



**County Council of
Beaufort County
Executive Committee
Meeting**

Committee Members

STU RODMAN, CHAIRMAN

PAUL SOMMERVILLE, VICE CHAIRMAN

BRIAN FLEWELLING,

ALICE HOWARD

LAWRENCE MCELYNN

JOSEPH PASSIMENT

County Administrator

ASHLEY M. JACOBS

Clerk to Council

SARAH W. BROCK

Administration Building

Beaufort County Government

Robert Smalls Complex

100 Ribaut Road

Contact

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Beaufort, South Carolina 29901-1228

(843) 255-2180

www.beaufortcountysc.gov

Executive Committee Agenda

Monday, March 09, 2020 at 5:30 PM

Large Meeting Room, Hilton Head Island Branch Library

11 Beach City Road, Hilton Head Island

1. CALL TO ORDER
2. *[Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act]*
3. APPROVAL OF AGENDA
4. APPROVAL OF MINUTES

ACTION ITEMS

5. Approval of a Resolution supporting certifications and assurances to the SC Department of Transportation for a State Mass Transit Funds (SMTF) Grant
6. Approval of purchasing Munis Software as a Service (SaaS) from Tyler Technologies with a recurring annual fee of \$210,095 and onetime fee of \$4,000.
7. Approval of Securitas Security Services at Hilton Head Island Airport
8. Gate Reassignment Project - United Airlines
9. Approval of a Resolution authorizing the County Administrator to negotiate and execute the documents necessary for the purchase of properties for the expansion project at the Hilton Head Island Airport

BOARDS AND COMMISSIONS

10. Airports Board Vacancy
11. Beaufort Memorial Hospital Board of Trustee's Appointments and Reappointments

CITIZEN COMMENTS

12. CITIZEN COMMENT
13. ADJOURNMENT



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Approval of Minutes

Council Committee:

Executive Committee

Meeting Date:

March 9, 2020

Committee Presenter (Name and Title):

Issues for Consideration:

Approval of January 13, 2020 and February 10, 2020 minutes

Points to Consider:

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve

MINUTES
Executive Committee
January 13, 2020

Council Chambers, Administration Building
Beaufort County Government Robert Smalls Complex,
100 Ribaut Road, Beaufort, South Carolina 29902

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

ATTENDANCE

Present: Chairman, Stewart Rodman; Vice Chairman, Paul Sommerville; Alice Howard, Joseph Passiment, Lawrence McElynn,

Absent:

Ex-officio: Chris Hervocho, York Glover, Brian Flewelling, Michael Covert, Gerald Dawson, Mark Lawson (Non-committee members of Council serve as *ex-officio* members and are entitled to vote.)

Media: Joe Croley, Low country Inside Track

CALL TO ORDER

FOIA- Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act

APPROVAL OF AGENDA

Motion: Motion: It was moved by Councilman Passiment, seconded by Councilwoman Howard to approve the agenda as presented. The vote: YAYS – Councilman Rodman, Councilman Sommerville, Councilman Hervocho, Councilwoman Howard, Councilman Passiment, Councilman McElynn, Councilman Flewelling, Councilman Covert, Councilman Dawson and Councilman Lawson The motion passed.

APPROVAL OF MINUTES

A. December 9, 2019

Motion: It was moved by Councilwoman Howard, seconded by Councilman Flewelling to approve minutes from December 9, 2019 subject to suggested changes. The vote: YAYS – Councilman Rodman, Councilman Sommerville, Councilman Hervocho, Councilwoman Howard, Councilman Passiment, Councilman McElynn, Councilman Flewelling, Councilman Covert, Councilman Dawson and Councilman Lawson The motion passed.

APPOINTMENTS AND REAPPOINTMENTS

Reappointment of Mark Bailey and Trey Ambrose to the Beaufort County Airports Board.

Motion: It was moved by Councilman Flewelling, seconded by Councilman Passiment to reappoint Mark Bailey and Trey Ambrose to the Beaufort County Airports Board. The vote: YAYS – Councilman Rodman, Councilman Sommerville, Councilman Hervochon, Councilwoman Howard, Councilman Passiment, Councilman McElynn, Councilman Flewelling, Councilman Covert, Councilman Dawson and Councilman Lawson The motion passed.

PRESENTATIONS

Presentation by the Interim 278 Task Force- Jennifer Bragg

US 278 Review from Jenkins Island to Squire Pope Road.

- Potential Immediate Improvement Options:
 - ~ Jenkins Island
 - ~ Squire Pope Intersection
- Potential Long-Term Solution
 - ~ Right-in Right-out with Frontage Roads

Potential Alternatives: Blue Heron Pt. use existing right turn lane and incorporate it into the third through lane. Extended pavement from Blue Heron Pt. tying it into the dedicate right turn lane at Cross Tree, pick up the acceleration lane from Cross Tree Drive and extend it as well to beyond the Jenkins Road cross over, this is traveling East bound. Traveling West bound prior to Jenkins Road we would start an additional third lane and continue it to Gateway Dr., there is very little traffic turning onto Gateway Dr. and it would allow cars to merge over prior to the curve and prior to the approach to the bridges. Cross Tree Dr. becomes right in right out and the median access is closed. Blue Heron Pt. becomes the left turn U-turn and a signal is installed at Blue Heron Pt. This is a two phase signal. When the signal changes red the East bound traffic is stopped left turn U-turn traffic at Blue Heron Pt. can go. The west bound traffic does not stop, it continues. When you go to Jenkins Rd. a two phase signal will be installed. East bound traffic will continue. West bound traffic will stop to allow turns onto Jenkins Rd. as well as allow cars to turn right out of Jenkins Rd. This is all very similar to the overall proposed super street design in the operations. The only difference is the signal location. This is an intermediate solution minimizing cost to build super street.

