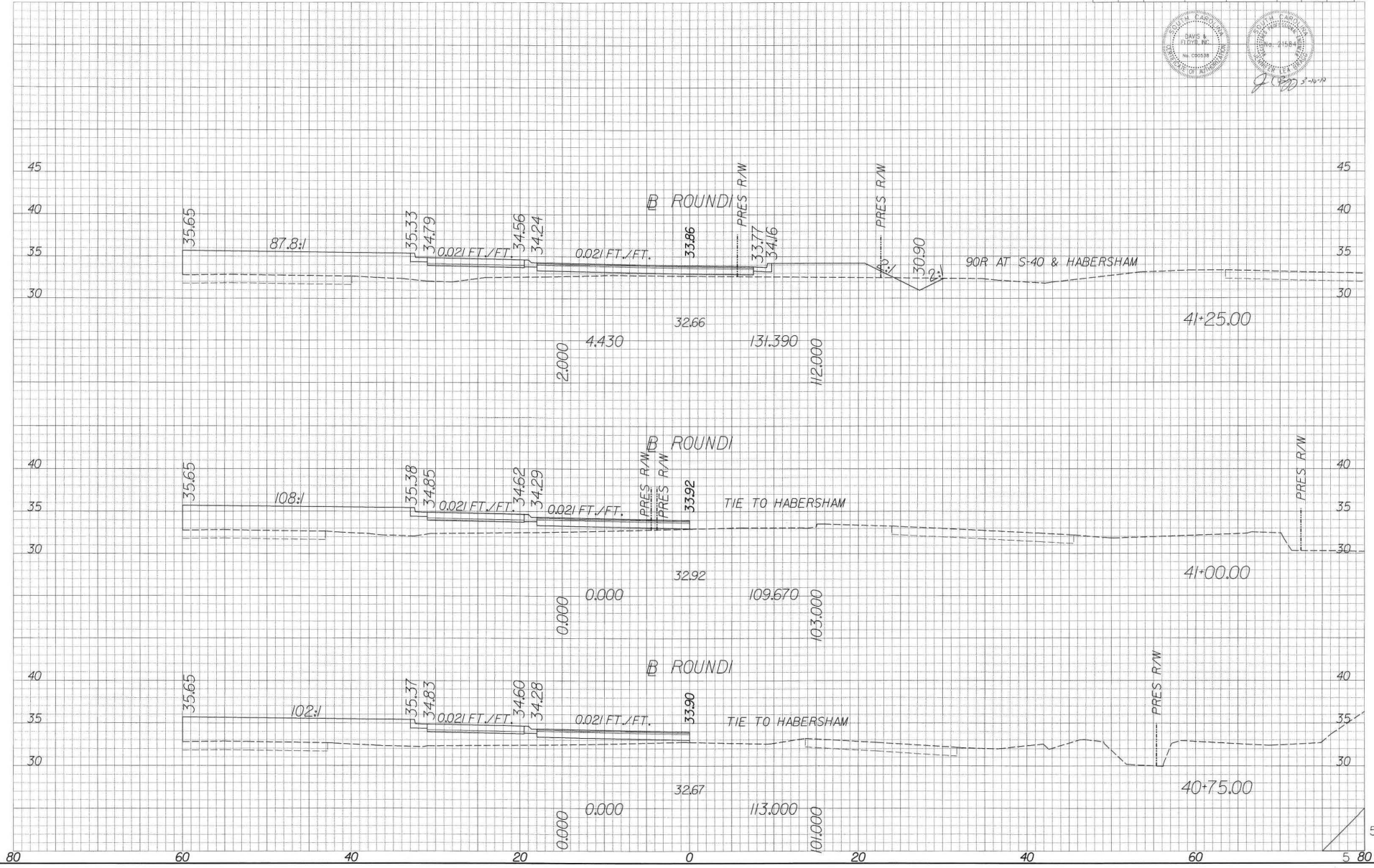
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3-16-12



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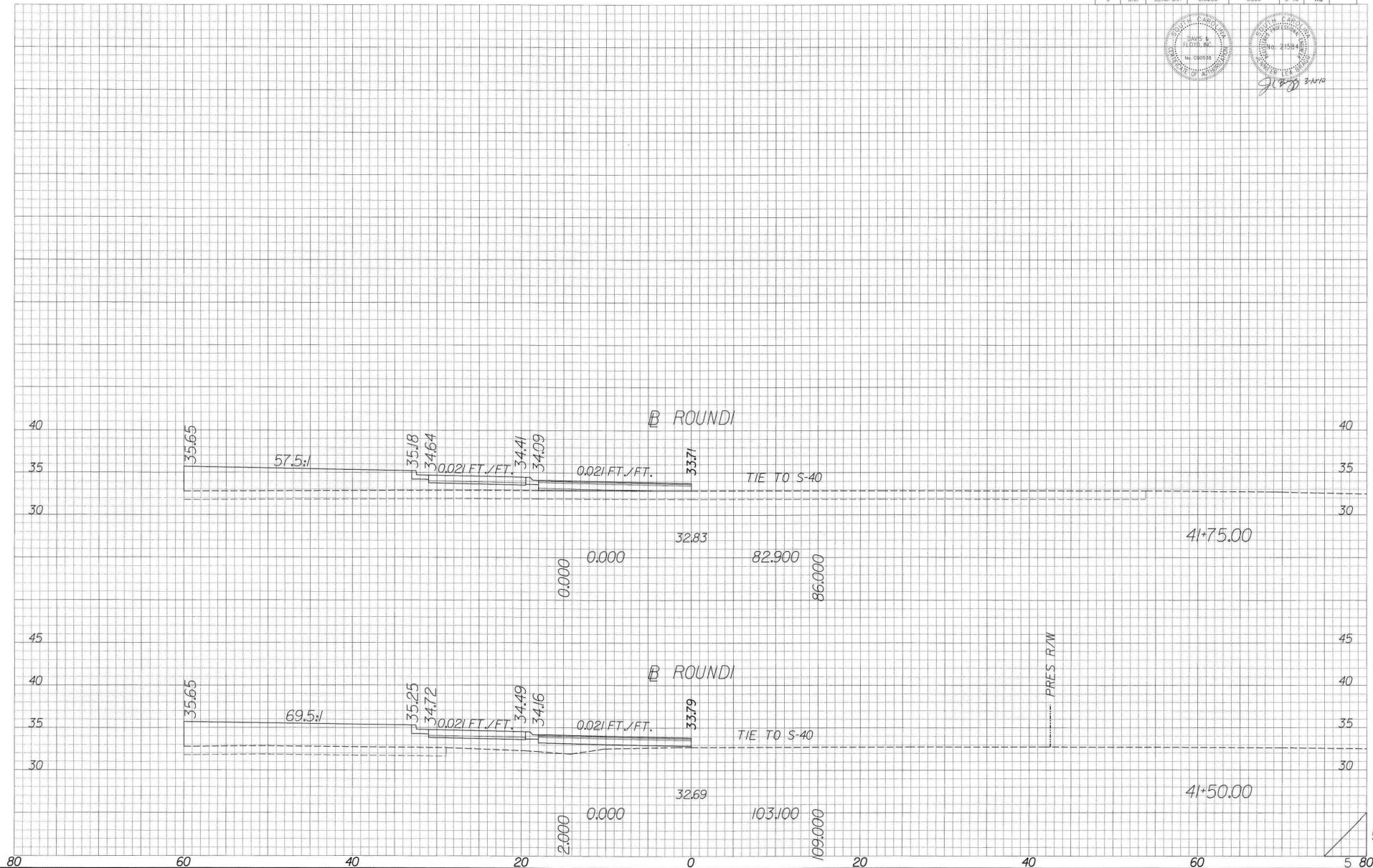
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CONSTRUCTION PLANS

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J. B. BOYD 3/1/10

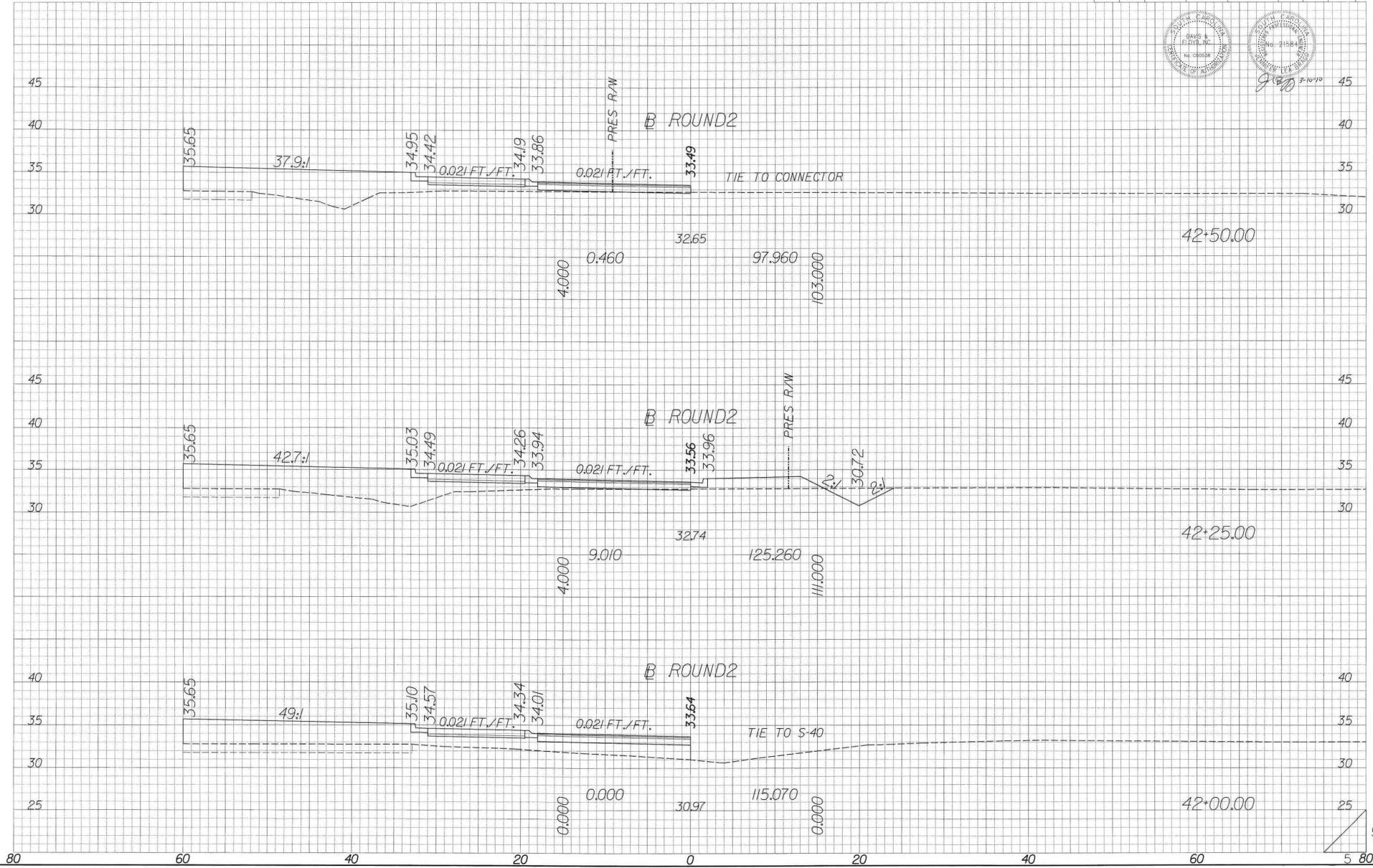
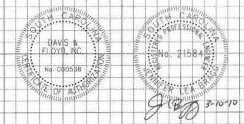


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CONSTRUCTION PLANS

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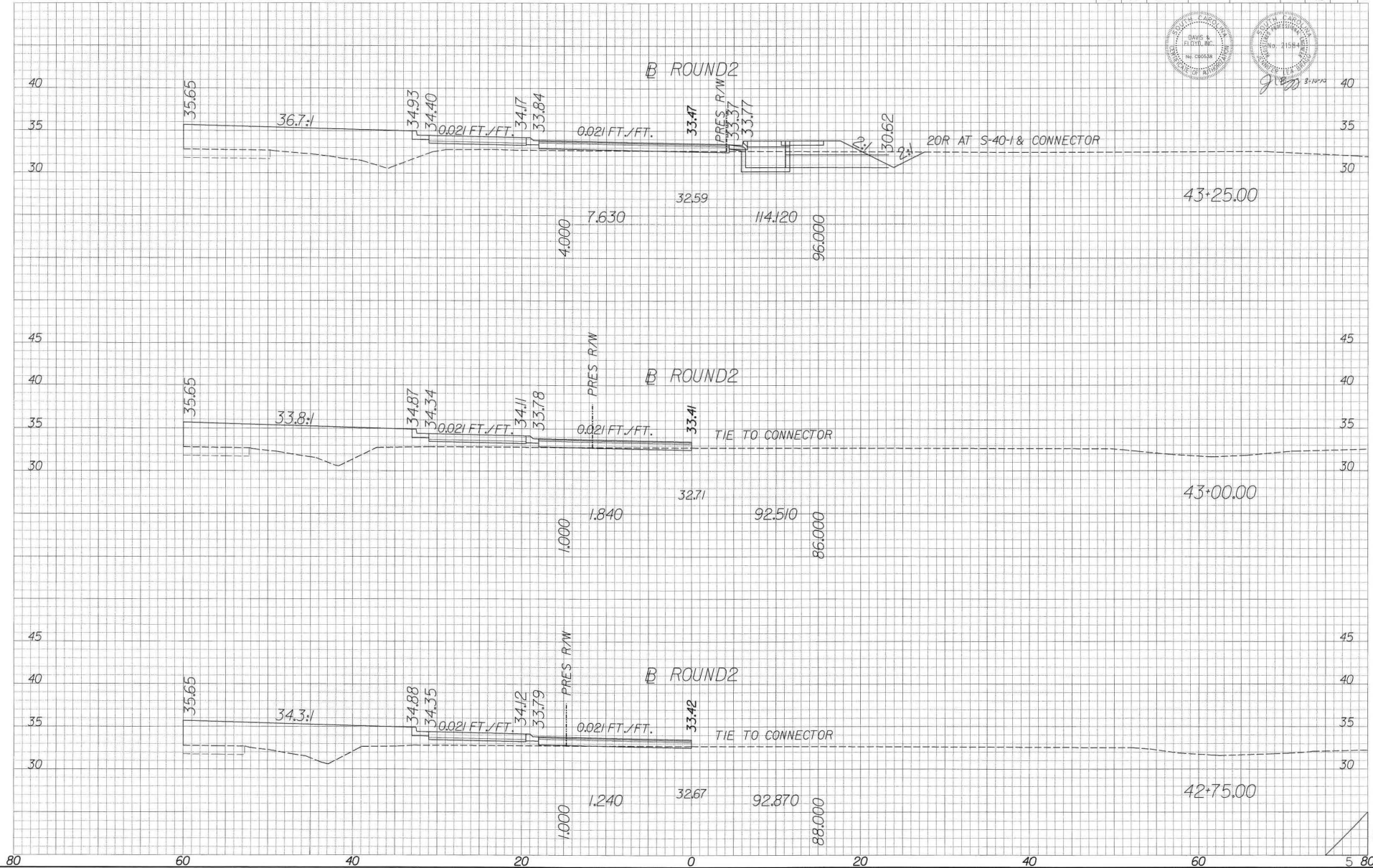
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CONSTRUCTION PLANS

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J. E. [Name] 8-10-20



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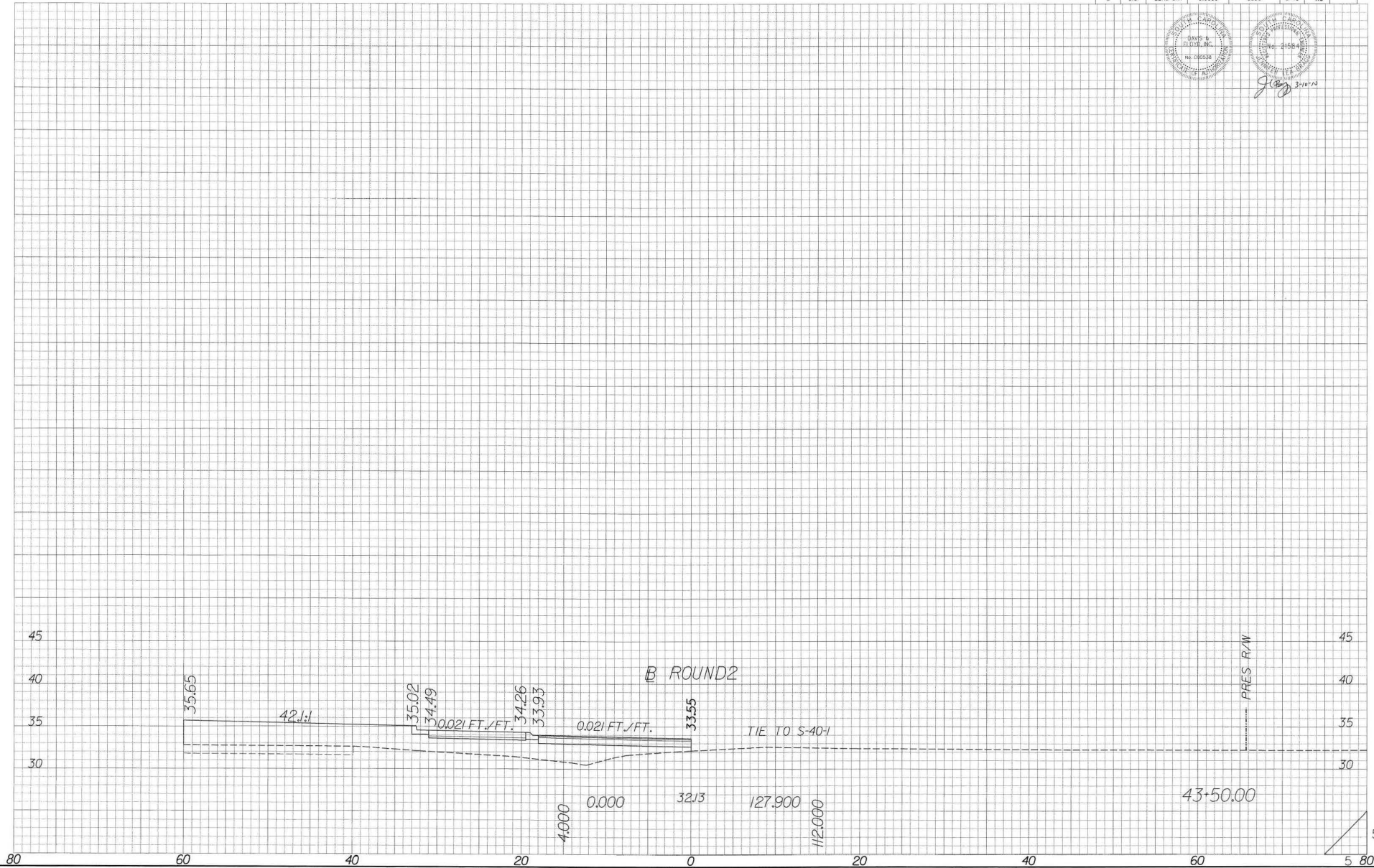
CONSTRUCTION PLANS

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JGP
3-10-10

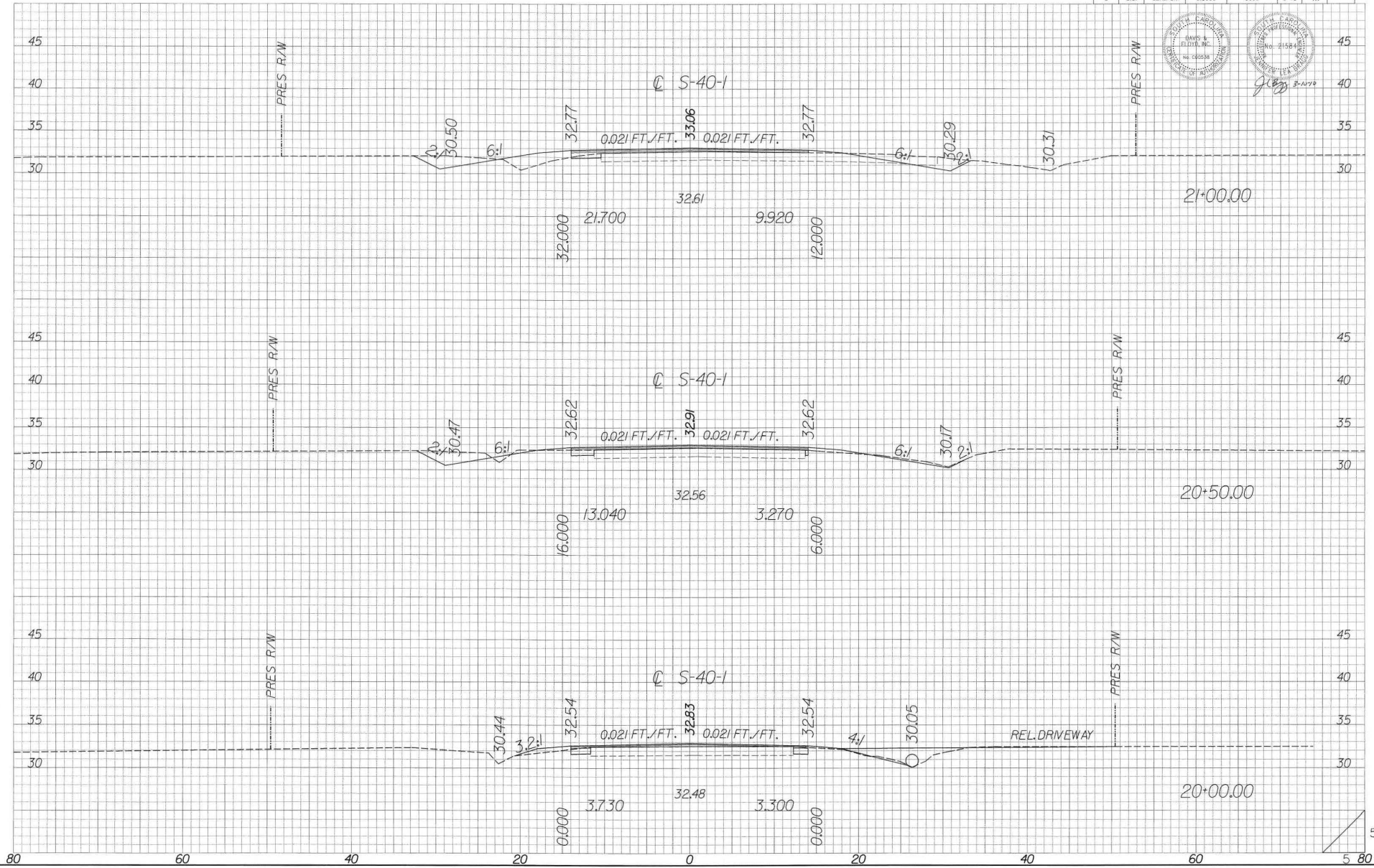
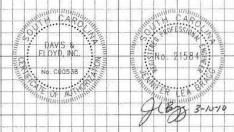
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CONSTRUCTION PLANS