Squire Pope meters the traffic onto and off the island. There is an existing very short third lane east bound prior to the signal. The only time anyone every enters this lane is when the light is red, it is that short. By extending it just a little more cars can enter the lane prior the signal while it is still green. The other option was the operations of the signal; we are proposing a two phase signal. Left turns are allowed from east bound onto Squire Pope and also west bound onto Chamberlin Drive. Traffic on Squire Pope can redirected up to Wild Horse or to Spanish Moss. There is very

little traffic on Chamberlin they can actually go up to the Wild Horse and make a U-turn at the intersection. The KCI team analyzed it using a design year 2045 when you go the additional 10 years, the super street design will handle the through traffic with a level service C and D but will sacrifice the side road. In the future the side roads will have extremely long wait times.

Councilman Passiment: What is the time line for the proposal?

Rob McFee: Original time frame was around 18 months. With this reduce contract we have begun discussion but it should be less than 18 months.

Councilwoman Howard: DOT's reaction to the signals?

Jennifer Bragg: These signals mirror's DOT recommendation.

Councilman Hervochon: This plan was proposed by Windmill Harbor 5-6 years ago and was shot down by SCDOT? What is the comparison between the two proposals?

Jennifer Bragg: I'm not sure what Windmill Harbor proposed 5-6 years ago. The proposed super street, that has been advertised with contractor on board is very similar to this. This solution is simplified for the interim. We don't know what the preferred alternative will be but each one will impact the super street.

Councilman Hervochon: Do you know if your proposed will require a traffic study?

Jennifer Bragg: SCDOT has not requested one.

Councilman Hervochon: One of the concerns that was expressed to me was that with the acceleration lane it requires a three land change to turn. Can you give me more information on that?

Jennifer Bragg: It is 1500 feet. SCDOT guidelines is 1000 feet so we exceed the requirement.

Councilman Hervochon: Have we confirmed that the contractor will still be able to do this work?

Rob McFee: The contractor does have interest in doing this proposal. They were the lowest bid with the original proposal. We have been keeping in contact with them.

Potential Long Term Solutions: Right in- Right out frontage road option. This was a preferred alternative but was ruled out because of financial constriction. Solution was to utilize the bridge for an underpass for a loop road were the cars can right in and right out on both sides.

Windmill Harbor Committee: No comment with regard to Squire Pope presentation. Were we do have concerns is the U-turn at Jenkins Road is going to cause major problems. It needs to be further East as proposed by HDR. There just isn't enough room to get over in heavy traffic. The U-turn, we have very large semi-eighteen wheelers and school buses making that turn and we need a bulb of some sort for them to make that turn safely.

Southern Carolina Alliance Quarterly Report- John Loving

2019 Summary

- Began 2019 with 44 Projects
- Added 80 New Projects
- Closed 60
- Announced 14
- Announced 1 in 2018 (Alpha Genesis/Bft)
- Announced Investments by NSC of Spec. Industrial Development
- 49 Active projects as of 12/31/19
- 276 Property Submittals
- 87 site visits
- 24 of the 80 New Projects in 2019 are in Beaufort County
- 2019-14 Announcements \$81,355,000 + 430 jobs
- Average Project Length: 8.9 months

Councilman Covert: Spec building number 4 in Jasper County. How many of those were done, four? Are they all occupied? How long does it normally take?

John: All four are occupied and there are only four in existence. The last 2 took between 12 – 18 month to complete.

Councilman Glover: On the loss page, how many were in Beaufort County and why were they lost?

John: This is regional data but I can get the specifics for Beaufort County for you.

EXECUTIVE SESSION

Motion: It was moved by Councilman Flewelling, seconded by Councilman Hervochon to receive legal advice regarding the proposed purchase of property and legal advice on delinquent stormwater fees in executive sessions. The vote: YAYS – Councilman Rodman, Councilman Hervochon, Councilwoman Howard, Councilman Glover, Councilman Passiment, Councilman Flewelling, Councilman Covert, and Councilman Lawson. NAYS- Councilman Sommerville, Councilman McElynn and Councilman Dawson. The motion passed.

Motion: It was moved by Councilman Sommerville, seconded by Councilman McElynn to go into executive session in addition to the two items already stated and approved for the receipt of legal advice regarding proposed County Council Rules of Decorum for Meeting and issues incident thereto. The vote: Councilman Rodman, Councilman Sommerville, Councilwoman Howard,

Councilman Glover, Councilman Passiment, Councilman McElynn, Councilman Dawson and Councilman Lawson. NAYS: Councilman Hervocho, Councilman Flewelling, Councilman Covert. The motion passed.

Receipt of legal advice regarding proposed County Council Rules of Decorum for Meetings and issues incident thereto.

Receipt of legal advice regarding the proposed purchase of property and issues incident thereto (2019 J, K, & L).

Receipt of legal advice regarding delinquent Stormwater Fees.

MATTERS ARISING OUT OF EXECUTIVE SESSION

Motion: It was moved by Councilman Passiment, seconded by Councilman Flewelling that we allow rural and critical lands to conduct a due diligence on property 2019L. The vote: Councilman Rodman, Councilman Sommerville, Councilman Hervocho, Councilwoman Howard, Councilman Glover, Councilman Passiment, Councilman McElynn, Councilman Flewelling, Councilman Covert, Councilman Dawson and Councilman Lawson. The motion passed.

Motion: It was moved by Councilman Glover, seconded by Councilman Flewelling that we allow Open Land Trust to conduct a due diligence on property 2019K. The vote: Councilman Rodman, Councilman Sommerville, Councilman Hervocho, Councilwoman Howard, Councilman Glover, Councilman Passiment, Councilman McElynn, Councilman Flewelling, Councilman Covert, Councilman Dawson and Councilman Lawson. The motion passed.

Motion: It was moved by Councilman Lawson, seconded by Councilwoman Howard that we allow rural and critical lands to conduct a due diligence on property 2019J. The vote: Councilman Rodman, Councilman Sommerville, Councilwoman Howard, Councilman Glover, Councilman Passiment, Councilman McElynn, Councilman Flewelling and Councilman Lawson. NAYS: Councilman Hervocho Councilman Covert and Councilman Dawson. The motion passed.

DISCUSSION ITEMS

Proposed Ordinance regarding County Rules of Decorum for Meetings

Recess meeting and go into County Council meeting and amend agenda to include in the next meeting for Rules and Procedures Committee.