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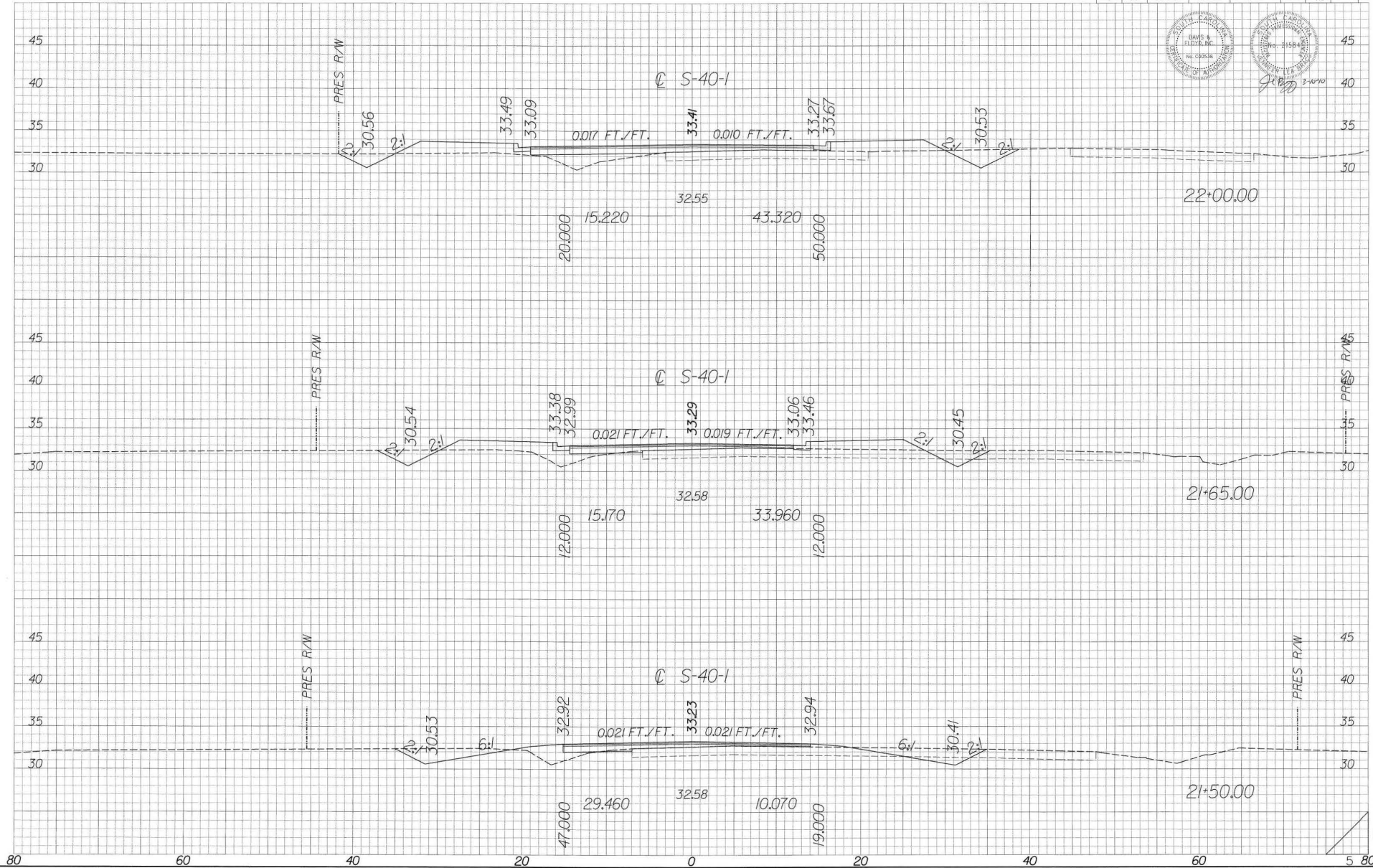


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CONSTRUCTION PLANS

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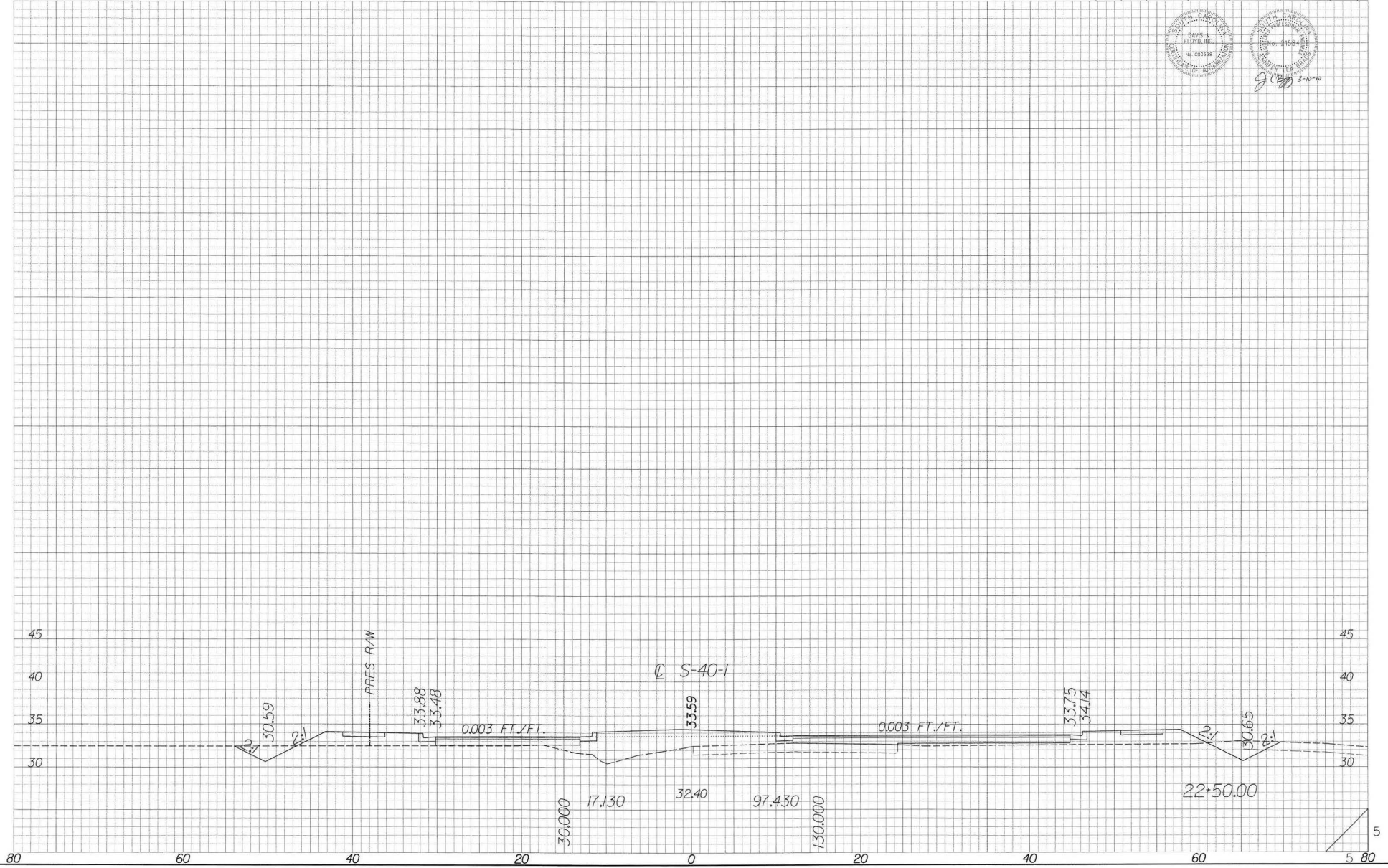
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CONSTRUCTION PLANS

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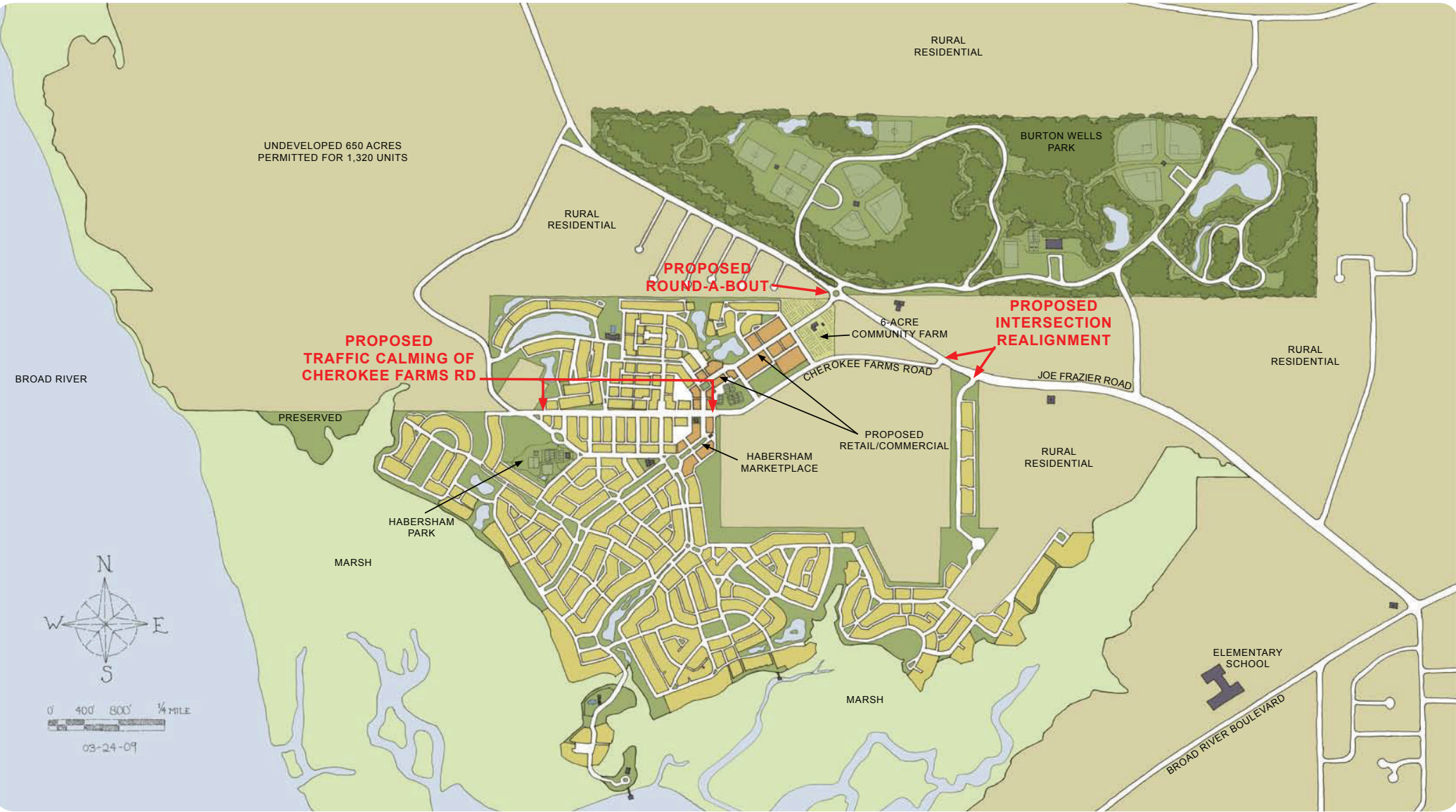
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Exhibit E

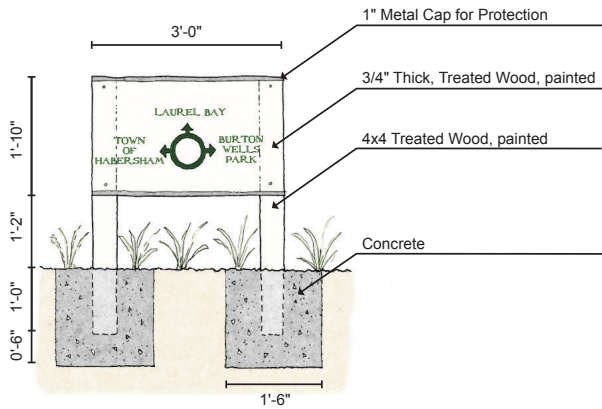
Cherokee Farms, Needles Road and Joe Frazier Road Improvements, Conceptual Plan



HABERSHAM & CHEROKEE FARMS
Regional Context

Exhibit F

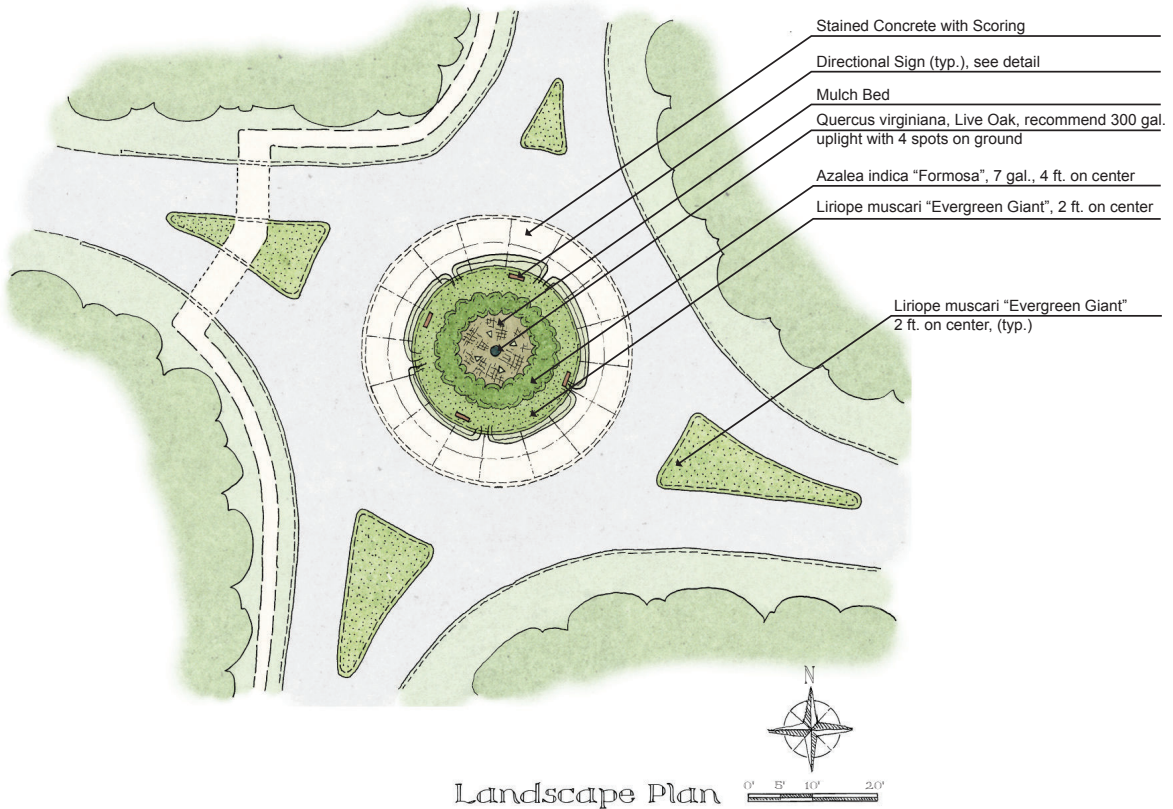
Joe Frazier Road Round-a-bout Landscape Plan



Sign Detail



JOE FRAZIER ROAD
ROUND-A-BOUT
LANDSCAPE PLAN



Landscape Plan



Exhibit G

Beaufort County Zoning and Development Standards Ordinances (“ZDSO”)

Wlodek Zaryczny
Director of Library
(May 10, 2004 to September 5, 2014)

Changes and achievements during this past decade include but are not limited to the following:

- A steady increase in the number of public computer workstations, as well as small awards of under \$1,000 to multi-million dollar grants between 2004 to 2014.
- In 2005, the number of Beaufort County Library (BCL) cost centers expanded from one to eight to increase accounting efficiencies, an Assistant Library Director position was added, and the Public Library Foundation of Beaufort County was formed
- Assisted in producing and developing standards for Library impact fees in 2006
- Increased County standard for library buildings from .6 sq. ft. per capita to 1.25 sq. ft. per capita in 2006
- Increased wages one to three pay grades for all exempt employees in 2007
- Served as President of South Carolina Association of Public Library Administrators from 2007 to 2008
- In the following year, BCL became a founding member of South Carolina Library Evergreen Network Delivery System (SCLENDS) and was the first library to go live in May 2009
- \$1.5M Community Development Block Grant for a new St. Helena Branch Library in 2009/2010
- In 2010, the Beaufort District Collection (BDC) relocated to a greatly expanded new space with one additional full-time staff

- United States Department of Agriculture Grant in the amount of \$2.5M, and \$6M loan in 2010
- Radio Frequency Identification (RFID) & Automated Materials Handling (AMH) technology was implemented throughout BCL during 2011-2013
- A new state of the art 23,500 sq. ft. St. Helena Branch Library was opened for business in 2012. In that same year, added BCL's first YA (Teen Librarian) and Computer Lab Specialist
- Helped author Standards for South Carolina Public Libraries, 2012 Revision
- Served as Executive Director of South Carolina Evergreen Library Network Delivery which expanded to 19 SC County libraries and the SC State Library with a collection of about 3.5 million items from 2012 to 2013
- In 2013, BCL became a model public library in South Carolina with the implementation of content development vis-à-vis "Production and Sound Labs" including 3D printing and other technologies. In that same year added e-books, downloadable audio books and "playaways" (digital audio books)
- IT system-wide upgrade (approved by the Library Board in January 2012) commenced implementation in 2014 which includes production lab services at the Bluffton Branch library
- iPads for BCL's youth department have been purchased and services are in the planning stages
- Author of "*How ROI Modeling Can Secure Funds for RFID Projects*" Strategic Library, June 2014 (A case study of RFID at BCL)

Submitted By
Wlodek Zaryczny

ADD-ONS

The document(s) herein were provided to Council for information and/or discussion after release of the official agenda and backup items.

Topic: Wexford Village Lawsuit and County Corruption
Date Submitted: August 25, 2014
Submitted By: Joni Dimond
Venue: Council Meeting

Aug. 25, 2014
Beaufort County
Council

Item 8.

Having lived in Beaufort County for 29 years, I've earned the right to tell of the corruption here.

① When Weyford Plantation sued me for ~~Interference~~ with landscape maintenance workers, their local attorney Tom Taylor was also the chairman of the Beaufort County Council. This gave Taylor the opportunity to lie about Master In-Equity, Kemmerlin's role in my case.

In the minutes of June 8, 1992 acting as Chairman of Beaufort County Council, Tom Taylor lied when he had said that Kemmerlin had already been appointed a Special Judge for the Court of Common Pleds. What Kemmerlin needed for this was an appointment by an Order of the Supreme Court Justice of South Carolina.

Kemmerlin didn't get this

Joni Dimond

August 25, 2014

Council Meeting

282

appointment until 6 months later.

At this June 8, 1992 meeting Taylor acted unethically when he made a substitute motion to give Kemmerlin a raise, plus fringe benefits and then voted for the motion.

Kemmerlin was only a Master-In-Equity without any authority to sit on my case as a pretend judge on Oct. 27 + 28, 1992.

At my first hearing Kemmerlin made the remark that I was crazy to my attorney, Robinson but only after I walked out of the room.

② Another act of corruption and extortion happened when the county said that Parcel 81 was someplace other than where it truly was. I bought this land at a tax sale in 1990.

This gave Bill Anderson of Town + Country Realty, a chance to steal the peninsula that was

a part of Parcel 81. This county should start to take me seriously and ask Bill Anderson when he bought the peninsula, how much he paid for the 5 acres, and who he bought it from. I have read that Anderson asked \$850,000 for the peninsula. He should also be asked how he was able to sell a portion of Parcel 81 for \$350,000 when I owned the acreage. The acreage that the county says I own was never taxed as it was designated Sinking Fund and exempt from taxes. So therefore I could never have bought this property as it never would have gone up for unpaid taxes. ③ A judge ordered me to spend 6 months at the Beaufort County Detention Center because I failed to show up at his office. Not only was this absurd I had to spend 6 months to the day in detention while everyone else only had to spend 85% of their time. I need this letter

4

Item 8.

to become part of your minutes
as these episodes not only
reek of corruption and extortion
there is racketeering as well.

Jo Ann Diamond

copy to Sheriff Tanner

| | | | |
|------|--|----|---------|
| 4753 | St. Helena Magistrate | \$ | 29,434 |
| 4754 | Sheldon Magistrate | \$ | 18,600 |
| 4755 | Daufuskie Island Magistrate (\$18,027 to Council's Contingency) | \$ | - 0 - |
| 4756 | Magistrate At-Large | \$ | 23,156 |
| 4760 | Probate Court | \$ | 314,400 |
| 4770 | Solicitor's Beaufort Office | \$ | 18,124 |

Council voted unanimously. The motion passed.

Master-In-Equity - 4070

It was moved by Mr. Atkinson, as Finance Committee Chairman (no second required), that Council approve \$108,226 for Master-In-Equity's FY 1992-93 operating budget.

Substitute motion: It was moved by Mr. Taylor, seconded by Mr. Moody, that Council approve \$115,226 (\$7,000 includes fringe benefits) for Master-In-Equity's FY 1992-93 operating budget.