CITIZEN COMMENTS- *(Comments are limited to 3 minutes)*

ADJOURNMENT 4:00 pm

DRAFT

MINUTES
Executive Committee
February 10, 2020

Council Chambers, Administration Building
Beaufort County Government Robert Smalls Complex,
100 Ribaut Road, Beaufort, South Carolina 29902

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

ATTENDANCE

Present: Chairman Stu Rodman, Vice-Chairman Paul Sommerville, Alice Howard, Joseph Passiment, Lawrence McElynn, Brian Flewelling,

Absent:

Chris Hervochon, Michael Covert, Gerald Dawson

Ex-officio: (Non-committee members of Council serve as *ex-officio* members and are entitled to vote.)

Media: Joe Croley, Low country Inside Track

CALL TO ORDER

FOIA- Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act

APPROVAL OF AGENDA

Motion: It was moved by Councilman Flewelling, seconded by Councilman Passiment to approve the agenda as presented. The vote: YAYS – Councilman Rodman, Councilman Sommerville, Councilman Hervochon, Councilwoman Howard, Councilmen Passiment, Councilman Flewelling, Councilman Covert, and Councilman Dawson. The motion passed.

BOARDS AND COMMISSION

Appointment of Dr. Sophia Alston to the Lowcountry Council of Governments Workforce Board.

Motion: It was moved by Councilman McElynn, seconded by Councilman Passiment to appoint Dr. Sophia Alston to the Lowcountry Council of Governments Workforce Board. The vote: YAYS – Councilman Rodman, Councilman Sommerville, Councilman Hervochon, Councilwoman Howard, Councilman Passiment, Councilman McElynn, Councilman Flewelling, Councilman Covert, Councilman Dawson. The motion passed.

DISCUSSION ITEMS

278 Interim Safety Project Update- *Jennifer Bragg*

Summary of Options:

- Proposed Superstreet
- Potential Immediate Improvements options:
 - ~ Jenkins Island
 - ~ Squire Pope Road Intersection
- Potential Long-Term Solution
 - ~ Right-in Right-out with Frontage Roads

Superstreet: Originally extended across the bridges to the causeway, included additional lane in each direction, included improved drainage and improving the median, a raised planted median, two signals, one at Blue Heron Point Road (two phase signal) stopping traffic eastbound only, west bound would have continued moving which would control the left turn U-turn at that crossover as well as Blue Heron point traffic, right turn only controlled by a stop sign. The other signal would be beyond Jenkins Road that would have been for a new cross over that is for U-Turn traffic, stopping westbound traffic, east bound traffic would have continued. Blue Heron Point, Cross Tree Drive, Gateway Drive, entrance to Windmill Harbor would be right out only. Median crossover would have moved farther to the east which would be a U-turn with a signal. Jenkins Road would be right out only controlled by a stop sign. Issues with superstreet was because it was originally designed for 2035 by HDR, that was their 20-year design life. The corridor is designed for 2045. In order to keep the traffic moving on the 278 corridor all the side roads and the left turn U-turn at Blue Heron point and beyond Jenkins Road will be sacrificed. By 2015 they will have a level service E or F, extremely long waits.

Synchro Results from HDR Report:

- Crosstree Dr. LOS D for 2020 AM & LOS E for 2035AM
- Jenkins Rd. LOS D for 2020 AM & LOS D for 2035 AM
- Mainline, Blue Heron Point, and U-Turn/Left Turn – ok

2045 Synchro Results from CDM Smith Superstreet Memorandum

- Blue Heron Point Road Intersection
 - ~ Blue Heron Point Road- LOS E for AM (79 sec delay) & PM (64.7 sec delay)
 - ~ U-Turn/Left Turn- LOS F for AM (102.9 sec delay) & PM (523.1 sec delay)
 - ~ US278 EB- LOS D for AM and A for PM
 - ~ US 278WB- LOS A for AM and C for PM
- Jenkins Island U-Turn Intersection
 - ~ U-Turn- LOS C for AM and F for PM (153.5 sec delay)
 - ~ US278 EB- LOS A for AM and PM
 - ~ US278 WB- LOS A for Am and C for PM

Potential Interim Alternatives- Because of the Synchro and project being over budget we were asked to come up with a potential interim solution until a preferred alternative is selected and corridor project could commence. We did a revised take on the superstreet for the interim which will in turn add an additional third lane in each direction to make the two, two-phase signals work efficiently. We also looked to see if something could be done at Squire Pope Rd., we could extend that third lane going onto the island. Going off the Island, we would still leave it two-lane but also implement a two phase signal going in both directions. Chamberlin has very little traffic so east bound is giving more green time. West bound traffic will be stopped more because there are more left turns on to Squire Pope.

Councilman McElynn: In the interim solution the acceleration lane is gone at Windmill Harbor?

Jennifer Bragg: Yes, because the idea with this is so that the light at Blue Heron creates a gap for them to get out.

Councilman Rodman: Will it be on a timer?

Jennifer Bragg: Right now it is on call situation.

Councilman McElynn: Where does it turn into two lanes?

Jennifer Bragg: East bound before the cause way.

Potential Long-Term Solution: The proposed superstreet solution will not work. It will work for 278 but they will be sacrificing the side roads, left turns and U-turns and will have very long wait times. The green light will be on the main line. One solution was right in and right out with frontage roads were Cross Tree Drive Windmill Harbor would connect with Blue Heron Point. They would use the road underneath the bridges and a series of roads would then connect with gateway drive Jenkins. This proposal was originally done by HDR. This option had a level service A until 2035. The overall corridor team is looking at this solution and has acceptable levels of service by 2045.

Councilman Flewelling: Do you remember the overall cost of the potential long term solution? Engineering cost?

Jennifer Bragg: I believe it was \$11M or \$11.4M at the time but this was also being incorporated with the overall widening of the project.

Councilman Hervochon: It was \$13.9M vs \$7.4M for superstreet.

Jennifer Bragg: The key with this even with the \$13.9M vs \$7.4M. \$13.9M in now a project that is almost \$10M because it is over budget, that \$10M will fail. It will fail sometime between 2035 and 2045. It will definitely fail those on the side street by 2045. The solution had a level service A for everybody by 2045 even with the additional traffic it will not fail in 10 years.