Mr. Taylor remarked the proposed increase is to pay Judge Kemmerlin for additional work outside his Master-In-Equity work, e.g., handling the Non-Jury Roster and Motions Roster for Beaufort County Court of Common Pleas by way of an Order of the Supreme Court Justice of South Carolina.

Next, Mr. Taylor stated statistics show Beaufort County has the highest use of any Master-In-Equity Court in the State of South Carolina. In addition, Beaufort is one of four counties which actually "turns a profit". Proceeds from Judge Kemmerlin's Court are over \$110,000. In addition to the Master's work, Judge Kemmerlin has taken upon himself over the course of the last two years, without compensation, hearing all Motions in Beaufort County and all Non-Jury cases. Normally, these cases are heard by Circuit Court Judges. If Judge Kemmerlin did not hear the Non-Jury cases, effectively, the docket would be backed up even more. Judge Kemmerlin devotes approximately 12 hours/week and would like to be compensated (equates to approximately \$10/hour) for the additional work he is performing as a Special Judge for the Court of Common Pleas.

Mr. Atkinson cannot support granting a raise to one Judge when many Department Heads deserve a raise.

The vote was: FOR - Mrs. Gnann, Mr. Taylor, Mrs. Grace, Mr. Moody and Mr. Von Harten. OPPOSED - Mr. McBride, Mr. Atkinson and Mr. Kline. ABSTAINED - Mr. Fordham. The motion passed.

ORDER

The Honorable Thomas Kemmerlin, Jr., is hereby appointed as a Special Circuit Court Judge for the Court of Common Pleas for Beaufort County to perform the following:

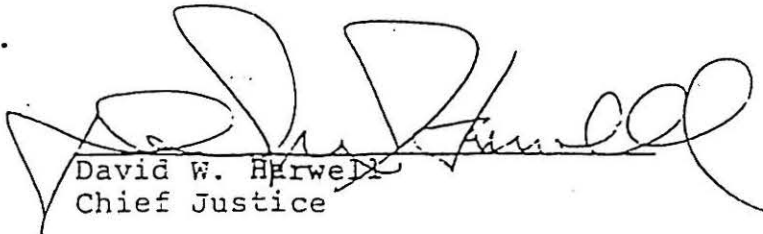
- (1) In jury matters from the date of filing, to hear any motion except motions for summary judgment, motions to add parties, motions in limine including evidentiary matters, scheduling orders, and motions under Rule 40(c)(3), SCRPC; and
- (2) In non-jury matters from the date of filing, to hear any motion and to perform all administrative duties necessary to prepare these cases for trial.

Further, the clerk of the circuit court, at the expiration of 120 days from the date of filing, will refer all non-jury cases to the Honorable Thomas Kemmerlin, Jr., as Master-in-Equity. These referrals shall be with finality and with direct appeal to the Supreme Court. At the time of reference, the circuit court clerk will bill the plaintiff's attorney the cost of the reference according to the schedule of costs in effect, and this bill must be paid prior to the matter being set for hearing. Judge Kemmerlin may, in his discretion, remand any case referred to him back to circuit court for disposition by a circuit judge at a regularly scheduled term of non-jury court.

This order shall expire on January 3, 1994.

IT IS SO ORDERED.

December 9, 1992
Columbia, South Carolina


David W. Harwell
Chief Justice



The Prudential

Beaufort Realty Co.

(803) 525-0028

210 Carteret Street

Beaufort, SC 29901



Just Listed:

**PARCEL 81 COOSAW RIVER DRIVE
\$160,000**

**Just over 19 acres located on tidal creek.
Easy access to the deep water of the Atlantic via the Morgan River.**

**PLEASE CONTACT
Gloria Smalls
803-525-0028 or 803-521-4415**

If your property is currently listed with a real estate broker, please disregard this offer; it is not our intention to solicit the offerings of other real estate brokers. We cooperate with them fully.

**Jo Ann Diamond
OR CURRENT OCCUPANT
61 Yorkshire Dr
Hilton Head Island SC 29928-3368**



August 2004
TOWN & COUNTRY
 REAL ESTATE

LOTS/ACREAGE

| | | |
|-------------------------------------|--|-----------|
| Jasper | | |
| 658 Ac. Hunting Tract | | \$789,600 |
| 4Ac. Commercial Hwy 170 Okatie | | \$750,000 |
| 4Ac. Commercial I.D. on Hwy 170 | | \$750,000 |
| 10 Ac-Lot 6 Bees Creek (u/c) | | \$60,306 |
| 10 Ac-Bees Creek Rd. Parcel D (u/c) | | \$58,596 |
| 11 Ac-Bees Creek Rd. Parcel E (u/c) | | \$57,285 |
| Lot 2 Gillisonville, 3.52 acres | | \$17,600 |
| Lot 5 Gillisonville 3.52 Ac. Hwy 75 | | \$12,320 |

| | | |
|--|--|-----------|
| Beaufort | | |
| Oceanview Sea Pines Lot at Coffin Pt. | | \$269,000 |
| Bluffton 5 acre Historic District | | \$120,500 |
| 6.7 Ac. Okatie | | \$134,000 |
| 1.50 Ac Marshview Lot Fripp Pt | | \$129,000 |
| 5 Ac Tract, Chechessee Rd. (2 tract available) | | \$99,500 |
| 5.82 Ac Old Sheldon Ch. Rd. | | \$45,000 |

| | | |
|-------------------------------------|--|-----------|
| Hampton | | |
| 177 Ac Hunting Tract | | \$531,000 |
| 7.18 Ac. with single MH | | \$69,000 |
| Melody St. Varnville (Building Lot) | | \$11,000 |
| Colleton | | |
| Single wide/leased land on Ashpoo | | \$35,000 |
| 3.2 Wooded Lot (Near Yemassee) | | \$29,000 |
| 1.62 Ac. Wooded Lots off Hwy 21 | | \$19,000 |

Contact Ron Griner at (843) 812-4603



WILLIAMS, SC - 29 acres with absolute privacy. Partially wooded, deer and dove, great hunting 12 acre field. Located near Ruffin, SC. Offered at \$69,000. MLS#98580. Contact Bill Anderson at 843-521-6343 for more information.



WHETSTONE CROSSING - Augusta Hwy 61, prime deep water on Edisto river, 21.5 acres. Flowing well, 24x60 open shed with metal roof, septic tank in place. Offered at \$185,000. Contact Bill Anderson at 843-521-6343 for more information.

WATERFRONT/MARSHFRONT/DEEPWATER

ISLANDS OF BEAUFORT - LOT 9 FIVE OAKS - .51 acre lot with marshview. Community dock. Offered at \$155,000. Contact Judy Waters at 597-0096. MLS#97796.

COOSAW ISLAND - 21 acres on Tidal Creek. Existing dock, partially wooded. Offered at \$350,000. Contact Bill Anderson at 521-6343 for more details.

COOSAW ISLAND - 61 acres with marshview. Heavily wooded, interior. Offered at \$354,000.

FROGMORE - 13.85 acres with natural Black Gum pond, high land, mature trees, live oaks. Great for private estate. Offered at \$148,000. MLS#96897. Call Bill Anderson at 521-6343.

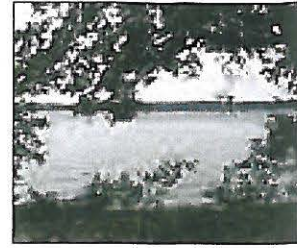
VARNVILLE - Mobile home lot 1/2 acre. Located on 511 Keans Neck Road. MLS#96726. Offered at \$9,900. Contact Ron Griner at 843-812-4603.

LOBECO - Nice country building lot, 75x200. Located on 511 Keans Neck Road. MLS#96726. Offered at \$8,000. Contact Maureen Corbin-Cooley at 812-5435.

THIRD ST. - 2 acres located in Hampton. Hwy

CANE ISLAND RETREAT

Exclusive Waterfront Community



- Lot 13 Bay Drive - \$315,000
- Lot 14 Bay Drive - \$295,000
- Lot 15 Bay Drive - \$295,000
- Lot 1 Cane Way - \$220,000
- Lot 5 Cane Way - \$245,000

Contact Cassy Denton for a private tour.
 Town & Country Real Estate
 271-0500

ACREAGE & HOMESITES

Call Jim Thomas at (843) 812-6610

21.5 ACRES SEASIDE ROAD
 Diverse Acreage on St. Helena Island
 Open fields, hardwoods, live oaks. Over 200 feet of frontage on Wards Creek, Harbor River Basin.

TOWN & COUNTRY and Judy Waters are
 REAL ESTATE

“Going the Extra Mile for You”!

2 Oyster Catcher



2 bedroom, 2 full bath, 1540 sq ft home with library, living/dining room with vaulted ceilings, center kitchen, new hardwood floors, 2 1/2 car garage & privacy fence in upscale neighborhood. Reduced \$20,000.

\$275,000

60 Coosaw River Drive



This majestic 5.29 acre property on Tidal Creek has a fabulous view of Lucy Creek. Private peninsula that has panoramic views. Large oak trees, a wonderful orchard with fruit trees and blueberry bushes. A lovely guest cottage with metal roof and all permits in place for a 4 bedroom, 3 bath home. Dock and boat lift in place. A must see!

\$850,000

26 Ponderosa Circle



WHAT A BUY!

Yemassee, SC
 Lovely, well maintained property: 1.49 with fantastic landscaping. This 3 bed 2 bath home is a rambling 2,000 sq ft kitchen with solid pine cabinets, living family room, or 4th bedroom. All brick New roof. Big screened porch. Living 20 minutes to MCAS Beaufort.

\$255,000

Topic: Proposal for Finance Committee Regarding
Millage Value and Rate

Date Submitted: August 25, 2014

Submitted By: Bill Evans

Venue: Council Meeting

Subject: Proposal for Fin/Ops Committee regarding Millage Value and Rate

My concern is simple; the development of the rate to set for the mil in order to fund our budget has been inconsistent in the past. This last year is a good example of how the rate was set without full consideration or knowledge of the factors that impact only the school district's collections. The proposal has several parts:

1. Staff (Assessor, Auditor, Treasurer, etc.), compute the value of the mil for all government entities and make that value known.
2. Working with staff at the County, the District financial staff identifies the rate needed to fund the approved revenue portion of the budget as established by the County Council.
3. The School Board develops and implements a new fund balance policy that states that our fund balance will fall between 13% and 15% with a median expectation of 14%.
4. The County Council adopts a policy that automatically replenishes the District fund balance back to 14% if it ever falls below 13%; the District agrees that if the fund balance ever exceeds 15% we will automatically spend the fund balance down to the 14% level.
5. The agreement between the Council and the District ensures that this will take place automatically, and that any increase required is automatic and independent of any other budget requests.

Implementing such an agreement, ensures that both the Council and the District are protected against any events such as 6%-4% movement, appeals, reassessments, etc. This proposal also provides stability, becomes a plus as we work with bonding agents as they can see great stability in our fund balance. It also means that the mil value and rate are set in June with the approval of the budget and any events will automatically be addressed with the next budget, with the fund balance either being spent down or funded so that it remains at the 14% level.

Bill Evans

August 25, 2014

Council Meeting

Topic: School District 2015 Appropriation
Date Submitted: August 25, 2014
Submitted By: Stu Rodman
Venue: Council Meeting

BCSD '15 Appropriation

| (M's - \$) 6/23/14 | '12 <u>Act</u> | '13 <u>Act</u> | '14 <u>Est</u> | Inc / (Dec) | '15 <u>Budget</u> | '15 Mill Options | |
|-----------------------------|-------------------|-------------------|-------------------|--------------|----------------------|------------------|---------------|
| | | | | | | +4.2 Mills | +6.0 Mills |
| <u>Mill Value</u> | | | 1.13 | | 1.13 | 1.15 | |
| <u>Collections</u> | | | | | | 97% | |
| <u>Mills</u> | | | 97.5 | | 101.7 4.3% | 101.7 4.3% | 103.5 6.2% |
| <u>Revenues:</u> | | | | | | | |
| Ad Valorem | | | 110.2 | 4.7 | 114.9 | 112.9 | 114.9 |
| All Other | | | <u>69.6</u> | <u>5.3</u> | <u>74.9</u> | | |
| | | | 179.7 | 10.0 | 189.8 | | |
| <u>Expenditures:</u> | | | | | | | |
| State Mandates | | | | 4.0 | | | |
| Enrollment Growth | | | | 3.2 | | | |
| Transportation | | | | 1.2 | | | |
| Non-Certified | | | | 0.7 | | | |
| Lost Special Revenue | | | | 0.7 | | | |
| Operational | | | | 0.6 | | | |
| All Other | | | | (0.4) | | | |
| BoE Identified Cuts | | | | <u>(2.3)</u> | | | |
| | | | 181.9 | 7.7 | 189.6 4.2% | | |
| <u>Net:</u> | 1.6 | 2.4 | (2.2) | | 0.2 | (1.8) | 0.2 |
| <u>Ending Fund Balance:</u> | 28.1 15.8% | 30.5 16.8% | 28.3 14.9% | | 28.5 14.3% | 26.5 13.3% | 28.5 14.3% |
| | | | | | 14.0% | | |

Stu Rodman
August 25, 2014
Council Meeting

Topic: School District General Fund Summary
Date Submitted: August 25, 2014
Submitted By: Stu Rodman
Venue: Council Meeting

BCSD General Fund Summary (M's - \$)

5/27/14

| | FY 04 | FY 05 | FY 06 | FY 07 | FY 08 | FY 09 | FY 10 | FY 11 | FY 12 | FY 13 | FY 14 |
|---------------------------------|-------|-------|-------|-------|-------|-------|-------|-------|--------------------|-------|-------|
| | Act | Act | Act | Act | Act | Act | Act | Act | Act | Act | Est |
| 135 Day Enrollment | 17.9 | 18.4 | 18.7 | 19.2 | 19.2 | 19.1 | 19.0 | 19.3 | 19.3 | 19.5 | 19.7 |
| | | | | | | | | | 10 Year Increase | | 1.8 |
| | | | | | | | | | | | 10% |
| Expenditures (Excls Charter) | 121.4 | 127.3 | 133.3 | 149.6 | 156.5 | 164.7 | 168.8 | 172.9 | 170.6 | 173.1 | 177.4 |
| | | | | | | | | | 10 Year Increase | | 56.0 |
| | | | | | | | | | | | 46% |
| | | | | | | | | | Enrollment | | -10% |
| | | | | | | | | | Cost | | 36% |
| | | | | | | | | | Cost Increase / Yr | | 3.6% |
| Excess/(Shortfall) | 0.4 | 3.0 | 1.7 | (0.4) | 11.9 | 7.4 | (1.2) | (4.9) | 1.6 | 2.4 | (2.2) |
| | | | | | | | | | Ave Increase / Yr | | 1.8 |
| Ending Fund Bal | 9.0 | 12.0 | 13.7 | 13.3 | 25.2 | 32.6 | 32.4 | 26.5 | 28.1 | 30.5 | 28.3 |
| | | | | | | | | | Ave Increase / Yr | | 1.9 |
| Fund Balance % | 7% | 9% | 9% | 7% | 15% | 19% | 18% | 15% | 16% | 17% | 15% |
| | | | | | | | | | 10 Year Increase | | 8% |

Stu Rodman

August 25, 2014

Council Meeting

| | | | |
|--------|----|---------------|---------------------------------|
| State: | SC | Project Name: | Beaufort County - Battery Creek |
|--------|----|---------------|---------------------------------|

This form is used to request funds for the planning, design or construction phases of P.L. 534 and 566 Watershed Operations Programs projects, including remedial projects. This form is not used to request funds for preliminary investigation feasibility reports or Watershed Rehabilitation Program projects.

| | |
|-----------------|----------------|
| Request is for: | Planning - New |
|-----------------|----------------|

| FUNDS REQUESTED (only one phase per request) | | | | | |
|--|----------------|------------------|----------|------------------|----------|
| Planning | | Design | | Construction | |
| TA NRCS | 170000 | TA NRCS | | TA NRCS | |
| TA Sponsor | 0 | TA Sponsor | | TA Sponsor | |
| TA A/E | 830000 | TA A/E | | TA A/E | |
| | | | | FA | |
| Sub-Total | 1000000 | Sub-Total | 0 | Sub-Total | 0 |

| Documentation Required for Funding Requests | |
|---|--|
| <p>New Planning</p> <ul style="list-style-type: none"> Preliminary Investigation Feasibility Report (PIFR) Plan of Work / TA Estimate Independent Government Estimate (IGE) for development of the plan through NRCS contract or agreement * State agency's current priority rating, indication of support or being not disapproved, (Circular 390-21-1) | |
| <p>Planning – Reaffirming Feasibility (Plans/Supplements more than 5 years old)</p> <ul style="list-style-type: none"> Sponsor Letter of Request Plan of Work / TA Estimate / IGE* | <p>Planning – Supplement or Update</p> <ul style="list-style-type: none"> Sponsor Letter of Request Reaffirming Feasibility Report (if prepared – not required) Plan of Work / TA Estimate IGE for development of the plan through NRCS contract or agreement |
| <p>Design</p> <ul style="list-style-type: none"> Completed Plan or Supplemental Plan (Final Plan/Supplement has been submitted for authorization) Plan of Work / TA Estimate / IGE* | <p>Design – Reaffirming Feasibility (Designs more than 5 years old)</p> <ul style="list-style-type: none"> Sponsor Letter of Request Plan of Work / TA Estimate / IGE* |
| <p>Construction</p> <ul style="list-style-type: none"> Land rights obtained, permits obtained, design approved by SCE Plan of Work / TA Estimate / IGE* | <p>Remedial</p> <ul style="list-style-type: none"> Program Report (should include documentation that structure is within its service life) Engineering report (CED Concurrence for V+) Plan of Work / TA Estimate / IGE* |

* for work done by an A/E Contractor or Sponsor

Shapefiles (with project areas and measures) should submitted or updated with all requests

| | | | |
|------------------------|-------------|-------|----------------|
| TOTAL REQUESTED | TA: 1000000 | FA: 0 | TOTAL: 1000000 |
|------------------------|-------------|-------|----------------|

| | | | |
|--------|----|---------------|---------------------------------|
| State: | SC | Project Name: | Beaufort County - Battery Creek |
|--------|----|---------------|---------------------------------|

| For NEW PLANNING only | | |
|--|-----------------------|---|
| Per Circular 390-21-1, Attachment C, 500.20, the following entities were notified: | Date notice was sent: | Their response: |
| Governor | 7/14/22 | <input type="checkbox"/> Approved project <input type="checkbox"/> Did not approve project <input checked="" type="checkbox"/> Did not respond within 45 days <input type="checkbox"/> N/A |
| Secretary of the Interior | 7/21/22 | <input type="checkbox"/> Response received <input checked="" type="checkbox"/> Did not respond within 45 days <input type="checkbox"/> N/A |
| Secretary of the Army | 08/01/2022 | <input type="checkbox"/> Response received <input checked="" type="checkbox"/> Did not respond within 45 days <input type="checkbox"/> N/A |
| Other: | | <input type="checkbox"/> Response received <input type="checkbox"/> Did not respond within 45 days <input type="checkbox"/> N/A |

State Agency Priority Rating (add documentation to this PDF and summarize below):

1. Sandy Island (Fully funded through Construction) - PIFR complete
2. Williamsburg County (Fully funded through Construction) - PIFR in contracting
3. Orangeburg County - Potential Project - Request forthcoming
3. City of Dillon - Maple Swamp - PIFR complete, Planning Request forthcoming
4. Beaufort County - Current Request
5. Horry County - 8 PIFRs in progress, Planning Requests for 2-3 Plans forthcoming
6. Other - Requests as they come

| | | | |
|------------------------|-------------|-------|----------------|
| TOTAL REQUESTED | TA: 1000000 | FA: 0 | TOTAL: 1000000 |
|------------------------|-------------|-------|----------------|

As State Conservationist I have identified the technical resources needed to complete the effort described on this form and, pending receipt of the requested funds, commit the NRCS state staff and administrative support needed to accomplish this effort. I further attest that notifications to government entities as required by E.O 10584 have been completed as noted above.

ANN ENGLISH

Digitally signed by ANN ENGLISH
Date: 2022.10.11 10:49:56 -04'00'

State Conservationist

Date

DRAFT PRELIMINARY INVESTIGATION FEASIBILITY REPORT

**Battery Creek Watershed
Beaufort, South Carolina**

**Prepared for
the USDA Natural Resources Conservation Service**



Oyster Beds Factory Creek Channel of Beaufort River

Photo Credit: Katie Herrera, Beaufort County Stormwater Manager

August 23, 2022

DRAFT

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PRELIMINARY INVESTIGATION FEASIBILITY REPORT
USDA-NRCS
Arthur Horne Park
Battery Creek
Beaufort, South Carolina

1.0 SUMMARY

The Beaufort County Stormwater Utility requested planning assistance (dated March 24, 2022) to improve water quality in Battery Creek. The lead project sponsor would be the County Stormwater Utility. Potential sponsors are the South Carolina Department of Natural Resources, Office of Fisheries Management, Shellfish Management Program, and the Beaufort Soil & Water Conservation District. The Battery Creek Watershed Project is located in Beaufort County, HUC 10 #0305020805, approximately 50 miles southwest of Charleston, South Carolina.

The PL83-566 project purpose is Watershed Protection and consists of onsite treatment of drainage concerns of the watershed with the goal of reducing offsite pollutants. Watershed protection plans may include ecosystem restoration-type activities. The Battery Creek project purpose is to improve water quality for shellfishing (aquaculture) areas by treating stormwater runoff. In addition, passive recreational measures will be included along with water quality improvement measures.

U.S. estuaries are the lifeblood of commercial shellfishing. Shellfish is a generic term for aquatic invertebrates with shells. This may include both mollusks, such as oysters, clams, mussels, and snails (whelks), and crustaceans, such as shrimp and crabs. The Battery Creek watershed contains Shellfish Management Area 15 (SFMA 15). The area consists of approximately 31,000 acres of shellfish area habitat located in Beaufort County. Shellfishing, for commercial and recreational purposes, is a multi-million-dollar industry in South Carolina. The economic value to South Carolina includes the wholesale value of the shellfish themselves, the price of permits and licenses, the cost of shellfishing gear, and all the revenue attributable to the restaurant trade, tourist lodging, etc. Some shellfishermen only harvest wild stock; others raise shellfish in permitted areas, known as aquaculture grants. These areas are leased to them by the local community. In South Carolina, the economic value of shellfishing was \$17 million in 2020.