Recommendation is that you do not build the proposed super street because it will fail. Overall corridor project is the recommended potential long-term solution.

Councilman Rodman: What is the construction time for the interim solution.

Jennifer Bragg: Estimate 9 months. Depends on when you start for optimizing paving.

Councilman Hervocho: You eluded to final report. I have asked for it but only have a draft from 12/19. Is there a final report?

Jennifer Bragg: There is a final report with recommendations it is being revised to incorporate DOT's reports.

Councilman Hervocho: When is the final report?

Jennifer Bragg: There was some issue with the software and it wasn't printed correctly.

Councilman Hervocho: Have they blessed the proposal, SCDOT?

Jennifer Bragg: They are requesting more information in the document.

Councilman Hervocho: Do you have any idea when that firm weigh in will be?

Jennifer Bragg: No

Councilman Passiment: They will weigh in one way or another?

Jennifer Bragg: They should, we are proposing another solution so yes, they should.

Councilman Hervocho: Do we need another traffic study?

Jennifer Bragg: We should not need another traffic study, no.

Councilman Hervocho: Has something changed with Squire Pope that has caused it to be a safety issue on Jenkins Island and is it our responsibility or should that fall on Hilton Head?

Jennifer Bragg: In this case Squire Pope really meters the traffic so for an interim solution something could be done there to help Jenkins Island. That light at Squire Pope in the a.m. really backs up traffic all the way to Bluffton. You don't have to do anything to Squire Pope but something will need to be done. The corridor team is looking all the way from Moss Creek to Spanish Wells which will pick up Squire Pope.

Councilman Hervocho: The HDR solution, which is what you are basically proposing as the long term solution.

Jennifer Bragg: Yes, it was the preferred solution. But due to the fiscal constraints to the budget is was over budget.

Councilman Hervochoch: In today's dollars what is the right in and right out solution cost? What is it in three years? What are the environmental impacts?

Jennifer Bragg: With the right in right out solutions there will be additional wetland impacts but there was going to be additional wetland impacts regardless with the corridor project. Permitting will be pulled into the overall corridor project. We looked at some other options briefly but it effects the price of the overall corridor and then have to rip it all out. If you decide to move along with the preferred corridor solution it all depends.

Councilman Passiment: With the long term solution could be incorporated in the state budget for the overall corridor project?

Councilman Rodman: yes

Recommendation: Update only

ACTION ITEMS

Proposed Ordinance regarding Olsen Tract Lease Agreements for Grazing Fields and Dwelling Unit – *Brittany Ward*

As per the Olsen Tract Purchase Agreement dated December 4, 2016, the County and the Olsen's entered into a 3-year lease agreement, which expired December 15, 2019. The Olsen's and the dwelling unit occupants would like to enter into new lease agreements, which provide 4 annual extensions beyond the first year term. The Olsen's will be leasing two grazing fields and associated barns for their one horse and two donkeys. The dwelling unit occupants will be leasing the dwelling unit and associated barn for their residential use. Repairs have a cap of \$2,500 for one item. \$500/month for the dwelling unit lease and \$100 for the grazing lease.

Motion: It was moved by Councilman Flewelling, seconded by Councilwoman Howard to approve proposed ordinance as amended regarding the Olsen Tract Lease Agreements for Grazing Fields and Dwelling Unit. The vote: YAYS – Councilman Rodman, Councilman Sommerville, Councilman Hervochoch, Councilwoman Howard, Councilman Glover, Councilman Passiment, Councilman McElynn, Councilman Flewelling, Councilman Covert, Councilman Dawson. The motion passed.

Councilman Glover: There are multiple parties on the lease agreement?

Brittany Ward: County has requested that any tenants on the property be included for liability reasons.

Recommendation: forward for subsequent readings.

Resolution authorizing County Administrator to execute funding agreement with the South Carolina Housing Trust Fund.

Request that Beaufort County Council authorize the South Carolina Housing Trust Fund to place a lien in the amount of \$1000,000.00 on 2700 Waddell Road, Beaufort property to support a loan in the same amount. Initial funding application signed by Interim County Administrator John Waver in 2019. Funding allows State to support Beaufort County's efforts to vacate State property in Port Royal and construct residential homes to meet current compliance standards; State prepared to offer an additional \$200,000.00 for homes completed at Center Drive and Deanne Drive. The County currently maintains home for DSN consumers with 15 years' ownership. This will be a 20-year loan, forgiven in its entirety assuming Beaufort County continues to operate Community Training Home through DSN. Acceptance will appear as debt.

Motion: It was moved by Councilman Passiment, seconded by Councilwoman Howard to authorize the County Administrator to execute funding agreement with the South Carolina Housing Trust Fund. The vote: YAYS – Councilman Rodman, Councilman Sommerville, Councilman Hervochon, Councilwoman Howard, Councilman Glover, Councilman Passiment, Councilman McElynn, Councilman Flewelling, Councilman Covert, Councilman Dawson. The motion passed.

EXECUTIVE SESSION

Receipt of Legal Advice regarding potential user fees.

Motion: It was moved by Councilman McElynn, seconded by Councilman Dawson to go into executive session to receive legal advice regarding potential user fees. The vote: YAYS – Councilman Rodman, Councilman Sommerville, Councilman Hervochon, Councilwoman Howard, Councilman Glover, Councilman Passiment, Councilman McElynn, Councilman Flewelling, Councilman Covert, Councilman Dawson. The motion passed.

MATTERS ARISING OUT OF EXECUTIVE SESSION

Motion: It was moved by Councilman Sommerville, seconded by Councilman Dawson to authorize the Administrator to move forward with the study to establish a uniformed service charge for law enforcement services for Hilton Head Island. The vote: YAYS – Councilman Rodman, Councilman Sommerville, Councilman Hervochon, Councilwoman Howard, Councilman Glover, Councilman Passiment, Councilman McElynn, Councilman Flewelling, Councilman Covert, Councilman Dawson. The motion passed.

Recommendation: Once study has been concluded it will come back as a possible ordinance

CITIZEN COMMENTS- *(Comments are limited to 3 minutes)*

Traffic Committee from Windmill Harbor: Interim solution will make Jenkins Island more unsafe than it currently is.

Councilman McElynn: No objection to light at Blue Heron?

Traffic Committee: No objection if there is a bulb out for turning. But we also don't want our acceleration lane taken away.

Traffic Committee: The bulb out is a piece of what we are asking for. The acceleration lane we will still need and we need a deceleration lane coming into Windmill Harbor.

Citizen: Beaufort HS Leadership conference invitation.

ADJOURNMENT

DRAFT



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Resolution by Council supporting certifications and assurances to the SC Department of Transportation for a State Mass Transit Funds (SMTF) grant

Council Committee:

Executive Committee

Meeting Date:

March 9, 2020

Committee Presenter (Name and Title):

Monica Spells, Assistant County Administrator, Civic Engagement and Outreach

Issues for Consideration:

- Beaufort County intends to apply to SCDOT for a State Mass Transit Funds (SMTF) FY21 grant for a maximum allocation of \$80,000 to assist with ferry transportation services for residents and property owners of Daufuskie Island.
- The County must submit to SCDOT specific certifications and assurances with its application along with an accompanying resolution from County Council; the assurances mirror certifications and assurances that Council approved at its February 10, 2020 meeting supporting the Disabilities and Special Needs Department's application to SCDOT for transit grant funding.

Points to Consider:

- The County has applied to SCDOT for funding to support the ferry program since at least 1994.
- The collaboration between the County and entities such as Daufuskie Island Ferry Services, LLC and Palmetto Breeze Transit in managing operations of this ferry services program is an effort to benefit citizens in need of ferry services in addition to support multi-modal strategies as promoted by the Lowcountry Council of Governments Metropolitan Planning Organization.

Funding & Liability Factors:

- The current ferry operator has a one-year renewal option for July 1, 2020 to June 30, 2021. If successful, the \$80,000 award will become part of the estimated budget for ferry operations.

Council Options:

- Approve or disapprove the resolution.

Recommendation:

- Approve the resolution allowing staff to apply to SCDOT for \$80,000 in SMTF.

RESOLUTION 2020 / _____

A RESOLUTION SUPPORTING CERTIFICATIONS AND ASSURANCES TO THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION IN SUPPORT OF BEAUFORT COUNTY'S GRANT APPLICATION FOR STATE MASS TRANSIT FUNDING IN THE AMOUNT OF \$80,000 AND FOR THE COUNTY ADMINISTRATOR TO SIGN ANY ADDITIONAL DOCUMENTS REQUIRED TO RECEIVE FUNDING

WHEREAS, Daufuskie Island ("Island") is a barrier island only accessible by use of water transportation; and

WHEREAS, the County Council of Beaufort County ("Council") and the South Carolina Department of Transportation (SCDOT) have historically provided funds to assist in the transportation of the Island's residents and property owners to and from the mainland since at least 1994; and

WHEREAS, the Council desires to continue assistance in providing opportunities for the Island's residents and property owners to travel to and from the Island in the pursuit of life-sustaining activities, such as employment, medical services, clothing, food, and supplies; and

WHEREAS, the availability of water transportation to the Island is critical, as it is the primary source of transportation for most of the Island's residents and property owners; and

WHEREAS, the Council agrees with the need to submit an application to the SCDOT for a dollar-to-dollar matching grant in the amount of Eighty Thousand Dollars (\$80,000) for ferry services to and from the Island for the residents and property owners of the Island; and

WHEREAS, Beaufort County must submit to SCDOT specific certifications and assurances with its application, as set forth in the attached "Exhibit A" which is incorporated herein by reference, along with an accompanying resolution from the Council; and

WHEREAS, the collaboration between the County and entities such as Daufuskie Island Ferry Services, LLC and Palmetto Breeze Transit in managing operations of this ferry services program is an effort to benefit citizens in need of ferry services in addition to support multi-modal strategies as promoted by the Lowcountry Council of Governments Metropolitan Planning Organization; and

WHEREAS, the Council is aware of the provisions of Federal Transit Administration (FTA) program fund requirements for each application it makes to the State of South Carolina for federal and/or state funding and wishes to authorize the Beaufort County Administrator to file an application with the SCDOT on behalf of the County for federal and/or state funding to assist in providing community transportation services; and

WHEREAS, if this application is approved, the Council wishes to resolve that Beaufort County will provide the required match for the capital, operations and administrative charges, the necessary insurance coverage as required under the agreement, and all necessary local match for operating losses; and

NOW, THEREFORE, BE IT RESOLVED, Beaufort County Council agrees to comply with all applicable FTA and SCDOT program statutes and regulations, directives, certifications and assurances to carry out the project as described in the application attached herewith.

Council authorizes the Beaufort County Administrator to complete, execute, and file an application with the SCDOT on behalf of the County for federal and/or state funding to assist in providing community transportation services, and to provide applicable certifications and assurances, and sign additional documents required for the receipt of funding.

Council resolves that the County will provide the required match for the capital, operations and administrative charges, the necessary insurance coverage as required by the grant, and all necessary local match for operating losses; whereby the aforementioned requested funds have been previously approved as part of the Beaufort County budget.

Council resolves that the County will comply with all Federal Transportation Administration and SCDOT Program statutes and regulations directives, certifications and assurances to carry out the transportation program described in the application for funding.

ADOPTED this _____ day of _____, 2020

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah Brock, Clerk to Council

SFY2020-21
(FFY2020)
LEGAL & AUTHORIZING SIGNATURES

Office of Public Transit
Signature of Authorization Form
REQUIRED OF ALL APPLICANTS

Agency Name: County Council of Beaufort County, SC	Telephone: 843-255-2026 Web Address: www.beaufortcountysc.gov
Primary Mailing Address/City/State/Zip: PO Drawer 1228, Beaufort, SC 29901	Secondary Address/City/State/Zip: 100 Ribaut Road, Beaufort, SC 29902
Federal ID Number: 57-600311	DUNS: 0807753310000

Contractual Agreements

Shown below are original signatures of individuals authorized to sign contractual agreements for this agency.