Stormwater runoff can pick up bacteria, as well as other contaminants, as it flows across roads, farmland, lawns, other open land, and dump this water into storm drain systems, where it flows into coastal waters. The sponsors want to improve the water quality affecting shellfish habitat by treating stormwater runoff. This will help ensure that shellfish beds, which are threatened with closure, remain open. Additionally, shellfish beds which are restricted during certain times of

year will have fewer restrictions in the future. It is also anticipated that the shellfishing season will be extended due to the improved habitat.

Stormwater runoff treatment systems can be effective in reducing the levels of pollutants discharged to receiving waters. All runoff treatment systems must be tailored to site conditions (soils, slopes, drainage area, amount of impervious area, depth to seasonal high-water table, proximity to receiving waters, type of improvement desired, etc.). Water quality for shellfishing areas would be improved with stormwater runoff treatment. The acres of shellfish beds affected by the proposed treatment systems would be determined in the planning phase.

Other alternatives include Depuration Facilities, where shellfish from closed areas are cleansed, and constructing new shellfishing areas (fill low tidal areas, and/or excavate marsh areas) in areas of good water quality.

2.0 APPLICABLE AGENCY AUTHORITY AND AUTHORIZED PURPOSES

This project would be carried out under the authority of, “Public Law 83-566, the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. Parts 1001-1008, 1010, and 1012).” The Battery Creek Watershed Protection Project (BCWPP) watershed matches the HUC 10 - 0305020805 watershed boundary and is 56,310 acres which is less than the PL83-566 program size limitation of 250,000 acres. However, it will exclude the federal lands of the Marine Corps Air Station Beaufort and USMC Recruiting Depot Parris Island making it 50,250 acres.

The table below provides documentation that the project is eligible for federal assistance and will meet statutory requirements.

| | | |
|--|---|--|
| Will the project area exceed 250,000 acres in size? ^{1,2} | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| If over 250,000 acres, will it be divided into sub-watersheds in one plan? | <input type="checkbox"/> YES | <input checked="" type="checkbox"/> NO |
| Potential Project Area Size: 50,250 acres | | |
| Will any single structure provide more than 12,500 acre-feet of floodwater detention capacity, or have 25,000 acre-feet of total capacity? | <input type="checkbox"/> YES ³ | <input checked="" type="checkbox"/> NO |
| How many recreational developments will be included in the project area? | | N/A |
| One development in a project area less than 75,000 acres | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Two developments in a project area between 75,000 and 150,000 acres | <input type="checkbox"/> YES | <input type="checkbox"/> NO |
| Three developments in a project area greater than 150,000 acres | <input type="checkbox"/> YES | <input type="checkbox"/> NO |

| Which authorized purposes will the project address? (Indicate only one purpose as primary): | | | | | | | |
|---|--------------------------|----------------------|--------------------------|-------------------------|--------------------------|---|--|
| | | | | | | Primary | Other |
| Flood Prevention | | | | | | <input type="checkbox"/> | <input type="checkbox"/> |
| Watershed Protection | | | | | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Public Recreation | | | | | | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| Public Fish and Wildlife | | | | | | <input type="checkbox"/> | <input type="checkbox"/> |
| Agricultural Water Management | | | | | | <input type="checkbox"/> | <input type="checkbox"/> |
| Municipal or Industrial Water Supply | | | | | | <input type="checkbox"/> | <input type="checkbox"/> |
| Water Quality Management | | | | | | <input type="checkbox"/> | <input type="checkbox"/> |
| Will the project produce substantial benefits to the general public, to communities, and to groups of landowners? | | | | | | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO ³ |
| Can the project be installed by individual or collective landowners under alternative cost-sharing assistance? | | | | | | <input type="checkbox"/> YES ³ | <input checked="" type="checkbox"/> NO |
| Will the project have strong local citizen and sponsor support through agreements to obtain land rights, permits, contribute the local cost of construction, and carry out operation and maintenance. | | | | | | <input checked="" type="checkbox"/> YES | <input type="checkbox"/> NO ³ |
| Will the project take place in a Special Designated Area? (If yes, check applicable area below.) | | | | | | YES | <input checked="" type="checkbox"/> NO |
| Appalachia | <input type="checkbox"/> | Delaware River Basin | <input type="checkbox"/> | Susquehanna River Basin | <input type="checkbox"/> | Tennessee Valley | |

1- For specific appropriations, the 250,000 acres is waived except for watershed projects with the flood prevention purpose.
 2- Watersheds exceeding 250,000 acres can be broken up into smaller sub-watersheds.
 3- The project will not meet the statutory requirements

3.0 POTENTIAL FOR 20% AGRICULTURAL (RURAL) BENEFITS

PL83-566 requires that projects have 20% agricultural (rural) benefits. The Battery Creek Watershed Protection Project water quality improvements have direct agricultural benefits for shellfishing (aquaculture). Also, all cities within the project area are under the 50,000-population limit, so it meets the definition for rural. The proposed project has 100% agricultural and rural benefits.

4.2 Project Setting

The BCWPP will be evaluated at the broader HUC 10 Beaufort River-Atlantic Intracoastal Waterway Watershed level. The watershed area includes the City of Beaufort, the City of Port Royal, parts of Port Royal Island, Lady’s Island, and St. Helena Island. As stated above, it will exclude the federal lands of the Marine Corps Air Station Beaufort and USMC Recruiting Depot Parris Island.

The Beaufort River-Atlantic Intracoastal Waterway Watershed has an area of approximately 56,310 acres, 50,250 acres without the federal land base. It begins with small streams at its northern headwaters: Brickyard Creek, Mulligan Creek, Albergottie Creek, Bloomfield Creek all flow together to become the Beaufort River. Further downstream the Beaufort River receives water from Battery Creek and flows into Port Royal Sound which is connected to the Atlantic Ocean. This is a saltwater system and only receives freshwater from storm runoff.

Coastal or lowland South Carolina’s climate is humid sub-tropical. During the summer, South Carolina's weather is dominated by a maritime tropical air mass known as the Bermuda high, which brings warm, moist air inland from the ocean. Average summer temperatures are in the mid-70 degrees Fahrenheit. Average winter temperatures are in the in the low-50 degrees Fahrenheit.

The growing season typically begins on March 31 and ends on November 7; Plant Hardiness Zone is 8b with an average annual extreme low temperature between 15 and 20 degrees Fahrenheit.

The average annual precipitation is between 51 and 54 inches. On the average, there is not any snowfall or wet or dry seasons. At least one tropical storm or hurricane affects the coast most years.

The land cover of the watershed is 35% wetlands, 24% open water, 19% developed land, 13% evergreen forest, and 3% hay/pasture. The full details of land cover statistics are provided below:

| HUC10 Beaufort River- Atlantic Intracoastal Waterway Watershed (without federal land): 50,250 acres | | |
|--|---------------|------------------------------------|
| National Land Cover Data | | |
| Land Use | Acres | Percentage of Watershed (%) |
| Barren Land | 131 | 0.2 |
| Cultivated Crops | 50 | 0.1 |
| Deciduous Forest | 84 | 0.2 |
| Developed, High Intensity | 320 | 0.6 |
| Developed, Low Intensity | 20,027 | 4.0 |
| Developed, Medium Intensity | 1,002 | 2.0 |
| Developed, Open Space | 51,745 | 10 |
| Emergent Herbaceous Wetlands | 14,251 | 28 |
| Evergreen Forest | 63,645 | 13 |
| Hay/Pasture | 1,653 | 3.3 |
| Grassland/Herbaceous | 749 | 1.5 |
| Mixed Forest | 1,350 | 2.7 |
| Open Water | 13,140 | 26.2 |
| Shrub/Scrub | 705 | 1.4 |
| Woody Wetlands | 3,275 | 6.5 |
| Total | 50,250 | 100 |

4.3 Potential Project Area Size

The BCWPP watershed matches the HUC10 Beaufort River- Atlantic Intracoastal Waterway Watershed - 0305020805 boundary minus the federal lands with an approximate area of 50,250 acres. The BCWPP consists of best management practices at several priority sites identified by Beaufort County government. The Recommended Project Alternative will install 4 stormwater runoff treatment systems, install pet waste collection stations at 7 sites and implement an educational campaign within the HUC 10 watershed. The watershed and the 11 priority sites are shown in Appendix B (Watershed Location Map). To facilitate the presentation of information for the BCWPP, a single site: Arthur Horne Park, has been selected for the discussions below. Arthur Horne Park is chosen as representative of typical benchmark conditions for all sites and representative of a typical stormwater runoff treatment system that will be installed and will have typical impacts. A map of Arthur Horne Park and its drainage area is shown in Appendix C (Watershed Project Area Map). The drainage area for Arthur Horne Park is 101 acres and will be referred to as the Arthur Horne Park Watershed.

5.0 RESOURCE INFORMATION

5.1 Soils

The soils in the Beaufort River- Atlantic Intracoastal Waterway Watershed are predominantly fine sands, most having the maximum slope of 2%. There is a predominance of hydric soils making up 40% of the watershed. There are only 50 acres of prime farmland soils identified in the 56,000+ acre watershed, and approximately 4,800 acres of Soils of Statewide Importance.

Soil features that relate to drainage considerations for the Arthur Horne Park Watershed are slope, drainage class and hydric status. Arthur Horne Park Watershed contains 44 acres of Seabrook fine sands which are somewhat poorly drained soils with 0-2% slopes, 13 acres of Polawana loamy fine sand which are hydric and very poorly drained, 0-2% slopes often in depressions, and 30 acres of excessively drained Wando fine sand. There are no prime or Statewide Important soils present in the Arthur Horne Park watershed.

5.2 Water

The Beaufort River-Atlantic Intracoastal Waterway Watershed begins with small streams at its northern headwaters: Brickyard Creek, Mulligan Creek, Albergottie Creek, Bloomfield Creek all flow together to become the Beaufort River. Further downstream the Beaufort River receives water from Battery Creek and flows into Port Royal Sound which goes to the Atlantic Ocean. This is a saltwater system and only receives freshwater from storm runoff. Salt water and marine and estuarine wetlands cover 50% of this watershed. These areas contain the valuable shellfish beds. In 2022, shellfishing was approved in 51% of the waters; shellfishing was Restricted in 6.5% and Prohibited in 42.4% of the waters.

Several Sections of Battery Creek, Albergottie Creek, Capers Creek and Cowen Creek are on the EPA's list Impaired Waters for fecal coliforms as an indicator of bacteria.

The only water feature in the Arthur Horne Park Watershed is the wetland within Arthur Horne Park itself. It has an area of approximately 13 acres, and it will be improved as part of this project, as shown in Appendix D. The drainage from this wetland flows northward through pipes for approximately 900 feet then daylight into an open channel north of Waddell Road near Southside Park. The channel flows westward for approximately 1,600 feet to its outfall into Battery Creek near the SCDHEC water quality shellfish monitoring station #15-28.

5.3 Air

Beaufort County is not located in an EPA designated nonattainment area.

5.4 Plants

The ecoregion descriptions from the EPA website provide summaries of ecosystems with similar characteristics. The Southern Coastal Plain ecoregion in South Carolina identifies 1 type named Sea Islands/Coastal Marsh which occurs on soil map units identified in our project site. Seabrook and Wando soils. The native ecosystems and vegetation found in the area includes:

- Salt and brackish marshes (cordgrass, saltgrass, rushes)
- Maritime swamp forest (tupelo, red maple, sweetgum, bald cypress)
- Maritime evergreen forest (live oak, sand laurel oak, slash pine, loblolly pine)
- Dune grass (sea oats, bitter panic grass, cordgrass, beach grass).¹¹

Also note that the area is developed, many plants may be present that were chosen for commercial and residential landscaping and diverge from this list.

The dominant wetland types in the HUC10 Beaufort River - Atlantic Intracoastal Waterway Watershed are:

| Wetlands in HUC10 (No DOD Areas) | | |
|---|---------------|--------------------------------|
| WETLAND TYPE | Acres | Percentage of HUC10 (%) |
| Estuarine and Marine Deepwater | 11,183 | 22.3 |
| Estuarine and Marine Wetland | 15,523 | 30.9 |
| Freshwater Emergent Wetland | 1,134 | 0.2 |
| Freshwater Forested/Shrub Wetland | 1,553 | 3.1 |
| Freshwater Pond | 168 | 0.3 |
| Riverine | 25 | 0.1 |
| Total | 28,565 | 56.8 |

Wetland types in the Arthur Horne Park Watershed

| Battery Creek Project Area - Arthur Horne Park | | |
|---|--------------|-------------------|
| Wetland Type | Acres | Percentage |
| Freshwater Forested/Shrub Wetland | 15 | 100.00 |

Protected species information is available for presence at a county level from the South Carolina Department of Natural Resources and the Heritage Trust Program. It should be determined if any

¹ Griffith, G.E., Omernik, J.M., Comstock, J.A., Schafale, M.P., McNab, W.H., Lenat, D.R., MacPherson, T.F., Glover, J.B., and Shelburne, V.B., 2002, Ecoregions of North Carolina and South Carolina, (color poster with map, descriptive text, summary tables, and photographs): Reston, Virginia, U.S. Geological Survey (map scale 1:1,500,000)

species are present at the project area, and if any mitigation strategies can be applied. The species identified for presence in Beaufort County are as follows:

There are 3 federally listed Endangered, Threatened or At-Risk plant species in Beaufort County (this information was obtained using South Carolina Department of Natural Resources (DNR) county lists).

- Federally Listed Endangered: *Lindera melissifolia*; Southern Spicebush; Pondberry
- Federally Listed Threatened: *Calidris canutus*; Red Knot
- Federally Listed At Risk: *Coreopsis integrifolia*; Chipola Dye-flower; Ciliate-leaf Tickseed

Invasive plant species are a threat to native and agricultural ecosystems.

Clemson University's official plant pest list for the State of South Carolina (accessed in 2022) included 106 invasive plant species. This list includes terrestrial, wetland, and aquatic plants.

The State Prohibited Species, Aquatic and Wetland Plants on the South Carolina Noxious Weed List (2008) recognizes 26 prohibited plant species, not including upland plants. Of these 26, 14 plants are listed on the Federal Noxious Weed list.

The USGS Nonindigenous Aquatic Species List in South Carolina (2022) identified 39 nonindigenous wetland or aquatic plants.

The lists of invasive species are available at a state-wide level and are constantly being updated. The invasive species present at the project site will be identified during planning and field investigations.

5.5 Animals

Beaufort County's coastal wetlands and estuaries are vital habitats for fish, crabs, shrimp, and other marine species, and many waterbird species. Upland species are not enumerated here, but the official state animal is the white-tailed deer, which is ubiquitous, other charismatic creatures include alligators, copperhead snakes, feral hogs, bottlenose dolphin, and right whales.

There are 123 species listed on the Nonindigenous Aquatic Species list from the USGS (accessed in 2022) list including: Amphibians, Coelenterates, Crustaceans, Fishes, Mollusks, Reptiles.

The South Carolina Prohibited Fish list identifies 11 species (2008).

Invasive animal species are a threat to native ecosystems. The lists of invasive species are available at a state-wide level and are constantly being updated. The invasive species present at the project site will be identified during planning and field investigations.

5.6 Energy

Implementation of the works of improvement will not change energy consumption or production in the area.

5.7 Humans

Demographics: The 2020 census provides the following population demographics:

Beaufort County: 187,117; City of Beaufort: 13,607.

City of Beaufort statistics include:

- Black or African American: 26.7%,
- American Indian & Alaska Native: 0.2 %
- Asian Alone: 2.2%
- Hispanic or Latino: 6.7%
- Two or more races: 4.8%
- White alone, not Hispanic or Latino: 61.2%

The city also hosts over 2 million visitors a year.

Transportation: The transportation infrastructure in the Arthur Horne Park Watershed is mostly a network of residential streets. There is one divided highway, Rt 21 at its southern boundary.

Recreation: Tourism is one of the region's primary economic sectors. Tourism is valued at \$1.4 billion for Beaufort County and \$21 million for the City of Beaufort (2017). The opportunities for recreation are plentiful. The City of Beaufort is visited for historical and cultural tours. Beaufort and the sea islands offer all types of coastal recreation including fishing, shellfishing, birdwatching, boating. Although not within the city, Beaufort County contains many golf courses.

Arthur Horne Park supports passive recreation including hiking and nature observation. The popular 10-mile Spanish Moss Trail runs along the west coast of Port Royal and Beaufort just 2 blocks west of the Arthur Horne Park Watershed.

5.8 Resources of Special Concern

5.8.1 Clean Air Act

The area is not in an EPA designated nonattainment area. Project construction may temporarily increase emissions. Permits may be needed for SC Regulation No. 62.6 Control of Fugitive Particulate Matter. Dust and all fugitive particulate matter from construction will need to be controlled to meet regulation.

5.8.2 Clean Water Act

There is a wetland in the Arthur Horne Park Watershed. The wetland has an area of approximately 13 acres and alterations would be made on 7 acres of the wetland.

The wetland will discharge into Battery Creek at water quality monitoring station 15-28 which is identified as 303d Impaired Water for shellfish caused by fecal coliform bacteria contamination. This project is expected to reduce bacteria contamination in this impaired water.

The U.S. Army Corps of Engineers will be consulted during planning regarding permitting.

5.8.3 Coastal Zone Management

The project is located in a Coastal Zone Management area. Consultation with state's Coastal Zone Program Office is required.

5.8.4 Coral Reefs

Coral Reefs are not present according to EPA's website on America's Coral Reefs.

5.8.5 Cultural Resources

The National Register of Historic Places Identifies the following areas within the City of Beaufort: Beaufort Historic District, Beaufort National Cemetery, Seacoast Packing Company.

The South Carolina ArchSite Public Web Map identifies many above ground sites with historic significance in the City of Beaufort.

Archeology of public knowledge includes shell rings on nearby Coosa Island and discovery of a shell midden found at the US Naval Hospital in the City of Beaufort during renovations in 2021.

The list of Tribes that may need to be contacted is presented in Section 8, State, Tribal, Federal Stakeholder Engagement, of this report.

The State Historic Preservation Office and surrounding tribes will be consulted during the planning process.

5.8.6 Endangered & Threatened Species

Species are listed for presence at a county level. It will need to be determined during planning if any of these species are present in the area of potential effect, and the necessary mitigation.

There is a possibility of short-term adverse effects with long term beneficial effects. Species listed are:

Five (5) Federally Listed Endangered Species:

- *Acipenser oxyrinchus*; Atlantic Sturgeon
- *Lepidochelys kempii*; Kemp's Ridley Sea Turtle
- *Dryobates borealis*; Red-cockaded Woodpecker

- *Acipenser brevirostrum*; Shortnose Sturgeon
- *Acipenser brevirostrum*; Shortnose Sturgeon

Six (6) Federally Listed Threatened Species:

- *Laterallus jamaicensis*; Black Rail
- *Trichechus manatus*; Florida Manatee
- *Caretta*; Loggerhead Sea Turtle
- *Myotis septentrionalis*; Northern Long-eared Bat
- *Calidris canutus*; Red Knot
- *Mycteria americana*; Wood Stork

Eight (8) Federally Listed At-Risk Species:

- *Bombus pensylvanicus*; American Bumble Bee,
- *Macbridea caroliniana*; Carolina Birds-in-a-nest, Carolina Macbridea,
- *Coreopsis integrifolia*; Chipola Dye-flower; Ciliate-leaf Tickseed;
- *Crotalus adamanteus*; Eastern Diamond-backed Rattlesnake
- *Pituophis melanoleucus mugitus*; Florida Pinesnake
- *Myotis lucifugus*; Little Brown Bat
- *Clemmys guttata*; Spotted Turtle
- *Perimyotis subflavus*; Tricolored Bat

One (1) Federally Listed Candidate Species:

- *Danaus plexippus*; Monarch Butterfly

Two (2) State Listed Threatened Species:

- *Heterodon simus*; Southern Hog-nosed Snake
- *Pseudobranchius striatus*; Northern Dwarf Siren

One (1) State Listed Endangered Species:

- *Corynorhinus rafinesquii*; Rafinesque's Big-eared Bat

Four (4) State Listed Regulated Species:

- *Malaclemys terrapin*; Diamond-backed Terrapin
- *Terrapene carolina*; Eastern Box Turtle
- *Kinosternon subrubrum*; Eastern Mud Turtle
- *Sternotherus odoratus*; Eastern Musk Turtle

Consultation with the US Fish and Wildlife Service and with SC Department of Natural Resources is required.

5.8.7 Environmental Justice

The EPA Environment Justice information for the HUC10 Watershed without the federal lands has a population of 35,266 residents is as follows:

| | |
|----------------------------------|-------------------------------|
| EJ Indicator Demographic Index: | 63% for state; 63% for nation |
| EJ Indicator of People of Color: | 66% for state; 60% for nation |
| EJ Indicator for Low Income: | 55% for state; 63% for nation |

The EPA Environment Justice information for the City of Beaufort with a population of 12,785 residents is as follows:

| | |
|----------------------------------|-------------------------------|
| EJ Indicator Demographic Index: | 59% for state; 60% for nation |
| EJ Indicator of People of Color: | 59% for state; 55% for nation |
| EJ Indicator for Low Income: | 49% for state; 58% for nation |

The EPA Environment Justice information for the Arthur Horne Park Watershed area with a population of 259 residents is as follows:

| | |
|---------------------------------|-------------------------------|
| EJ Indicator Demographic Index: | 34% for state; 39% for nation |
| EJ Indicator People of Color: | 40% for state; 41% for nation |
| EJ Indicator Low Income: | 31% for state; 41% for nation |

5.8.8 Essential Fish Habitat

All of the HUC 10 Beaufort River- Atlantic Intracoastal Waterway Watershed is mapped as Essential Fish Habitat (EFH) for South Atlantic Species and Highly Migratory Species.

Beaufort River is an EFH Habitat Area of Particular Concern.

Consultation with National Marine Fisheries Service is required.

5.8.9 Floodplain Management

The project is in the FEMA 100-year flood zone. This area has not been used for agriculture in the past 5 years. The action is not likely to result in an increased flood hazard over the short or long term. It will protect infrastructure and property during flooding events. No impediments are added to the floodplain through project implementation.

5.8.10 Invasive Species

Clemson University’s official plant pest list for the State of South Carolina (accessed in 2022) included 106 invasive plant species. This includes terrestrial, wetland and aquatic plants.