Ashley Jacobs
Name:
Title: **County Administrator**
Email: ashley.jacobs@bcgov.net
Phone: 843-255-2026

proposed

Print or Type Name, Title & Email

Original Signature and Date

Name:
Title:
Email:
Phone:

Print or Type Name, Title & Email

Original Signature and Date

Name:
Title:
Email:
Phone:

Print or Type Name, Title & Email

Original Signature and Date

SFY2020-21
(FFY2020)
LEGAL & AUTHORIZING SIGNATURES

Authorization to Access Electronic System

Shown below are original signatures of individuals authorized to access the Office of Public Transit electronic system(s) to initiate and approve documents for this agency.

Preparers:

Monica Spells
Name: Assistant County Administrator
Title:
Email: mspells@bcgov.net
Phone: 843-255-2354

Print or Type

Original Signature and Date

Name:
Title:
Email:
Phone:

Print or Type Name, Title & Email

Original Signature and Date

Name:
Title:
Email:
Phone:

proposed

Print or Type Name, Title & Email

Original Signature and Date

Approvers:

Ashley Jacobs
Name: County Administrator
Title: ashley.jacobs@bcgov.net
Email: 843-255-2026
Phone:

Print or Type Name, Title & Email

Original Signature and Date

Name:
Title:
Email:
Phone:

Print or Type Name, Title & Email

Original Signature and Date

SFY2020-2021
(FFY2020)
LEGAL & AUTHORIZING SIGNATURES

(Required of all Subrecipients of funding administered by SCDOT OPT)

RESOLUTION BY BOARD OF DIRECTORS TO APPLY FOR FUNDING

The County Council of Beaufort County, South Carolina
(agency)

is aware of the provisions of Federal Transit Administration (FTA) program fund requirements for each application it makes to the state of South Carolina for Federal and/or State funding and hereby authorizes the Beaufort County Administrator *(*authorized representative)* of Beaufort County, SC *(Agency)* to file application with the South Carolina Department of Transportation (SCDOT) on behalf of Beaufort County, SC *(agency)* for federal and/or state funding to assist in providing community and/or human services transportation services. If this application is approved:

- (1) The Council resolves that Beaufort County, SC *(agency)* will provide the required match for the capital, operations and administrative charges, the necessary insurance coverage as required under the agreement, and all necessary local match for operating losses; and
- (2) The Council agrees to comply with all FTA and SCDOT Program statutes and regulations, directives, certifications and assurances to carry out the project as described in the application.

****Note that Authorized Representative and Witness MUST be 2 separate individuals (2 different names).***

APPROVED AND ADOPTED

This 23 day of March, 2020.

*

Signature of Attesting Witness

Sarah Brock
Printed Name of Attesting Witness

Signature of Chairperson

Stewart H. Rodman
Printed Name of Chairperson

(Required of all Subrecipients of funding administered by SCDOT OPT)

ATTORNEY'S CERTIFICATION
FOR
APPLICANT TO APPLY FOR FUNDING

I have examined the (charter, articles of incorporation, enabling legislation, etc.) under which

Beaufort County, SC _____ (agency) is legally eligible to apply for funding under

Federal Transit Administration statutes and regulations, directives, certifications and assurances. It is my opinion that

Beaufort County, SC _____ (agency) can legally enter into contracts with the State of South

Carolina for the purpose of carrying out the proposed program(s) and meets the eligibility requirements of funded grant programs.

proposed

Signature of Attorney

W. Kurt Taylor

Printed Name of Attorney

March 23, 2020

Date

South Carolina SFY2019-2020

**FEDERAL FISCAL YEAR 2019 CERTIFICATIONS AND ASSURANCES FOR
FEDERAL TRANSIT ADMINISTRATION ASSISTANCE PROGRAMS**

(Required of All 5310/5311/5339 or other FTA Fund Applicants / Subrecipients)

Name of Applicant: Beaufort County, SC

The Applicant agrees to comply with applicable provisions of Groups 01 – 21. _____ OR

The Applicant agrees to comply with applicable provisions of the Groups it has selected:

<u>Group</u>	<u>Description</u>	
01.	Required Certifications and Assurances for Each Applicant.	
02.	Lobbying.	
03.	Private Sector Protections.	
04.	Rolling Stock Reviews and Bus Testing.	
05.	Demand Responsive Service.	
06.	Intelligent Transportation Systems.	
07.	Interest and Financing Costs and Acquisition of Capital Assets by Lease.	
08.	Transit Asset Management Plan and Public Transportation Agency Safety Plan, and State Safety Oversight Requirements.	
09.	Alcohol and Controlled Substances Testing.	
10.	Fixed Guideway Capital Investment Grants Program (New Starts, Small Starts, and Core Capacity Improvement).	
11.	State of Good Repair Program.	
12.	Grants for Buses and Bus Facilities and Low or No Emission Vehicle Deployment Grant Programs.	
13.	Urbanized Area Formula Grants Programs and Passenger Ferry Grant Program.	X
14.	Enhanced Mobility of Seniors and Individuals with Disabilities Programs.	
15.	Rural Areas and Appalachian Development Programs.	
16.	Tribal Transit Programs (Public Transportation on Indian Reservations Programs).	
17.	State Safety Oversight Grant Program.	
18.	Public Transportation Emergency Relief Program.	
19.	Expedited Project Delivery Pilot Program.	
20.	Infrastructure Finance Programs.	
21.	Construction Hiring Preferences.	

FEDERAL FISCAL YEAR 2020 FTA CERTIFICATIONS AND ASSURANCES SIGNATURE PAGE

(Required of All 5310/5311/5339 or other FTA Fund Applicants / Subrecipients)

AFFIRMATION OF APPLICANT

Name of the Applicant: Beaufort County, SC

Name and Relationship of the Authorized Representative: Ashley Jacobs

BY SIGNING BELOW, on behalf of the Applicant, I declare that it has duly authorized me to make these Certifications and Assurances and bind its compliance. Thus, it agrees to comply with all federal laws, regulations, and requirements, follow applicable federal guidance, and comply with the Certifications and Assurances as indicated on the foregoing page applicable to each application its Authorized Representative makes to the Federal Transit Administration (FTA) in federal fiscal year 2019, irrespective of whether the individual that acted on his or her Applicant's behalf continues to represent it.