The State Prohibited Species, Aquatic and Wetland Plants on the South Carolina Noxious Weed List (2008) recognizes 26 prohibited plant species.

There are 123 animal species listed on the Nonindigenous Aquatic Species list from the USGS (accessed in 2022) list, including Amphibians, Coelenterates, Crustaceans, Fishes, Mollusks, Reptiles.

The list of invasive species is available at the state level. The invasive species present at the project site will be identified during planning and field investigations.

All tools, techniques and management strategies to prevent the introduction, control and spread of invasive and noxious species will be considered in planning.

5.8.11 Migratory Birds/Bald & Golden Eagle Protection Act

Data for these species was only available at the county level. It will need to be determined during planning if any of these species are present in the area of potential effect, and the necessary mitigation.

The Bald Eagle is listed under the Bald and Golden Eagle Protection Act.

There are 18 species listed under Migratory Bird Treaty Act.

Consultation with the US Fish and Wildlife Service and SC Department of Natural Resources is required.

5.8.12 Natural Areas

Arthur Horne Park and Southside Park are areas utilized by residents for passive recreation and nature appreciation. These parcels are owned by Beaufort County and the City of Beaufort, respectively

5.8.13 Prime and Unique Farmlands

There are 50 acres of prime farmland and approximately 4,800 acres of Soils of Statewide Importance in the watershed.

Prime Farmland Soil Map Units within the watershed include Bertie loamy fine sand, Goldsboro loamy fine sand. There are 9 different map units classified as Farmland of Statewide Importance.

The proposed actions will not convert Prime Farmland to a non-agricultural use.

5.8.14 Riparian Area

Arthur Horne Park Watershed is not in a riparian area, but it does drain into the riparian area of Battery Creek. The project purpose is to provide water quality benefits to the riparian area.

5.8.15 Scenic Beauty

There are no scenic designations for the Arthur Horne Park Watershed. The scenic beauty of the area will be impacted due to the removal of green vegetation from the landscape.

5.8.16 Wetlands

National Wetlands Inventory shows that there is a 15-acre Freshwater Forested/Shrub Wetland present in the Arthur Horne Park Watershed. There are 4.5 acres of Freshwater Forested/Shrub Wetland and 5.7 acres of Estuarine and Marine Wetland downstream. The park’s wetland will be impacted by clearing of vegetation and deepening during construction. Over the long term the wetland will remain a wetland, natural vegetation, and accumulation of debris will be managed to maintain storage capacity. The downstream wetlands should benefit from improved water quality from reduction in transported pollutants. Permitting and mitigation measures may be required.

Consultation with US Army Corps of Engineers is required.

5.8.17 Wild and Scenic Rivers

There are no designated Wild and Scenic Rivers in the project area.

6.0 PROPOSED PROJECT PURPOSE AND NEED STATEMENT

The purpose of the Battery Creek Watershed Protection Project is to improve water quality for shellfish habitat (aquaculture). The PL83-566 project purpose is Watershed Protection. In addition to water quality improvement measures, passive recreational measures may be included under the PL83-566 Public Recreation purpose.

The Battery Creek watershed has approximately 31,000 acres of shellfish beds. Shellfishing, for commercial and recreational purposes, is a \$17 million (2020) industry in South Carolina. Stormwater runoff can be contaminated with bacteria, as well as other contaminants, as it flows across roads, farmland, lawns, and other open land. Stormwater runoff enters storm drain systems, which can discharge into shellfishing areas. The priority sites currently have no treatment of stormwater runoff. The sponsors want to improve the water quality affecting shellfish habitat by treating stormwater runoff. This will ensure that shellfish beds which are threatened with closure remain open. Additionally, shellfish beds which are restricted during certain times of year will have fewer restrictions in the future. It is also anticipated that the shellfishing season will be extended due to the improved habitat. Passive recreation measures may include picnic areas, shelters, cooking grills, parking areas, and trails.

7.0 RESOURCE CONCERNS AND OPPORTUNITIES

7.1 Resource Concerns

This section describes the resource concerns that may potentially be impacted by implementation of the proposed project. The effects of the proposed project can be either negative or positive.

Generally, Alternative 2 will have positive or no impact effects. However, Alternative 3 and 4, increase the shellfishing harvest but offer no improvement for water quality, and have more negative effects than positive effects.

A summary of the resource concerns and opportunities information is shown in the following Potential Effects of Proposed Alternatives on SWAPA + E + H Resources and Resources of Special Concern Table:

+ -Positive Impact - - Negative Impact 0 – No Impact

| Resource Concerns: SWAPA + Energy + Human | | | | |
|--|---|---|--|--|
| | Alternative 1 The sponsor does not implement watershed protection measures using Federal funds. | Alternative 2 Install best management practices to reduce runoff and improve water quality of shellfishing areas. | Alternative 3 Depuration Facility - Shellfish from closed areas are cleansed in a depuration facility. | Alternative 4 Construct new shellfishing areas (fill low tidal areas, and/or excavate marsh areas) in areas of good water quality. |
| Soil | 0 | + | 0 | 0 |
| Water | - | + | - | 0 |
| Air | 0 | 0 | - | 0 |
| Plants | - | + | 0 | - |
| Animals | - | + | 0 | - |
| Energy | 0 | 0 | - | 0 |
| Human | - | + | - | - |
| Resources of Special Concern | | | | |
| Clean Air Act | 0 | 0 | 0 | - |
| Clean Water Act/Waters of the U.S. | 0 | + | 0 | - |
| Coastal Zone Management | 0 | 0 | 0 | 0 |
| Coral Reefs | 0 | 0 | 0 | 0 |
| Cultural Resources/Historic Properties | 0 | 0 | 0 | 0 |
| Endangered & Threatened Species | 0 | 0 | 0 | 0 |
| Environmental Justice | 0 | 0 | + | 0 |

| Resource Concerns: SWAPA + Energy + Human | | | | |
|---|----------------------|----------------------|----------------------|----------------------|
| | Alternative 1 | Alternative 2 | Alternative 3 | Alternative 4 |
| Essential Fish Habitat | 0 | 0 | 0 | 0 |
| Floodplain Management | 0 | 0 | 0 | 0 |
| Invasive Species | 0 | + | 0 | 0 |
| Migratory Birds/Bald and Golden Eagle Protection Act | 0 | 0 | 0 | 0 |
| Natural Areas | 0 | 0 | 0 | 0 |

*There has not been any data found at the PIFR stage to confirm presence of Endangered and Threatened Species in the area of impact for each alternative. Therefore "0" no impact was identified.

7.2 Opportunities

Water quality in shellfishing areas is closely monitored and when stormwater runoff contains high levels of bacteria, shellfishing areas are closed for harvesting. The sponsors and residents within the Beaufort County project area are willing to participate in the PL83-566 program, allowing NRCS to implement works of improvement to install stormwater runoff treatment measures to improve water quality in the shellfishing areas. There are many acres of shellfish habitat that are water quality impaired in the watershed. This project only addresses some of the highest priority areas as determined by the Sponsors. Improvement measures will be located on public property or land purchased by the sponsor.

8.0 STATE, TRIBAL, FEDERAL STAKEHOLDER ENGAGEMENT

At the State government level potential stakeholders include:

- State Historic Preservation Office (SHPO)
- South Carolina Department of Health and Environmental Control
- South Carolina Department of Parks, Recreation and Tourism
- South Carolina Department of Transportation

The Indian tribes of South Carolina include:

- Tribal Historic Preservation Office (THPO)
- Federally Recognized Tribes:
 - Catawba Indian Nation
- State Recognized Tribes:
 - Beaver Creek Indians
 - Piedmont American Indian Association of Lower Eastern Cherokee

- Eastern Band of Cherokee
- Edisto Natchez Kusso Tribe
- Pee Dee Indian Nation of Upper South Carolina
- Pee Dee Indian Tribe
- The Sumter Tribe of Cheraw
- The Santee Indian Organization
- The Waccamaw Indian People
- The Wassamasaw Tribe of Varnertown Indians
- State Recognized Groups
 - Chaloklowa Chicksaw Indian People
 - Eastern Cherokee, Southern Iroquois and United Tribes of South Carolina
 - Natchez Tribe of South Carolina
 - Pee Dee Indian Nation of Beaver Creek

Federal stakeholders could include:

- United States Army Corps of Engineers
- United States Fish and Wildlife Service
- National Marine Fisheries Service
- National Oceanic Atmospheric Administration
- National Park Service (wild & scenic rivers)
- United States Environmental Protection Agency

No other non-government stakeholders were identified that should be engaged during planning phase. No engagement with these entities was carried out at this time. Engagement will occur during planning phase.

9.0 POTENTIAL ALTERNATIVES

| Alternatives | Possible Positive Impacts and Effects | Possible Adverse Impacts and Effects |
|--|---|--|
| <p>Alternative 1 – No Action/Future Without Project</p> <p><i>Description:</i> The sponsor does not implement watershed protection measures using Federal funds.</p> <p>Estimated Cost: \$0</p> | <p>Situation will remain as-is. No investments in infrastructure.</p> | <p>Shellfish habitat will continue to degrade due to water quality in shellfishing areas. Shellfish harvest will continue to decline. Increased restrictions and closures of shellfish areas will occur.</p> |

| Alternatives | Possible Positive Impacts and Effects | Possible Adverse Impacts and Effects |
|--|---|--|
| <p>Alternative 2 <i>Description:</i> Install best management practices to reduce runoff and improve water quality of shellfishing areas.</p> <p>Estimated Cost: \$5.6M</p> | <p>Improved water quality in shellfishing areas; maintain/improve shellfish harvest. Reduced health risks to humans. Average annual benefit measured in non-monetary terms of habitat units will increase.</p> | <p>Traffic disruption during installation of best management practices. Increased operation, maintenance, and replacement cost. Construction costs.</p> |
| <p>Alternative 3 <i>Description:</i> Depuration Facility - Shellfish from closed areas are cleansed at a depuration facility.</p> <p>Estimated Cost (highly variable due to facility size, available water source, site conditions, etc.): \$5-20M</p> | <p>Allows polluted shellfish to be consumed. No construction impacts to local roads and residents.</p> | <p>Current conditions will continue to degrade water quality in shellfishing areas. High construction costs for a depuration facility, water source, operation, maintenance, and replacement costs. Growers would pay fee to use facility. The cost of commercial operations using the facility will increase and, therefore, the cost to the consumer will increase.</p> |
| <p>Alternative 4 <i>Description:</i> Construct new shellfishing areas (fill low tidal areas, and/or excavate marsh areas) in areas of good water quality.</p> <p>Estimated Cost (highly variable due to size, site conditions, etc.): \$5-20M</p> | <p>Maintains/improves shellfish harvest. Reduces health risks to humans. Significant costs to develop the new shellfish habitat.</p> | <p>Water quality continues to decline in existing shellfishing areas. Tidal/marsh areas would be lost due to the development of new shellfishing areas. Public resistance to loss of tidal/marsh areas.</p> |

10.0 FACILITATING FACTORS

The facilitating factors which will make going forward with the project smoother are:

- BCWPP is similar to the PL83-566 Cape Cod Water Resources Restoration Project, which provides PL83-566 funds for planning, designing, and implementing stormwater treatment measures to improve water quality for shellfishing areas.
- The BCWPP Sponsors may provide water quality analysis for adaptive management to ensure installed measures improve water quality.
- The Sponsors have planned, designed, and installed some stormwater treatment projects, which demonstrate the successful improvement in water quality.
- The passive recreation measures benefit the local residents.
- There is significant stakeholder and partner engagement.
- There is not any public opposition to the proposed project.
- There are not any known inhibiting environmental, historic site, or cultural concerns.

11.0 OBSTRUCTING FACTORS

The obstructing factors which need to be addressed are:

- A waiver of agency policy may be required to determine that improvements to the shellfish habitat would provide aquacultural (agricultural) benefits and, therefore, NRCS could provide PL 83-566 technical and financial assistance for installing measures on non-agricultural lands to address aquacultural impairments from rural stormwater discharges that carry contaminants to shellfish habitat.
- A waiver of agency policy may be required to determine that the scope of the BCWPP falls under the purpose of Watershed Protection, conservation & proper utilization of land, land treatment. The proposed measures to address project objectives are all land treatment measures under watershed protection and can be cost shared at rates commensurate with other programs.
- Establish that ecosystem non-monetary benefits measured in Habitat Units would be used to define project benefits.

12.0 ENVIRONMENTAL DOCUMENT

The proposed project alternatives do not fall under any of the categorically excluded activities identified for the NRCS under 7 CFR 650.6.

There have not been any potentially significant effects to the human environment identified during this Preliminary Investigation/Feasibility review and therefore, an Environmental Impact Statement is not required for the project. An Environmental Assessment will be written and the accompanying Finding of No Significant Impact (FONSI) will be prepared for the project.

13.0 SPONSORS

| Sponsor will: | Assist in Planning | Land Rights / Eminent Domain | Local Cost Share | O/M Funds | Permits | Land Treatment | In-Kind MOU |
|--|--------------------|------------------------------|------------------|-----------|---------|----------------|-------------|
| Beaufort County Stormwater Utility | X | X | X | X | X | X | X |
| South Carolina Department of Natural Resources, Office of Fisheries Management | X | | X | | X | | X |
| Beaufort Soil & Water Conservation District | X | | | | | | |

Sponsor will:

- Assist in the locally led planning effort.
- Obtain needed land rights including the use of power of eminent domain, if necessary.
- Provide local cost-share funds and/or in-kind services to provide the required portion of total project costs.
- Provide funds for continuing operation and maintenance actions.
- Obtain required permits and approvals at sponsor cost:
- Before being credited with the value of any in-kind contribution for any in-kind services and/or acquisition of land rights, sponsor will sign a Memorandum of Understanding (MOU) with NRCS.

14.0 POTENTIAL COOPERATING AGENCIES

| Agency | Contact Information | Type of Involvement |
|--------------------------------|---|--|
| U.S. Army Corp of Engineers | U.S. Army Corps of Engineers Interagency & International Project Management Attn: Lisa Hreha 69A Hagood Ave Charleston, SC 29405 | <input checked="" type="checkbox"/> Regulatory |
| | | <input type="checkbox"/> Informed |
| | | <input type="checkbox"/> Prepare permits or letters of permission document |
| | | <input type="checkbox"/> Provide input |
| NOAA National Marine Fisheries | National Oceanic and Atmospheric Administration Fisheries Southeast Regional Office Attn: Kelly Shotts, Interagency Branch Chief 263 13th Avenue South St. Petersburg FL 33 70 I | <input checked="" type="checkbox"/> Regulatory |
| | | <input type="checkbox"/> Informed |
| | | <input type="checkbox"/> Prepare permits or letters of permission document |
| | | <input type="checkbox"/> Provide input |

15.0 POTENTIAL STAKEHOLDERS

The table below provides the typical list of stakeholders for a watershed project. It may be found that during planning additional stakeholders from the list in Section 8.0 would provide additional value to the list in the tables below.

| Stakeholder | Role | Resources | Contribution |
|--|---------------|----------------------|------------------------------|
| South Carolina Department of Natural Resources, Office of Fisheries Management | Provide input | Resource Inventories | Natural Resource information |
| South Carolina Shellfish Growers Association | Provide input | Resource Inventories | Natural Resource information |
| Public Works Department | Provide input | | |

| Principal Sponsors – Primary Stakeholders who will make financial and in-kind commitments to the project. | Regulatory – Entities involved in regulatory aspects of the project’s implementation. | Keep Informed – Stakeholders who should be kept informed of the projects progress. |
|--|--|---|
| Beaufort County Stormwater Utility | State Department of Transportation | Indian tribes of South Carolina that are stakeholders |
| Beaufort Soil & Water Conservation District | United States Army Corps of Engineers | The Nature Conservancy (TNC) |
| | United States Fish and Wildlife Service | Brookgreen Gardens |
| | National Marine Fisheries Service | Ducks Unlimited |
| | National Oceanic Atmospheric Administration | |
| | National Park Service (wild & scenic rivers) | |
| | United States Environmental Protection Agency | |
| | State Historic Preservation Office (SHPO) | |
| | Tribal Historic Preservation Office (THPO) | |

16.0 NOTIFICATIONS

| | Method and Date Notified |
|---|---------------------------------|
| Governor: The Honorable Henry McMaster Governor South Carolina 1100 Gervais Street Columbia, SC 29201 | Letter dated 07/20/2022 |
| U.S. Fish and Wildlife Service South Carolina Ecological Service Field Office Attn: Melanie Olds, Regulatory Team Lead 176 Croghan Spur Road, Suite 200 Charleston, SC 29407-7558 | Letter dated 07/21/2022 |

| | Method and Date Notified |
|---|--------------------------|
| National Oceanic Atmospheric Administration National Marine Fisheries Service Southeast Regional Office Attn: Kelly Shotts, Interagency Branch Chief 263 13 th Avenue South St. Petersburg, FL 33701 | Letter dated 7/25/2022 |
| U.S. Army Corps of Engineers Interagency & International Project Management Attn: Lisa Hreha 69A Hagood Ave Charleston, SC 29407 | Letter dated 08/01/2022 |

17.0 ESTIMATED PROJECT IMPLEMENTATION TIMELINE

| | |
|--------------------|----------------|
| Planning Start | February 2023 |
| Planning End | April 2025 |
| Design Start | September 2025 |
| Design End | March 2027 |
| Construction Start | July 2027 |
| Construction End | September 2032 |

18.0 RECOMMENDATION

This preliminary investigation and feasibility report has been completed and submitted for approval to Ann English, State Conservationist.

Name: _____

Title: _____

Date: _____

Organization: Aterra-Schnabel Joint Venture

Contract No. 12SPEC18D0024

Task Order No. 12FPC322F0083

It has been determined that this potential PL83-566 watershed operations project:

| Does | Does Not | |
|-------------------------------------|-------------------------------------|---|
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | ... meet the statutory acreage, volume/capacity of structure and recreational limit requirements; |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | ... meet the requirements of one or more Watershed Operations authorized purposes; |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | ... have the potential for a minimum of 20% agricultural, or rural, benefits; |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | ... have one or more viable alternatives; |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | ... have potential project sponsor(s) that meet and agree to all terms of responsibilities; |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | ... have apparent insurmountable obstacles. |

Preparer Signature: Signature: _____ Date: _____

State Watershed Operations
 Program Manager: Signature: _____ Date: _____

State Technical Lead
 (SRC, SCE, Other): Signature: _____ Date: _____

| | |
|--------------------------|---|
| <input type="checkbox"/> | Not recommended for planning funding |
| <input type="checkbox"/> | Accepted and recommended for Planning Funding |

State Conservationist: Signature: _____ Date: _____

19.0 APPENDICES

Appendix A – Sponsor Letter of Request

Appendix B – Watershed Location Map

Appendix C – Watershed Project Area Map

Appendix D – Alternatives Basic Information

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APPENDIX A – SPONSOR LETTER OF REQUEST

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BEAUFORT COUNTY STORMWATER UTILITY
120 Shanklin Road
Beaufort, South Carolina 29906
Voice (843) 255-2801 Facsimile (843) 255-9478



March 24, 2022

Ann English
 State Conservationist
 USDA/Natural Resources Conservation Service
 1835 Assembly Street
 Rm.950
 Columbia, SC 29201

Dear Ms. English:

We request NRCS Watershed Program planning assistance for a potential Public Law (PL) 566 project in Beaufort County, HUC 12 #030502080501, at the location of Arthur Horne Park, discharging to the impaired Battery Creek. This project would create a regional stormwater BMP in a residential area that currently does not have any stormwater treatment. The project would include stormwater detention, stormwater treatment, recreational opportunities, and educational components.

We are a unit of local government with a legal interest in or responsibility for the watershed project proposed. We understand, as sponsors of a PL 566 planning effort, that our responsibilities will include:

- Assisting in the locally led planning effort,
- Contributing a share of the project costs, as determined by NRCS, by providing funds or eligible services necessary to undertake the activity,
- Before being credited with the value of any in-kind contributions for in-kind services and/or acquisition of land rights, Sponsor will sign a Memorandum of Understanding (MOU) with NRCS,
- Obtaining any necessary real property rights, by eminent domain, if necessary,
- Obtaining any needed water rights, and regulatory permits at the Sponsor's cost,
- Agreeing to provide for any required operation and maintenance of the completed measures.

We look forward to working with NRCS staff to complete a Preliminary Investigation Feasibility Report (PIFR) to provide reasonable assurance that a potential watershed project can be developed that addresses a PL 566 purpose and that there are no apparent insurmountable obstacles to the completion of that project.

The names, addresses, and telephone numbers of the administrative and technical contact persons in our organization are as follows:

Julianna Corbin, EIT
Environmental Engineer
Beaufort County Stormwater
120 Shanklin Rd
Beaufort, SC 29906
Office: 843-255-2812
Cell: 843-929-2037

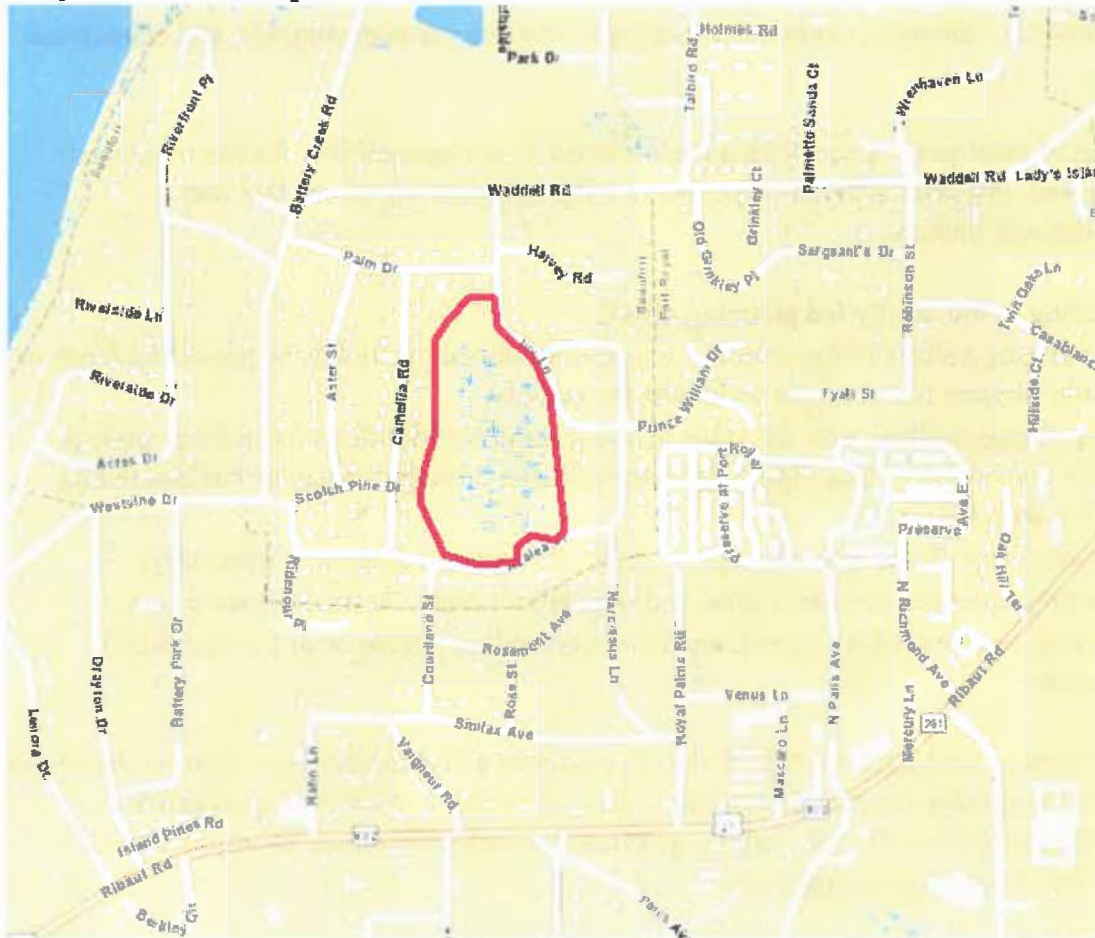
Please contact her for any additional information that you might need in assessing our request.

Sincerely,



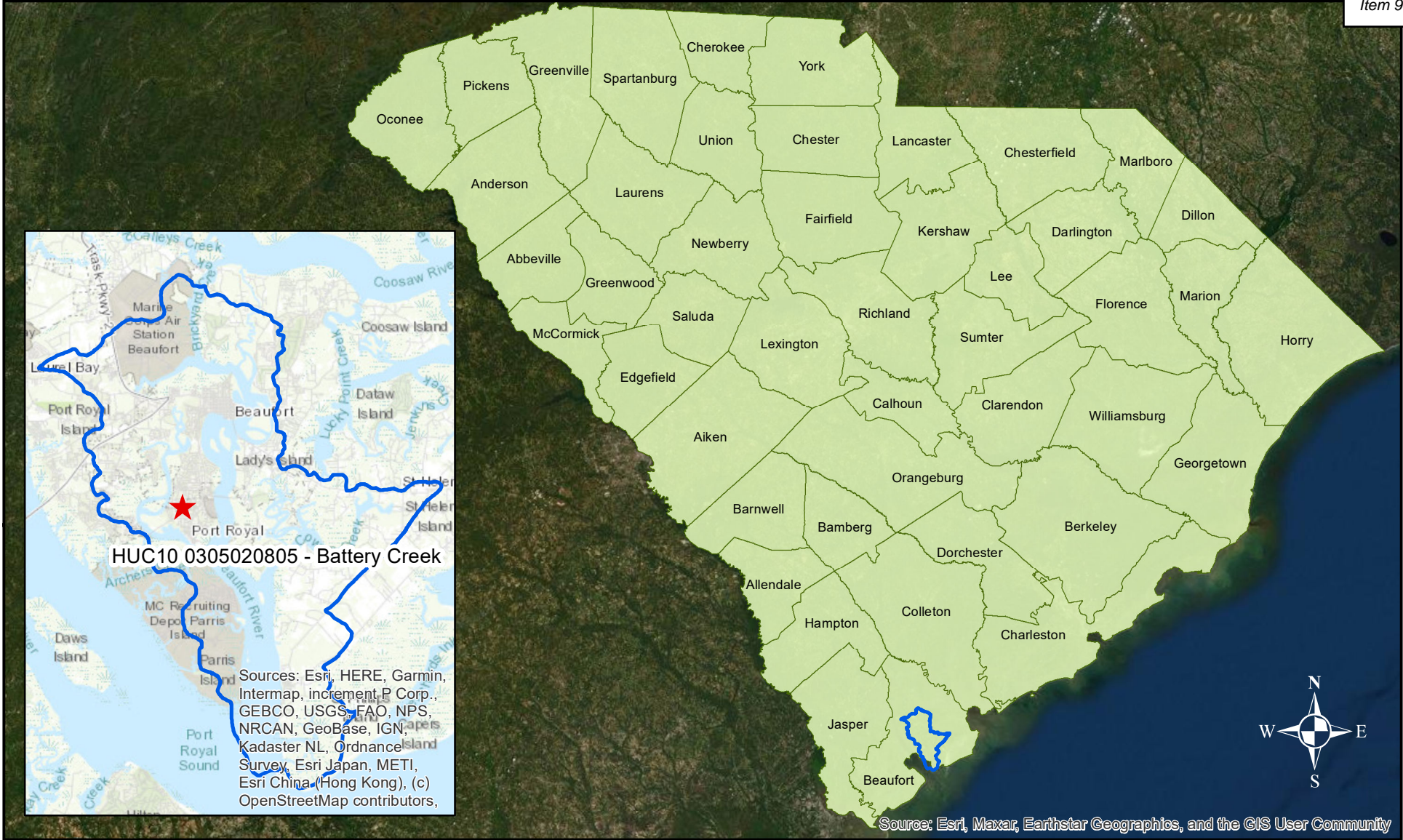
Katie Herrera
Stormwater Manager

Project Location Map:



APPENDIX B – WATERSHED LOCATION MAP

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Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

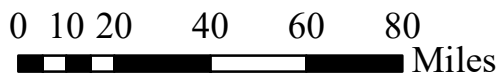
Legend

- ★ Arthur Home Park
- HUC10
- Beaufort River - Atlantic Intercoastal Waterway

Appendix B

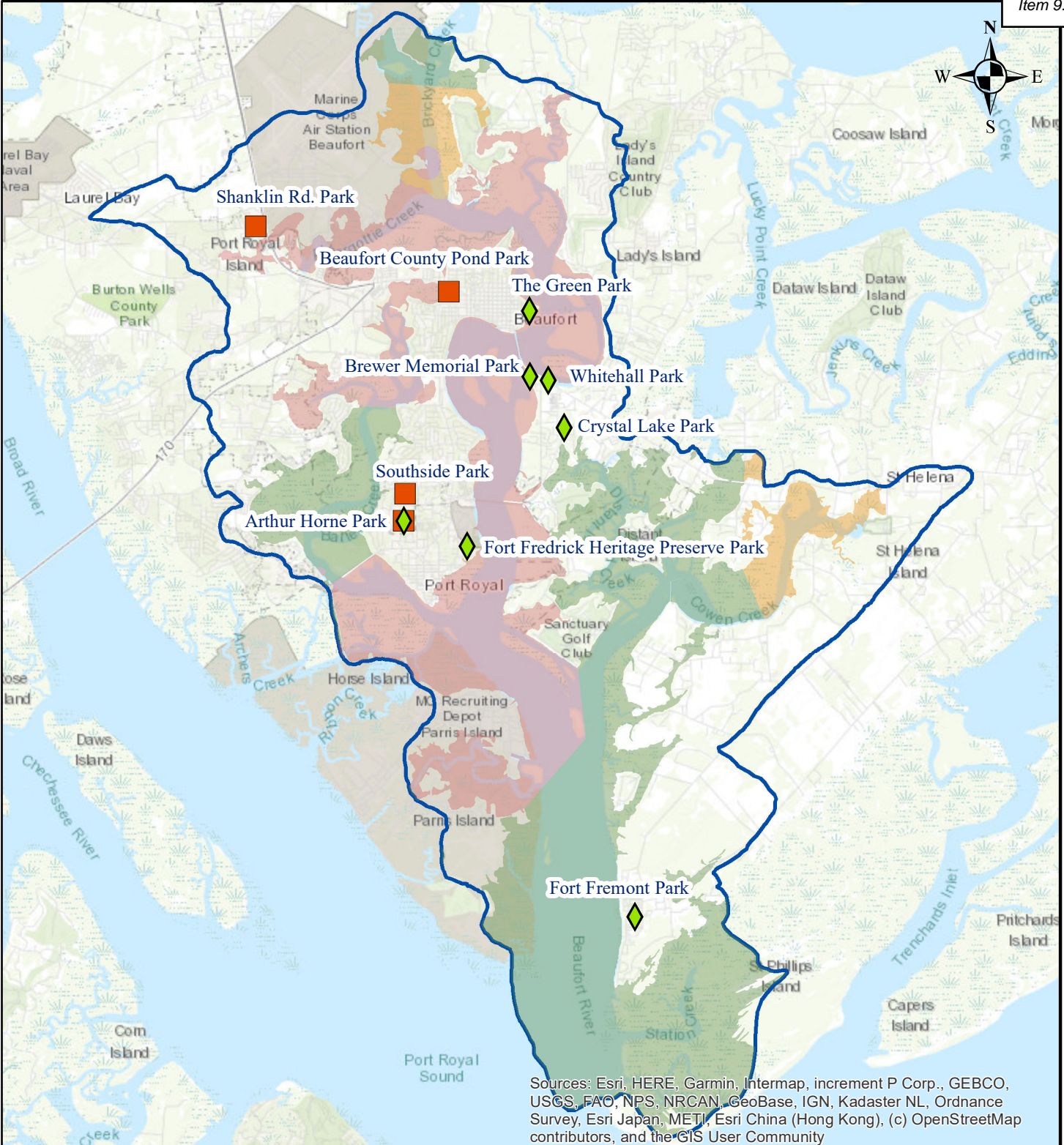
Watershed Location Map

Beaufort County, South Carolina



APPENDIX C – WATERSHED PROJECT AREA MAP

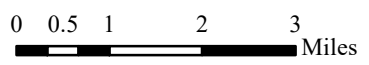
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Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Legend

- ◆ Priority Sites for Pet Waste Stations
 - Priority Sites for Stormwater Treatment
- Shellfish Harvest Classification**
- Approved
 - Prohibited
 - Restricted
- HUC10 0305020805



Appendix C
Watershed Project Area Map
Beaufort County, South Carolina



APPENDIX D – ALTERNATIVES BASIC INFORMATION

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Appendix D – Alternatives Basic Information

SPONSOR’S PRIORITY SITES AND COSTS




Battery Creek Watershed

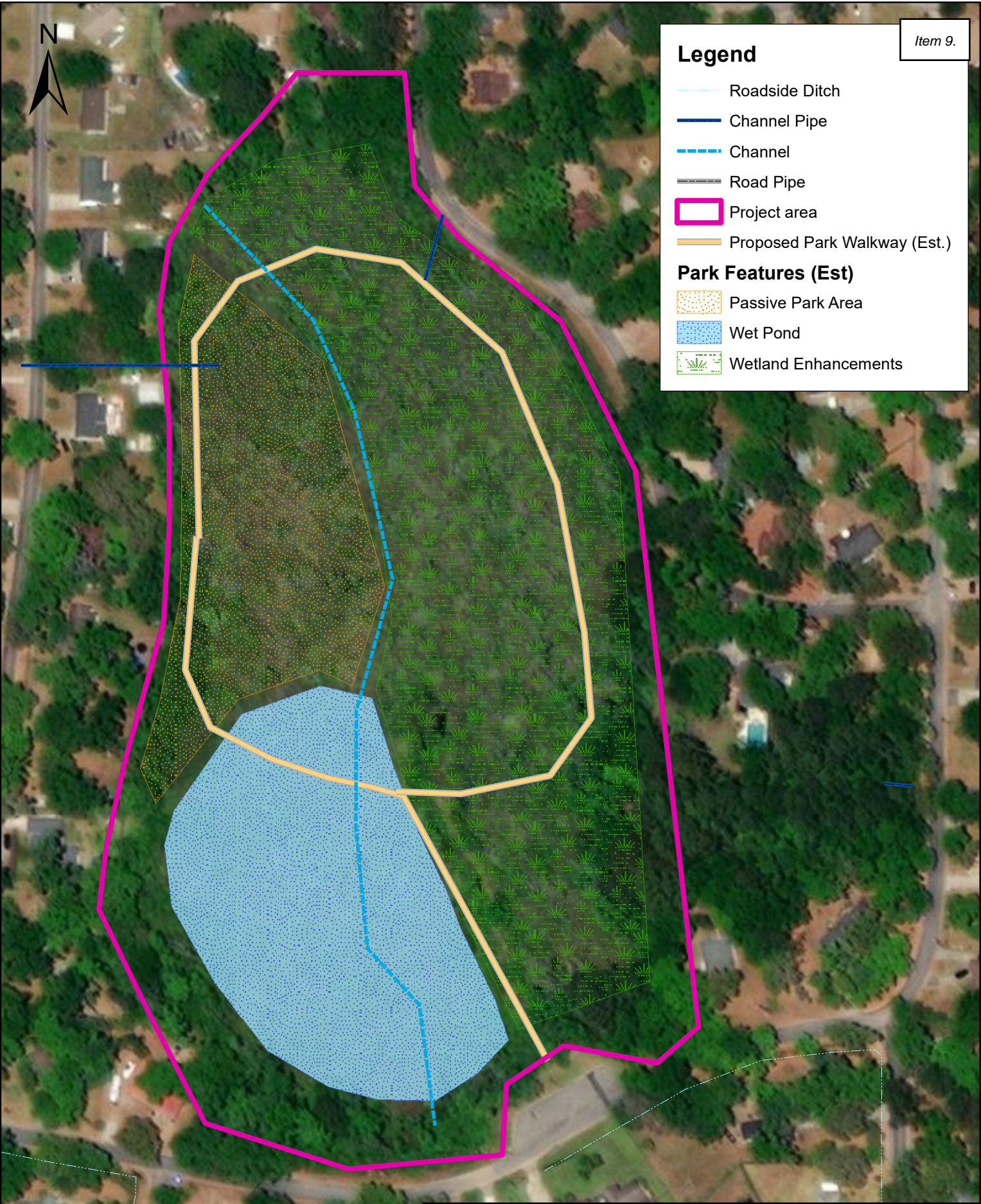
| Sponsor’s Priority Sites | | |
|--|--|-------------------|
| Site Name | Description | Construction Cost |
| Arthur Horne Park | | \$2.5M |
| Southside Park | Artificial wetland system for water quality and quantity controls within the proposed Southside Park improvement project. Overall, the park improvements are expected to be \$6 million. | \$2M |
| Shanklin Rd | Project to retrofit an existing wetland used for stormwater drainage to improve water quality. | \$1M |
| Beaufort County Administration Pond | Water quality would be improved retrofitting the stormwater ponds on site to include planted buffers. | \$100,000 |
| Beaufort County Passive Parks and Education Campaign | Approximately 15 pet waste stations located in 7 Beaufort County Passive Parks. Focused education campaign <i>why we tell you what we tell you and the impact it has downstream.</i> | \$40,000 |
| Total Construction Cost | | \$5.6M |
| Federal Share Construction (75% commensurate with other NRCE programs) | | \$4.2M |
| Public Law 83-566 Construction Cost Less than \$5 million | Plan approval – State Conservationist Funding authorization – Chief | |
| Public Law 83-566 Construction Cost \$5 million or more | Plan approval – State Conservationist Funding authorization – Chief, subject to prior approval by the Senate Committee on Agriculture, Nutrition, and Forestry, and the House of Representatives Committee on Agriculture | |

Legend

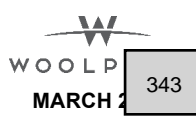
-  Roadside Ditch
-  Channel Pipe
-  Channel
-  Road Pipe
-  Project area
-  Proposed Park Walkway (Est.)

Park Features (Est)

-  Passive Park Area
-  Wet Pond
-  Wetland Enhancements



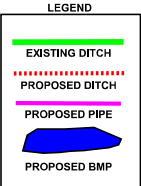
Arthur Horne Park
Concept Plan
 319 Grant Initial Proposal



Arthur Horne Park

Concept Level Cost Estimate

| <u>Item</u> | <u>Quantity</u> | <u>Unit</u> | <u>Unit Cost</u> | <u>Total Cost</u> |
|--|-----------------|-------------|------------------|------------------------|
| Mobilization | 1 | LS | | \$ 91,090.20 |
| Bonds and Insurance | 1 | LS | | \$ 18,218.04 |
| Construction Stakes, Lines, and Grades | 1 | LS | | \$ 27,327.06 |
| As-Builts | 1 | LS | | \$ 18,218.04 |
| Traffic Control | 1 | LS | | \$ 18,218.04 |
| Erosion and Sediment Control | 1 | LS | | \$ 54,654.12 |
| Clearing and Grubbing | 17 | AC | \$ 10,000.00 | \$ 170,000.00 |
| Rough and Fine Grading | 102850 | CY | \$ 12.00 | \$ 1,234,200.00 |
| Riprap | 500 | TON | \$ 65.00 | \$ 32,500.00 |
| Topsoil and Seeding | 82280 | SY | \$ 1.80 | \$ 148,104.00 |
| Outlet Control Structure | 2 | EA | \$ 5,000.00 | \$ 10,000.00 |
| Boardwalk | 400 | LF | \$ 150.00 | \$ 60,000.00 |
| Concrete Walkways | 750 | LF | \$ 40.00 | \$ 30,000.00 |
| Landscaping: Large Trees | 100 | EA | \$ 800.00 | \$ 80,000.00 |
| Landscaping: Small Trees/Shrubs | 400 | EA | \$ 60.00 | \$ 24,000.00 |
| Landscaping: Wetland Plants | 1000 | EA | \$ 3.00 | \$ 3,000.00 |
| Site Electrical and Amenities | 1 | LS | \$ 30,000.00 | \$ 30,000.00 |
| | | | | |
| | | | | |
| SUB-TOTAL CONSTRUCTION COST | | | | \$ 2,049,529.50 |
| | | | | |
| <i>Design and Engineering</i> | 10% | | | \$ 204,952.95 |
| <i>Permitting</i> | 2% | | | \$ 40,990.59 |
| <i>Construction Administration and Oversight</i> | 6% | | | \$ 122,971.77 |
| | | | | |
| 20% Contingency | | | | \$ 409,905.90 |
| | | | | |
| TOTAL COST | | | | \$ 2,788,000.00 |
| TOTAL CONSTRUCTION COST | | | | \$ 2,420,000.00 |





Swing Bench



Bench



Picnic Table



Trash Receptacle



Playground and Safety Surface



Dog Park Entry



K9 Grass (Artificial Turf)



LEGEND

- A** CONTROLLED VEHICULAR ENTRY
- B** WOODLAND PLAYGROUND & PARKING
 - 2-5 Year Old Play
 - 5-12 Year Old Play
 - Accessible Features
 - Picnic Tables & Benches
 - ± 41 Parking Spaces
- C** EVENT PAVILION
 - Restrooms & Storage
 - 6 Picnic Table Capacity
 - Serves Playground & Festival Lawn
- D** FITNESS NODES (3)
 - Stations with Mixed Outdoor Fitness Equipment (2 per Node)
- E** ENHANCED STREETScape
 - On-Street Parking
 - Sidewalks
 - Canopy Trees
- F** MULTI-USE FESTIVAL LAWN
 - Re-Grade for proper drainage
 - Provide Festival Opportunities
 - Provide Free Play Recreation
 - Sized for (2) Soccer Fields (225'x360')
 - Concrete Walk with Swing Benches
- G** RENOVATE EXISTING RESTROOMS
- H** IMPROVED PARKING FOR DOG PARK, FESTIVAL LAWN & DISC GOLF COURSE
 - ± 114 Parking Spaces
- I** RENOVATED DOG PARK
 - Large and Small Dog Areas
 - New Fence Enclosures
 - New Common Entry Corral with Leash Hooks
 - New Pet Fountain with Misting Sprays & Lockable Hose Bibb
 - Artificial (K-9) Turf in Large Dog Area
 - Potential Agility Course & Surfacing
 - Large Dog Picnic Pavilion (4 Table Capacity)
 - Small Dog Picnic Pavilion (2 Table Capacity)
 - Pet Waste Stations
- J** POTENTIAL WALK CONNECTIONS TO WADDELL ROAD & COUNTY PARK SITE
- K** CREATED WETLAND HABITAT AND DRAINAGE AREAS
 - Expand Low Areas to Create Wetland Habitat and Improve Site Drainage Storage
 - May Utilize Cut for Fill On-Site to Re-Grade Festival Lawn
 - Wetland Overlook
 - Interpretative Signage
- L** DISC GOLF COURSE (9 HOLES) & TRAILHEAD
- M** HALF COURT BASKETBALL (42' x 50')
 - Benches
- N** NORTHWEST PVIOUS PATHS



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

| |
|--|
| ITEM TITLE: |
| Background Information – Arthur Horne Park Stormwater Project Funding Opportunity |
| MEETING NAME AND DATE: |
| Natural Resources Committee – November 7 th , 2022 |
| PRESENTER INFORMATION |
| Neil Desai, P.E. – Public Works Director Katie Herrera – Stormwater Manager (15 min) |
| ITEM BACKGROUND: |
| Stormwater staff were made aware of repetitive flooding issues in the Mossy Oaks area related to the Arthur Horne Park in September of 2021. The County began meeting with an affected property owner, City of Beaufort, and Town of Port Royal Staff, along with Councilwoman Alice Howard to determine how to address flooding issues. |
| PROJECT / ITEM NARRATIVE: |
| Stormwater budgeted for a project to be developed in FY23 and FY24. To alleviate funding pressures on the Stormwater Utility, the County applied for PL-566 funds from the United States Department of Agriculture (USDA) – Natural Resource Conservation Service (NRCS). PL-566 is NRCS’ Watershed and Flood Prevention Program (WFPO). The County project was approved to move forward in the funding process. NRCS staff engaged a consultant to perform a Preliminary Investigation Feasibility Report (PIFR). The PIFR found the proposed County projects to address flooding and water quality concerns in the watershed Mossy Oaks is located in meet all criteria to receive Federal funding for the project. State NRCS staff have requested \$1,000,000.00 at the Federal level to begin the Planning stage of the PL-566 funding process. |
| FISCAL IMPACT: |
| The fiscal impact for this project will be \$400,000 per year of the FY23 and FY24 Stormwater Utility budget. The results of the PIFR show a total cost of \$5.6M to do the project from start to finish, with \$4.2M coming from the Federal Cost Share. |
| STAFF RECOMMENDATIONS TO COUNCIL: |
| No action needed, background information only. |
| OPTIONS FOR COUNCIL MOTION: |
| No action needed, background information only. |



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

| |
|---|
| ITEM TITLE: |
| Creation of the Cultural Protection Overlay District Committee |
| MEETING NAME AND DATE: |
| Natural Resources Committee – November 7, 2022 |
| PRESENTER INFORMATION: |
| <i>Robert Merchant, AICP, Acting Director, Planning and Zoning</i> <i>10 minutes needed for presentation.</i> |
| ITEM BACKGROUND: |
| <i>In November of last year, Beaufort County Council adopted an updated version of the County’s Comprehensive Plan. The Comprehensive Plan lays the path for Beaufort County over the next decade to balance managing growth and maintaining our natural resources and cultural heritage. Protecting the Gullah/Geechee community and rural way of life on St. Helena, Polowana Island, and Warsaw Island is a high priority in the Comprehensive Plan. As a result, one of the recommended actions of the plan to further protect the islands is to assess and strengthen the Cultural Protection Overlay.</i> |
| PROJECT / ITEM NARRATIVE: |
| <i>We are proposing to form a community-led Cultural Protection Overlay committee that will be made up of community members representative of St. Helena Island. The Cultural Protection Overlay Committee will be tasked with reviewing the current Cultural Protection Overlay standards as outlined in the County’s Community Development Code, which sets development standards for the County. As a part of the review, the committee will determine what needs to be added to the Cultural Protection Overlay to reinforce its purpose and improve the protection it provides St. Helena and the surrounding islands.</i> |
| FISCAL IMPACT: |
| <i>None</i> |
| STAFF RECOMMENDATIONS TO COUNCIL: |
| <i>Staff recommends approval.</i> |
| OPTIONS FOR COUNCIL MOTION: |
| <i>To approve or deny the creation of a Cultural Protection Overlay District Committee</i> |



COUNTY COUNCIL OF BEAUFORT COUNTY

Multi Government Center, 100 Ribaut Road, Room 115

P.O. Drawer 1228, Beaufort, SC 29901-1228

Phone: (843) 255-2140 // FAX: (843) 255-9432

Item 10.