FTA intends that the Certifications and Assurances the Applicant selects on the other side of this document should apply to each Award for which it now seeks, or may later seek federal assistance to be awarded by FTA during federal fiscal year 2019.

The Applicant affirms the truthfulness and accuracy of the Certifications and Assurances it has selected in the statements submitted with this document and any other submission made to FTA, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 *et seq.*, and implementing U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part 31, apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. § 1001 apply to any certification, assurance, or submission made in connection with a federal public transportation program authorized by 49 U.S.C. chapter 53 or any other statute.

In signing this document, I declare under penalties of perjury that the foregoing Certifications and Assurances, and any other statements made by me on behalf of the Applicant are true and accurate.

Signature _____ Date: March 23, 2020

Name Ashley Jacobs
Authorized Representative of Applicant

AFFIRMATION OF APPLICANT'S ATTORNEY

For (Name of Applicant): Beaufort County, SC

As the undersigned Attorney for the above named Applicant, I hereby affirm to the Applicant that it has authority under state, local, or tribal government law, as applicable, to make and comply with the Certifications and Assurances as indicated on the foregoing pages. I further affirm that, in my opinion, the Certifications and Assurances have been legally made and constitute legal and binding obligations on it.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or imminent that might adversely affect the validity of these Certifications and Assurances, or of the performance of its FTA assisted Award.

Signature _____ Date: March 23, 2020

Name W. Kurt Taylor
Attorney for Applicant

Each Applicant for federal assistance to be awarded by FTA must provide an Affirmation of Applicant's Attorney pertaining to the Applicant's legal capacity. The Applicant may enter its electronic signature in lieu of the Attorney's signature within TrAMS, provided the Applicant has on file and uploaded to TrAMS this hard-copy Affirmation, signed by the attorney and dated this federal fiscal year.

LOCAL MATCH IDENTIFICATION FOR FTA PROGRAM FUNDING

County Council of Beaufort County, SC

(Legal Name of Applicant)

SMTF

Program (e.g., 5311, 5339, SMTF, 5310)*

Eligible Expense	Total Amount	Federal Share	SCDOT Share	Estimated Local Share
Administration	\$ <u>5400</u>	\$ _____ (80%)	\$ _____	\$ _____
Operations	\$ _____	\$ _____ (50%)	\$ <u>80000</u>	\$ <u>370000</u>
Capital (Non- ADA or CAA)	\$ _____	\$ _____ (80%)	\$ _____	\$ _____
Capital (ADA & CAA)	\$ _____	\$ _____ (85%)	\$ _____	\$ _____
Planning & Technical Assistance	\$ _____	\$ _____ (80%)	\$ _____	\$ _____
Mobility Management	\$ _____	\$ _____ (80%)	\$ _____	\$ _____
TOTAL	\$ <u>5400</u>	\$ _____	\$ <u>80000</u>	\$ <u>370000</u>
	Funding Request	Federal Share	Estimated SCDOT Share	Estimated Local Share

The estimated total Local Match will be available from the following sources*:

<u>Source of Local Share</u>	<u>Amount</u>
<u>Beaufort County, SC</u>	\$ <u>370000</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____

*Cash fares are not considered a source of local match.

TOTAL \$ _____

**complete a single local match form for each project award (e.g.: one for small urban 5310 and one for rural 5310)*

I, the undersigned representing (legal name of agency) Beaufort County, SC do hereby certify to the South Carolina Department of Transportation that the required estimated local match for the requested Federal and/or State administered program, which has a period of performance of **July 1, 2020** – **June 30, 2021**, will be available by **July 1**. In kind match must be an allowable expense under the program and value documented for audit/compliance review.

Signature/Title of Authorized Representative

Ashley M. Jacobs, County Administrator

Printed Name/Title of Authorized Representative

March 23, 2020

Date

**SFY2020-21
PROGRAM SIGNATURE DOCUMENTS**

**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION**

MASTER AGREEMENT (22)

(Required of All 5310/5311/5339 or other FTA Fund Applicants / Subrecipients)

PREFACE

Statutory Authorities

This is the official Federal Transit Administration (FTA) Master Agreement that applies to each Underlying Agreement (Grant Agreement, Cooperative Agreement, Loan, Loan Guarantee, or Line of Credit) for a specific Award authorized by:

- Federal transit laws, 49 U.S.C. chapter 53, as amended, by the following:
 - The Fixing America's Surface Transportation (FAST) Act, Public Law No. 114-94, December 4, 2015,
 - The Moving Ahead for Progress in the 21st Century Act (MAP-21), Public Law No. 112-141, July 6, 2012, as amended by the "Surface Transportation and Veterans Health Care Choice Improvement Act of 2015," Public Law No. 114-41, July 31, 2015, and other authorizing legislation to be enacted, and
 - The Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law No. 109-59, August 10, 2005, as amended by the SAFETEA-LU Technical Corrections Act of 2008, Public Law No 110-244, June 6, 2008.
- Continuing Resolutions or Other Appropriations Resolutions or Acts funding the Department of Transportation during Fiscal Year 2016.
- Title 23, United States Code (Highways).
- Other federal legislation FTA administers, as FTA so determines.

Purpose of the Master Agreement

This FTA Master Agreement contains the standard terms and conditions governing the administration of the Project that FTA has financed with Federal assistance (funds or funding) awarded through an Underlying Agreement with the Recipient, which can take the form of any:

1. FTA Grant Agreement, including an FTA Grant Agreement for a Tribal Transit Program Project,
2. FTA Cooperative Agreement, or
3. FTA Transportation Infrastructure Finance Innovation Act (TIFIA) Loan, Loan Guarantee, or Line of Credit.

The general terms and conditions contained in Federal Transit Administration's Master Agreement shall be followed subject to any additions, revisions or modifications required by FTA, SCDOT and/or State of South Carolina. Any violation of a requirement in the Master Agreement applicable to the Subrecipient or this project may result in penalties to the violating party. Requirements that do not apply to Subrecipients or this project will not be enforced.