TO: Alice Howard, Chair, Natural Resources Committee of County Council

FROM: York Glover, Councilman, District 3
Paul Sommerville, Councilman, District 2

DATE: November 7, 2022

SUBJECT: Creation of the Cultural Protection Overlay District Committee

The Cultural Protection Overlay is a zoning standard that protects the natural beauty and cultural heritage of all of St. Helena Island, Polowana Island, and Warsaw Island. The Cultural Protection Overlay was created by a committee of involved leaders and community members on St. Helena Island in the late 1990s. The overlay has helped maintain the way of life on St. Helena, preventing it from becoming rapidly and inappropriately developed as has been experienced on other neighboring and nearby sea and barrier islands.

In November of last year, Beaufort County Council adopted an updated version of the County's Comprehensive Plan. The Comprehensive Plan lays the path for Beaufort County over the next decade to balance managing growth and maintaining our natural resources and cultural heritage. Protecting the Gullah/Geechee community and rural way of life on St. Helena, Polowana Island, and Warsaw Island is a high priority in the Comprehensive Plan. As a result, one of the recommended actions of the plan to further protect the islands is to assess and strengthen the Cultural Protection Overlay.

To do this, we are forming a community-led Cultural Protection Overlay committee that will be made up of community members representative of St. Helena Island. The Cultural Protection Overlay Committee will be tasked with reviewing the current Cultural Protection Overlay standards as outlined in the County's Community Development Code, which sets development standards for the County. As a part of the review, the committee will determine what needs to be added to the Cultural Protection Overlay to reinforce its purpose and improve the protection it provides St. Helena and the surrounding islands. We recommend that the following members serve on the Committee:

- 1) Queen Quet
- 2) Jeffrey Gardner
- 3) Daryl Orage
- 4) Bernice Wright
- 5) Philander McDomick
- 6) Ethel Sumpter
- 7) Elaine Scott
- 8) Mac Sanders
- 9) Bob Semmler



BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

| |
|--|
| ITEM TITLE: |
| APPROVAL OF DUE DILIGENCE FOR PROPOSED PURCHASE OF DEVELOPMENT RIGHTS ON REAL PROPERTY KNOWN AS TARVER TRACT PDR |
| MEETING NAME AND DATE: |
| Natural Resources Committee, November 7, 2022 |
| PRESENTER INFORMATION: |
| Ms. Kate Schaefer, Director of Land Protection, Beaufort County Open Land Trust - RCLP Program (5 minutes) |
| ITEM BACKGROUND: |
| Rural and Critical Land Preservation Board recommended to pursue due diligence on 10/6/22 |
| PROJECT / ITEM NARRATIVE: |
| Tarver Tract PDR properties consist of 100 acres in the May River Watershed with frontage along Scenic Highway 46 in Bluffton. It is currently zoned May River CP and the Landowner would like to protect the property with a conservation easement. |
| FISCAL IMPACT: |
| \$20,000-due diligence fees Beaufort County Rural and Critical Land Preservation Program Bond Referendum (Account # 4500) |
| STAFF RECOMMENDATIONS TO COUNCIL: |
| Staff recommended approval. |
| OPTIONS FOR COUNCIL MOTION: |
| Motion to approve due diligence for Tarver PDR Motion to modify due diligence for Tarver PDR Motion to reject due diligence for Tarver PDR |



Project Analysis: Tarver PDR

PROPOSAL FOR: Due Diligence on Purchase of Development Rights (PDR)

| | |
|--------------------------------|---|
| PROPERTY ID: | TMS# R600 038 000 0023 |
| OWNER: | The Tarver Company |
| ACREAGE: | 100.776 acres |
| PARTNERS: | BCOLT to hold conservation easement or Fee purchase |
| TOTAL PRICE (easement): | unknown |
| PRICE Negotiated/Acre: | Unknown |
| RCLPP FUNDS: | unknown |
| APPRAISED VALUE: | \$4,846,000 per 2/26/21 appraisal (enclosed) |
| ZONING: | May River Community Preservation |
| COUNCIL DISTRICT: | 9 (Lawson) |
| LOCATION: | 1007 May River Road |

Project Location and Attributes:

- 100 acres along scenic Highway 46
- Property is currently in agricultural use (timber) with a house, garage and storage building
- A large fishing pond exists on the property
- Town of Bluffton has rejected annexation proposals for the property, however within annexation boundary for town, town future land use is low-density residential

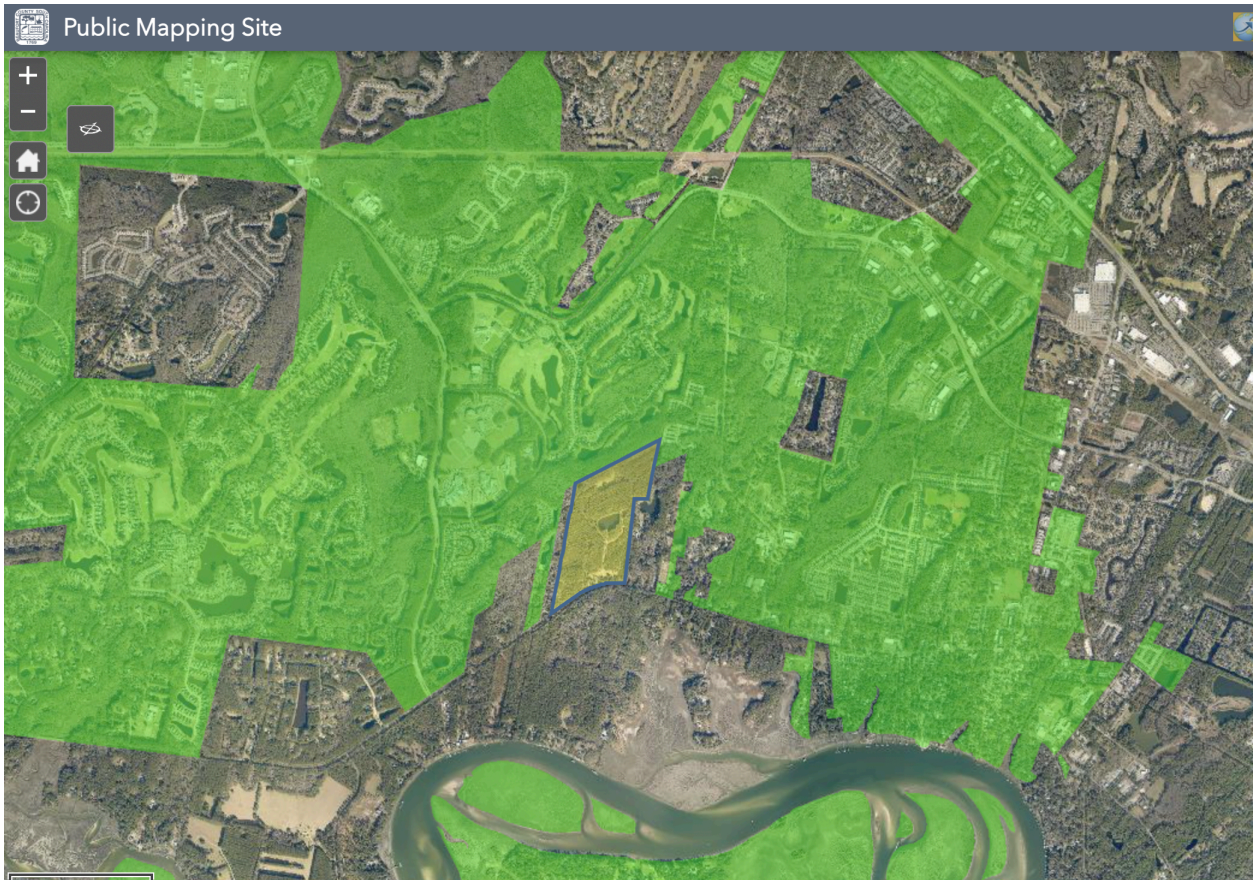
Purchase and Cost Structure:

- Town of Bluffton may have partnership interest

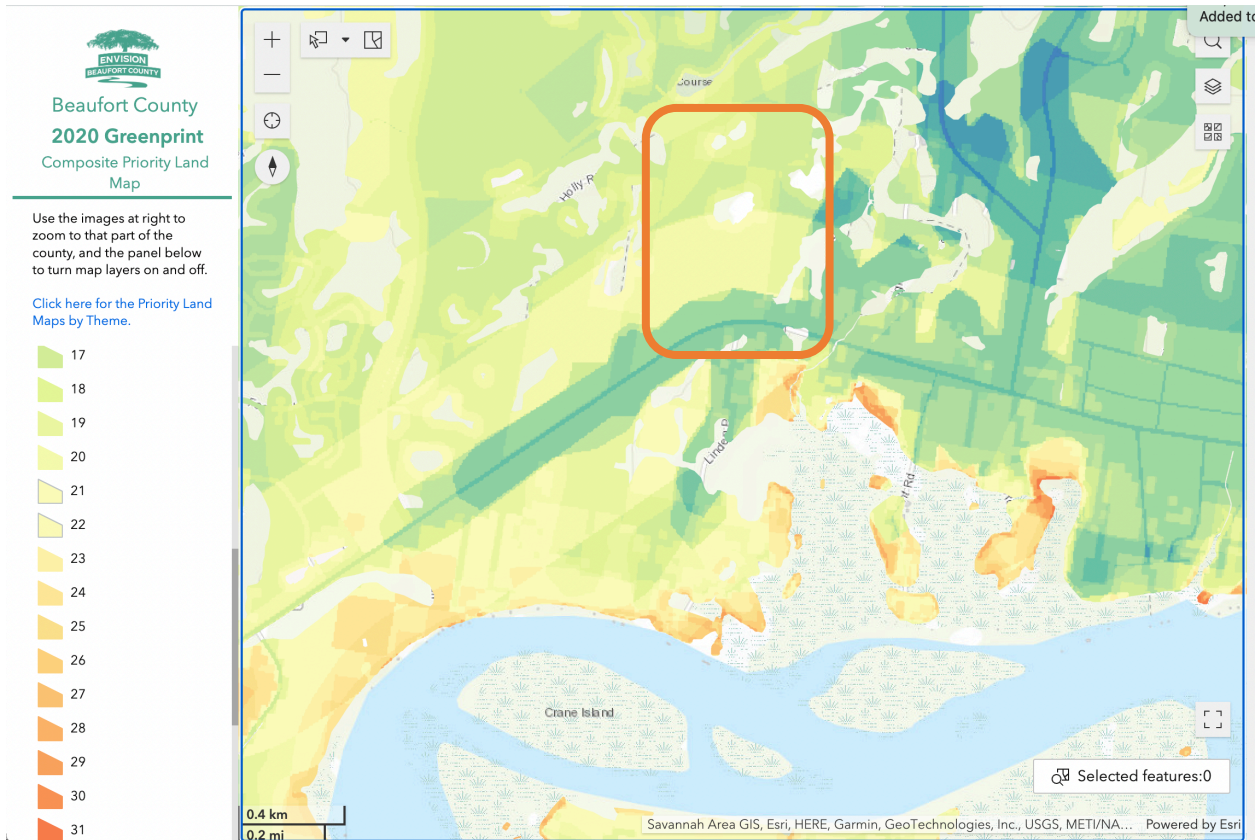
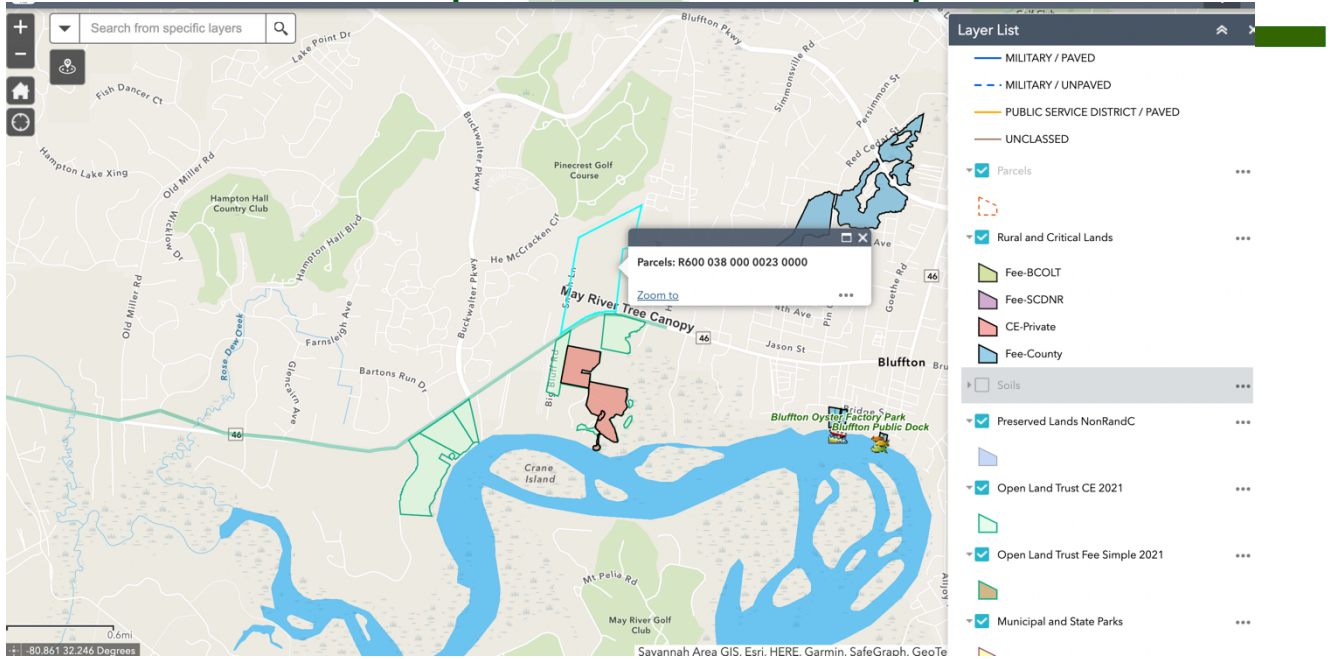
RCLP Attributes:

- Proximate to protected properties: Linden Park easements
- May River drainage
- Highway 46 tree canopy is identified in scenic roads plans at this location

Beaufort County
Rural & Critical
**LAND
PRESERVATION**



Beaufort County Rural & Critical LAND



Beaufort County Rural & Critical LAND



Beaufort County
2020 Greenprint
Priority Land Maps by Theme

Use the images at right to zoom to that part of the county, and the panel below to turn map layers on and off.

Use the tools in the upper right-hand corner to turn layers on and off.

[Click here for the Composite Priority Land Map.](#)

2020 Greenprint Plan

Water Quality Priority Land

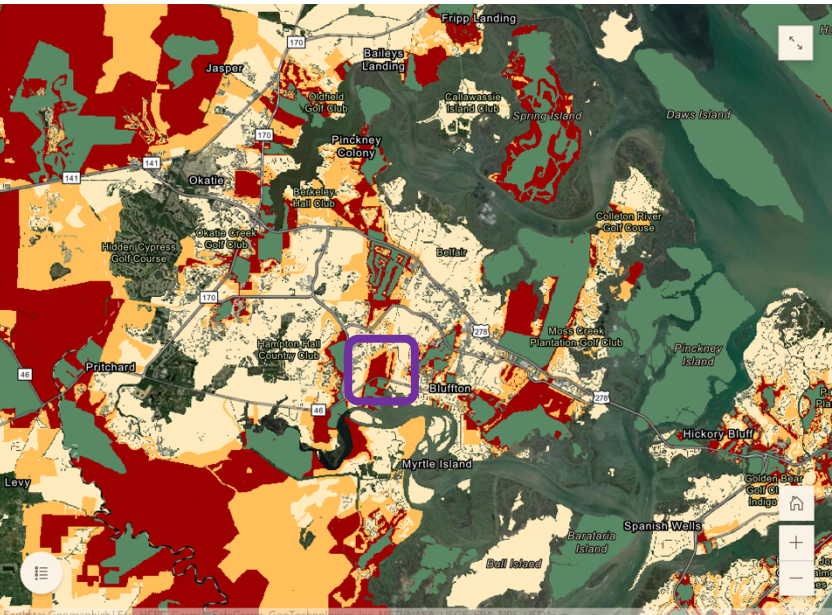
gridcode

- 0- Low Priority
- 1
- 2
- 3- High Priority
- <all other values>



Sub-Map 1: Conservation Corridors

Habitat fragmentation is a major threat to biodiversity. Connectivity facilitates animal movement, seed dispersal, and other ecological processes. Creating corridors of protected land is critical to conservation.



Beaufort County
Rural & Critical

**LAND
PRESERVATION
PROGRAM**



Tarver PDR

- PROPERTY ID: TMS# R600 038 000 0023
- OWNER: **The Tarver Company**
- ACREAGE: 100.776 acres
- PARTNERS: BCOLT to hold conservation easement
- **TOTAL PRICE (easement):** **unknown**
- PRICE Negotiated/Acre: Unknown
- RCLPP FUNDS: unknown
- APPRAISED VALUE: \$4,846,000 per 2/26/21 appraisal (enclosed)
- ZONING: May River Community Preservation
- COUNCIL DISTRICT: 9 (Lawson)
- LOCATION: 1007 May River Road

Pinecrest

McCracken
Middle + Bluffton
Elementary

Pineridge



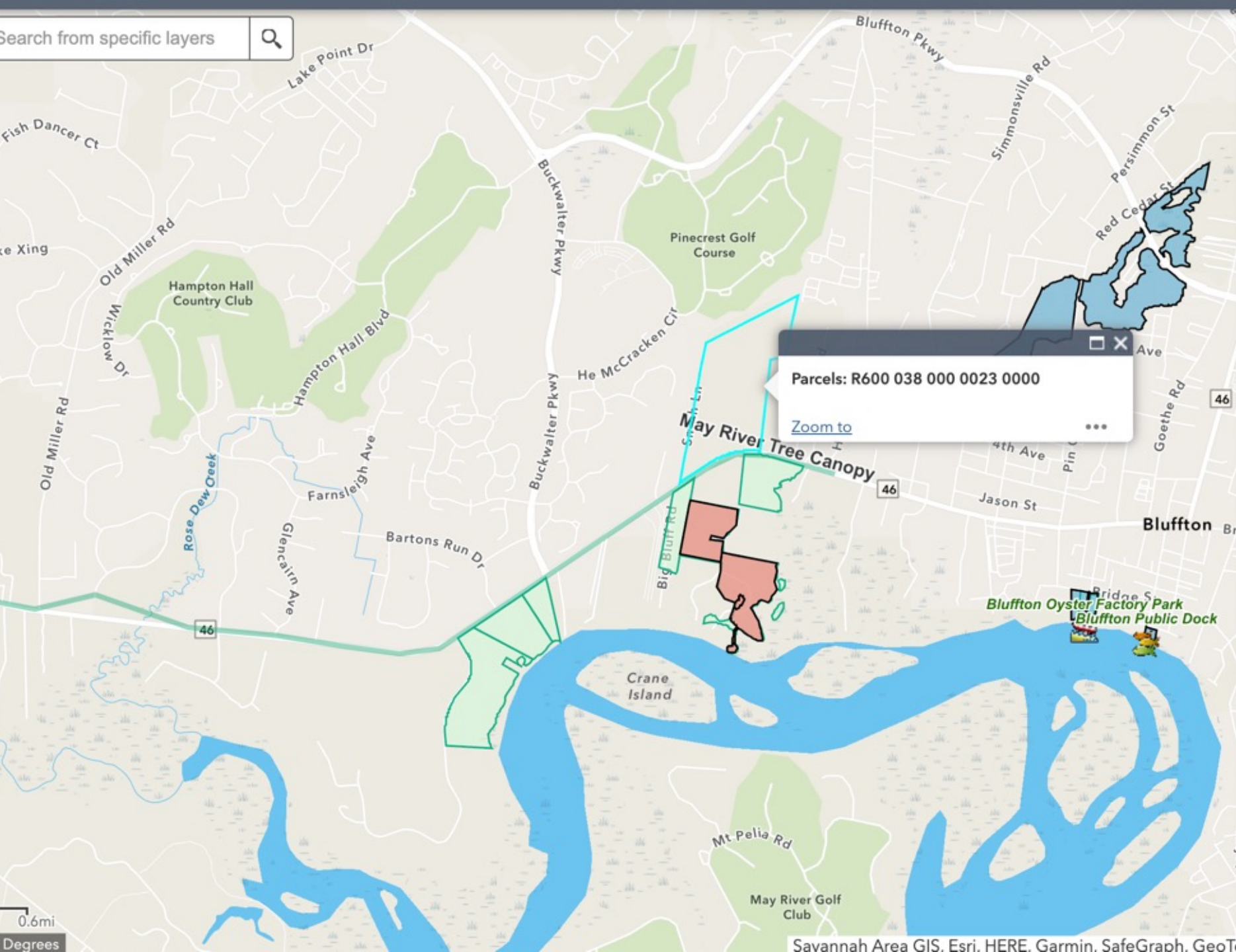
Highway 46



Item 11.

358

Search from specific layers



Layer List

Item 11.

- MILITARY / PAVED
- MILITARY / UNPAVED
- PUBLIC SERVICE DISTRICT / PAVED
- UNCLASSED
- Parcels
- Rural and Critical Lands
- Fee-BCOLT
- Fee-SCDNR
- CE-Private
- Fee-County
- Soils
- Preserved Lands NonRandC
- Open Land Trust CE 2021
- Open Land Trust Fee Simple 2021
- Municipal and State Parks

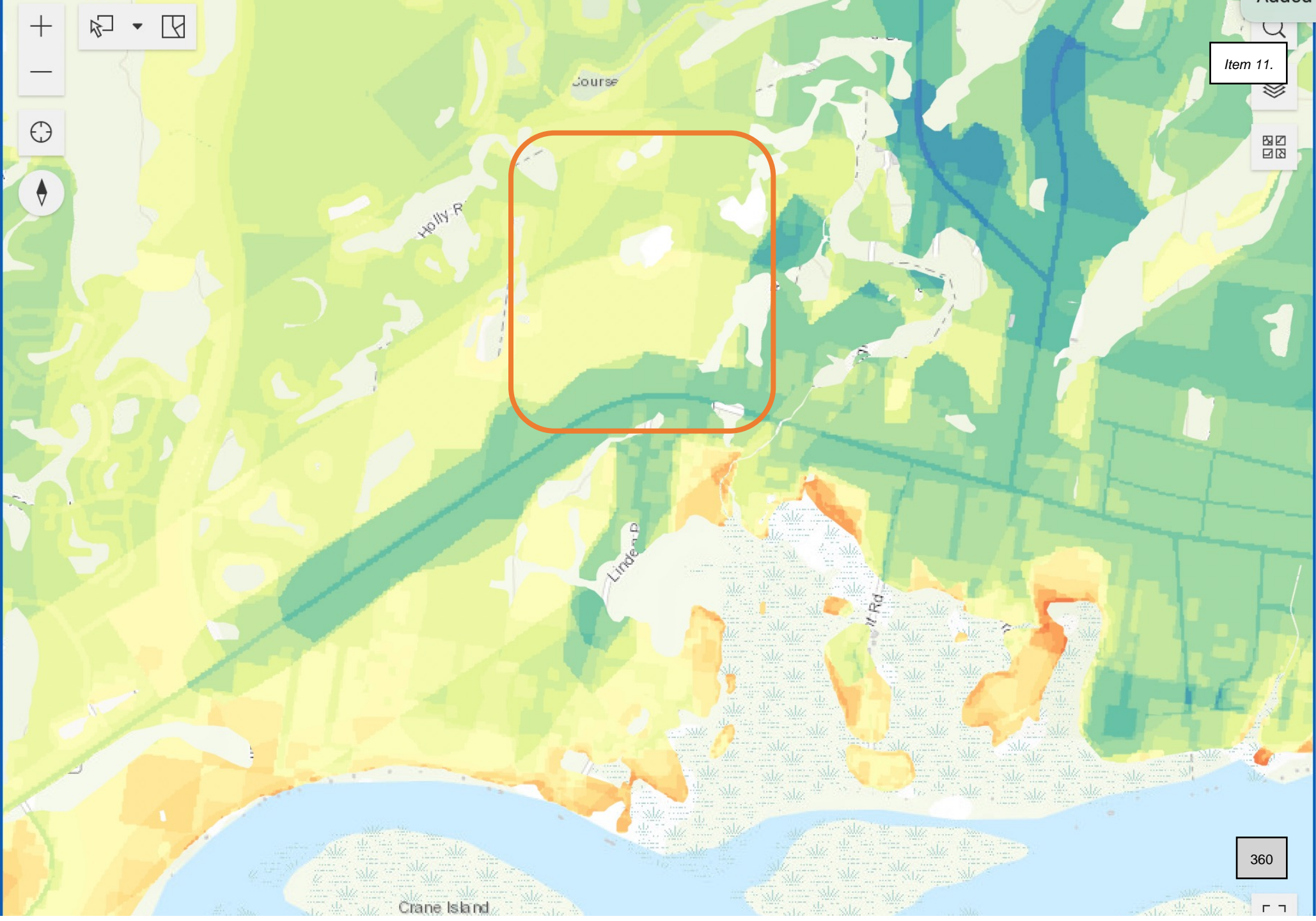
359



Beaufort County 2020 Greenprint Composite Priority Land Map

Use the images at right to zoom to that part of the county, and the panel below to turn map layers on and off.

[Click here for the Priority Land Maps by Theme.](#)





Beaufort County 2020 Greenprint Priority Land Maps by Theme

Use the images at right to zoom to that part of the county, and the panel below to turn map layers on and off.

Use the tools in the upper right-hand corner to turn map layers on and off.

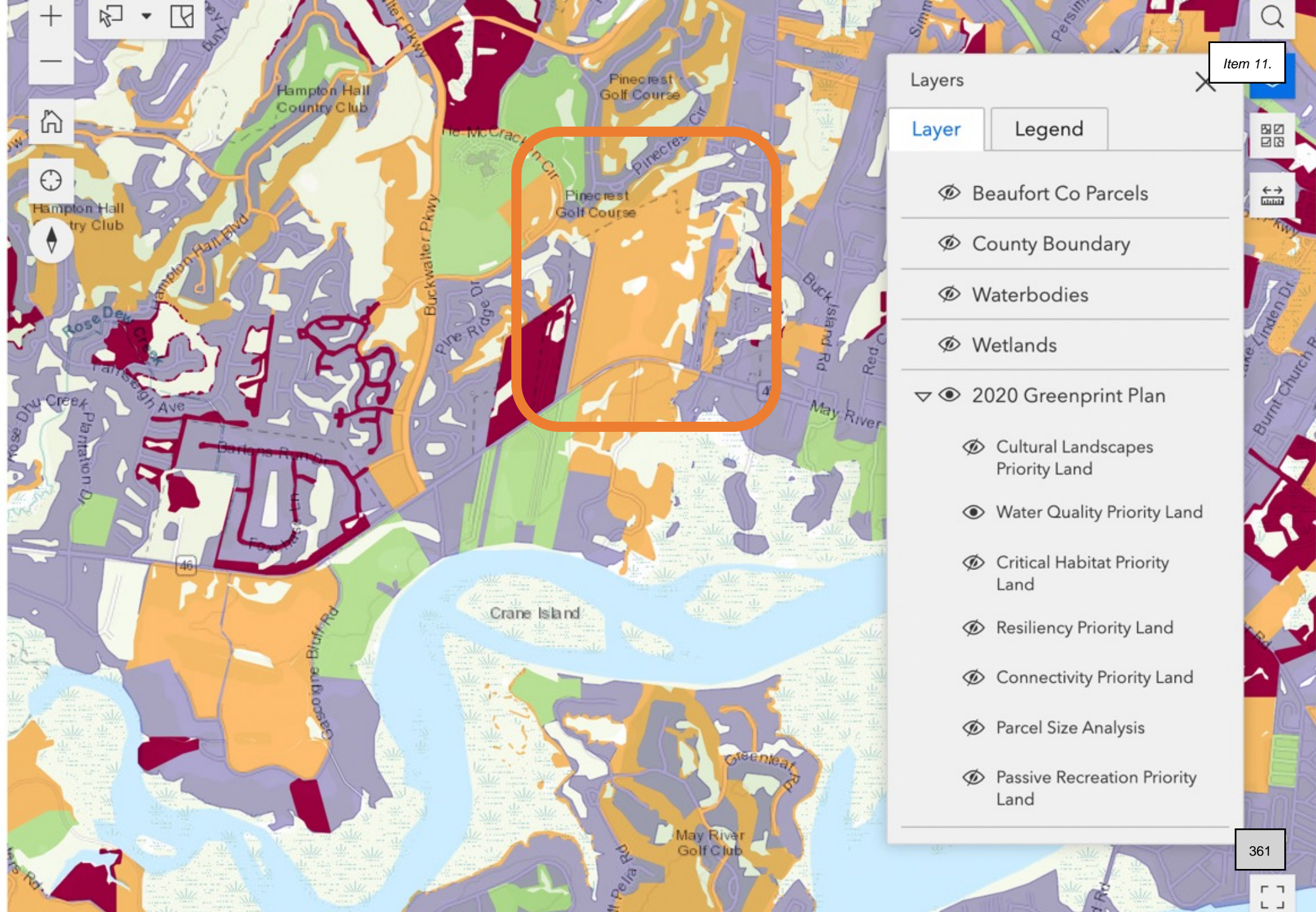
[Click here for the Composite Priority Land Map.](#)

2020 Greenprint Plan

Water Quality Priority Land

gridcode

-  0- Low Priority
-  1
-  2
-  3- High Priority
-  <all other values>

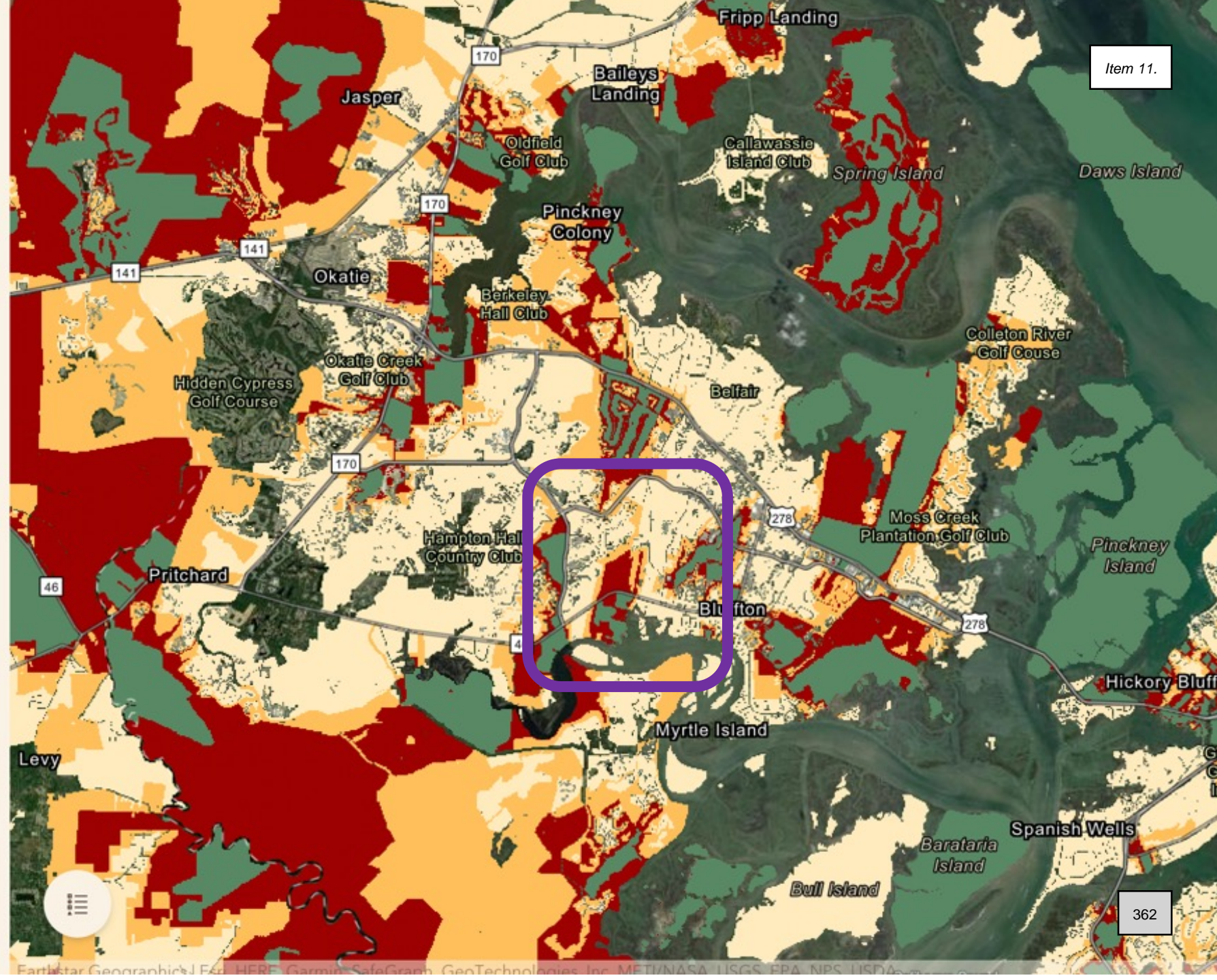


Item 11.

Sub-Map 1: Conservation Corridors

Habitat fragmentation is a major threat

to biodiversity. Connectivity facilitates animal movement, seed dispersal, and other ecological processes. Creating corridors of protected land is critical to conservation.





BEAUFORT COUNTY COUNCIL AGENDA ITEM SUMMARY

| |
|---|
| ITEM TITLE: |
| A RESOLUTION TO ADOPT A COUNTY-OWNED REAL PROPERTY LEASE POLICY |
| MEETING NAME AND DATE: |
| Executive Committee; November 7, 2022 |
| PRESENTER INFORMATION: |
| Brittany Ward, Interim County Attorney 10 Minutes |
| ITEM BACKGROUND: |
| |
| PROJECT / ITEM NARRATIVE: |
| In order to ensure that the County is consistent and fair when leasing its real property, staff has determined that a formal policy regarding the application process, lease rates and the terms and conditions of the lease are clear and uniform is in the best interest of the County. |
| FISCAL IMPACT: |
| No immediate fiscal impact. If adopted the County would receive the monthly lease rates moving forward. |
| STAFF RECOMMENDATIONS TO COUNCIL: |
| Approve the County-Owned Real Property Lease Policy |
| OPTIONS FOR COUNCIL MOTION: |
| Motion to either accept/deny the recommendation to adopt the County-Owned Real Property Lease Policy. Move forward to Council for Adoption on November 14, 2022 |

RESOLUTION NO. 2022/_____

A RESOLUTION TO ADOPT A COUNTY-OWNED REAL PROPERTY LEASE POLICY

WHEREAS, Beaufort County (“County”) through the power provided by South Carolina Code of Laws 4-9-30 has and continues to acquire real property and at times determines that it is beneficial to the County to lease all or a portion of said real property; and

WHEREAS, in order to ensure that the County is consistent and fair when leasing its real property, the County Council has determined that a formal policy regarding the application process, lease rates and the terms and conditions of the lease are clear and uniform is in the best interest of the County; and

WHEREAS, the County Council has determined that it is in the best interest of the County to adopt the County-Owned Real Property Lease Policy as shown in “Exhibit A”, attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED, that the County Council of Beaufort County does hereby adopt the County-Owned Real Property Lease Policy attached hereto and incorporated herein by refence in Exhibit A.

Adopted this _____ day of _____, 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

EXHIBIT A

County-Owned Real Property Lease Policy

- 1) **DEFINITIONS.** For purposes of this Policy, the terms are defined as follows:
- a) *Administrator.* The Beaufort County Administrator or its designee
 - b) *Application.* The “Application to Lease County Real Property” form provided to the applicant who desires to lease County owned Property. The Application is substantially similar to the form provided in Exhibit A attached hereto and incorporated herein by reference.
 - c) *Applicant.* The individual or agent who desires to lease County owned Property
 - d) *County.* Beaufort County, a political subdivision of the State of South Carolina
 - e) *Administrator.* The Administrator of Public Facilities or its designee
 - f) *Law Enforcement Officer.* An individual who has the authority to perform law enforcement duties at the request of and under the supervision of an official state, municipal, or county law enforcement agency in South Carolina.
 - g) *Lease Agreement.* Contract between the County and Tenant establishing the terms and conditions of the tenancy. The Lease Agreement for County owned properties is to be substantially similar to the agreement provided in Exhibit A attached hereto and incorporated herein by reference.
 - h) *Lease Rate.* The monthly or yearly lease rate as compensation for the County leasing the Property to the Tenant.
 - i) *Property.* Real property owned by the County and is available to be leased to a tenant.
 - j) *Nonprofit Tenant.* A nonprofit organization who holds a 501(c)(3) status at the time of application and execution of the Lease Agreement *or* an organization recognized as a quasi-County agency by Beaufort County.
 - k) *Policy.* Beaufort County’s “County-Owned Real Property Lease Policy”
- 2) **GENERAL.**
- a) The Administrator shall be responsible for overseeing the leasing of Property owned by Beaufort County in accordance with this Policy.
 - b) All Lease Agreements entered into shall adhere to the Beaufort County Purchasing Ordinance, Beaufort County procurement policy, and any applicable South Carolina State Codes. If at any time the terms of this Policy conflicts with any of the aforementioned authorities, the terms of the other authority shall supersede.
 - c) ***Lease Process Generally.*** The process of leasing Property must adhere to the following process:
 1. *Request for Lease Space.* All requests for leased real property shall be submitted to the Administrator by completing an Application.
 2. *Application Reviewed.* The Application is reviewed by the Administrator; multiple applications are reviewed pursuant to Section 4 of this Policy.
 3. *Negotiations and Staff Review.* The Administrator is responsible for negotiating the specific terms and conditions of the Lease Agreement with the Applicant, and a proposed Lease Agreement receives all of the appropriate County staff reviews and approvals .
 4. *County Council Approval.* Following the Administrator’s approval, the Administrator shall present the terms and conditions of the Lease Agreement to County Council for its final approval.

3) **LEASE RATES.** The initial Lease Rates will be determined at the time this Policy is made effective. Following the initial Lease Rates being established, the Lease Rates shall be re-established every five (5) years and be included in the County’s fiscal year budget.

- a) **Determining Lease Rates.** The Lease Rates shall be at fair market value as determined by a licensed appraiser.
- b) **Regional Lease Rates.** The County must obtain Lease Rates to be applied to those Properties located North of the Broad River and Properties located South of the Broad River. The breakdown of Lease Rates shall be determined as follows:

| North of the Broad River | South of the Broad River |
|--|--|
| <ul style="list-style-type: none"> • Residential Property per sq ft • Commercial Property: <i>Office Space per sq</i> <i>Warehouse Space per sq ft</i> | <ul style="list-style-type: none"> • Residential Property per sq ft • Commercial Property: <i>Office Space per sq</i> <i>Warehouse Space per sq ft</i> |

- c) **Deductions in Lease Rates.** The Lease Rate may be reduced if determined by the Administrator or Administrator that the Tenant is included in one of the following categories:

| Type of Tenant | Deduction |
|-------------------------|-------------------|
| Nonprofit Corporation | 50% of Lease Rate |
| Law Enforcement Officer | 25% of Lease Rate |

The deductions provided in this Section only apply to the Lease Rate, there is no deduction in any other cost associated with the Lease Agreement (i.e. utility or maintenance costs).

- d) **Administrative Determination.** The Administrator may in its discretion reduce the lease rate to a nominal amount if determined the use of the Property is a benefit to the community that would not otherwise be available with an increased lease rate. The reduced lease rate described in this Section must be presented to County Council and receive a majority vote approval.

4) **LEASE SPACE APPLICATION.**

- a) **Application Contents.** The Application shall include, but is not limited to, the following:
 - Name of organization requesting to lease County owned property, and name of the agent and its title, contact information, and tax information for applicant;
 - Identifying the County owned property that is being desired for leasing;
 - Explanation of the intended use of the Property;
 - Listing any special modifications that will need to be made to the Property; and
 - Desired term of the Lease.

The Application should be substantially similar to Exhibit A, but may be amended periodically and as deemed necessary either by the Administrator or Administrator.

- b) **Review of Application.** The Application is to be reviewed by the Administrator and is only to be deemed officially received by the County if the Application is completely filled out and all required information is provided. Specific terms and conditions of the Agreement should not be discussed with the Requestor until the Application has been provided to the County as described in this Section.

- c) ***Application Review Process.*** Upon receipt of all Applications for the Property, the Administrator should adhere to the terms of this Section and review all Applications when determining which Applicant to refer to County Council for final approval. In determining the best fit Applicant the Administrator should at minimum consider the following: term of the Agreement, the proposed use of the Lease Space, costs associated with any request for changes to Lease Space, and any other terms being requested by the Applicant.
- 5) **LEASE AGREEMENT.** The Lease Agreement shall be similar to the agreement provided in Exhibit B, attached hereto and incorporated herein by reference. The specific terms and conditions of each Lease Agreement will differ, but each Lease Agreement must include the terms and conditions described in this Section.
- a) ***Term and Renewal Clause.*** The Lease Agreement must have a specific date in which the Tenant's occupancy of the Property begins and a specific date it ends. The Lease Agreement must have a renewal clause that either 1) states the Lease Agreement shall not be renewed and if renewal is desired then said renewal must receive approval of County Council; or 2) state a specific renewal term which may be negotiated with the Tenant but must include a final termination of the Lease agreement.
- b) ***Lease Rate Clause.*** Lease Rates shall be determined as described in Section 3 of this Policy. The Lease Rate clause must include a three (3%) inflation rate to be applied at the time of any renewal of the Lease Agreement.
- c) ***Utility and Maintenance Clause.*** The Lease Agreement must state that the Tenant is solely responsible for all utility costs and routine maintenance during the term of its occupancy, but it is acknowledged that the definition of "utility" and "routine maintenance" may be determined on a case by case basis as determined appropriate by the Administrator.