Acknowledgement of FTA Master Agreement:

Signature _____ Date: March 23, 2020
Authorized Representative of Applicant

Title: Ashley M. Jacobs, County Administrator

SFY2020-21

PROGRAM SIGNATURE DOCUMENTS

FFY2017 FTA Master Agreement (22) language is contained in a separate document

FFY2017 FTA Certifications and Assurance language is contained in a separate document

proposed

PROGRAM SIGNATURE DOCUMENTS

CERTIFICATION
OF
RESTRICTIONS ON LOBBYING
APPLIES TO ALL APPLICANTS

I, Ashley M. Jacobs, County Administrator

(Name and title of authorized official)

hereby certify to the South Carolina Department of Transportation, on behalf of _____
Beaufort County, SC that:

(Name of grantee)

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification thereof.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions (as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (11/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at Title 2 USC section 1601: et seq.)).
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 USC Section 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Title 31 USC Section 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature/Title of Authorized Representative

Ashley M. Jacobs, County Administrator

Printed Name/Title of Authorized Representative

March 23, 2020

Date

PROGRAM SIGNATURE DOCUMENTS

CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS—
PRIMARY COVERED TRANSACTIONS

APPLIES TO ALL APPLICANTS

The Applicant/Subrecipient under this FTA project

Beaufort County, SC

(Name of Agency)

certifies to the best of its knowledge and belief, that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
- (b) Have not, within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and have not, within a three year period preceding this application/proposal, had one or more public transactions (Federal, State or local) terminated for cause or default;
- (d) Have not, within a three year period preceding this application/proposal, had one or more public transactions (Federal, State or local) terminated for cause or default.

Subrecipient will review the U.S. GSA "System for Award Management," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and

(a) It will include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

- 1. Will comply with Federal debarment and suspension requirements, and
- 2. Reviews the "System for Award Management (SAM)" at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200

(If the applicant/subrecipient is unable to certify to any of the statements in this certification, such Grantee shall attach an explanation to this certification).

THE APPLICANT/SUBRECIPIENT,

Beaufort County, SC

(Name of Agency)

CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF TITLE 49 CFR PART 29 AND FTA CIRCULAR 2015.1 ARE APPLICABLE THERETO.

Signature/Title of Authorized Representative

Ashley M. Jacobs, County Administrator

Printed Name/Title of Authorized Representative

March 23, 2019

Date

PROGRAM SIGNATURE DOCUMENTS

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION –
LOWER-TIER COVERED TRANSACTIONS**

APPLIES TO ALL APPLICANTS

The Applicant/Subrecipient under this FTA project Beaufort County, SC
(Name of Agency)

certifies to the best of its knowledge and belief, that it and its prospective lower-tier participants:

- (a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;
- (b) if the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this certification.
- (c) that subrecipient will review the “System for Award Management (SAM)” at <https://www.sam.gov>, to ensure that lower-tier participants are not debarred or suspended, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200

THE APPLICANT/SUBRECIPIENT,

Beaufort County, SC

proposed
(Name of Agency)

CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF TITLE 49 CFR PART 29 AND FTA CIRCULAR 2015.1 ARE APPLICABLE THERETO.

Signature/Title of Authorized Representative

Ashley M. Jacobs, County Administrator

Printed Name/Title of Authorized Representative

March 23, 2020

Date

PROGRAM SIGNATURE DOCUMENTS

TITLE VI PROGRAM REPORT

APPLIES TO ALL APPLICANTS

Reporting Period: July 1, 2018 – Present

Legal Name of Applicant: County Council of Beaufort County, SC

I certify that to the best of my knowledge that no complaints or lawsuits alleging discrimination have been filed against the applicant during the reporting period.

OR

The following Title VI complaints or lawsuits alleging discrimination have been filed with the applicant during the reporting period:

Complainant Name/Address/Telephone Number	Date	Description	Contacted SCDOT Title VI Office? (Y/N) and Date	Status/Outcome

(Attach an additional page if required.)

I certify that to the best of my knowledge that the statement above is true and correct for the requested reporting period.

Signature/Title of Authorized Representative
Ashley M. Jacobs, County Administrator
Printed Name/Title of Authorized Representative

March 23, 2020

Date

**STATEMENT
REGARDING THE MAXIMUM UTILIZATION OF
DISADVANTAGED BUSINESS ENTERPRISES (DBEs)
APPLIES TO ALL APPLICANTS**

To the extent authorized by applicable Federal law and regulation, the applicant agrees to facilitate, and assures that each Third Party Participant will facilitate participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project.

THE APPLICANT expresses its commitment to use SCDOT Certified DBEs in all aspects of contracting to the maximum extent feasible. The goals will be set and incorporated into your grant agreement.

THE APPLICANT or its contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that certified DBEs have the maximum opportunity to compete for and perform contracts.

THE APPLICANT will make every effort to locate certified DBEs and purchase materials and services for use in the applicant's grant. THE APPLICANT shall document the steps it intends to take and has taken to obtain DBE participation.

THE APPLICANT is advised that should they find responsible and responsive certified DBEs from which they can purchase these materials or services it will then ensure and affirm that the DBE firm is eligible to receive payment through this grant agreement. SCDOT will make available names of DBEs, that they have certified, that have the capability to furnish these materials (published as the [SCDOT Unified DBE or SBE Directory](#)).

All bidders, proposers and contractors will receive notice of THE APPLICANT'S commitment to the DBE through mail-outs and pre-bid notifications. DBE participation will be a factor in awarding contracts and will be monitored during the performance of the contract.

The APPLICANT is responsible for submitting DBE quarterly reports to SCDOT as required for all applicable Federal programs administered and awarded by SCDOT. Supporting documentation for DBE quarterly reports shall be retained by the applicant for a period of three (3) years following closeout of the contract.

Failure to carry out the requirements set forth in 49 CFR Part 26 shall constitute a breach of contract and, after the notification to FTA and the SCDOT Office of Public Transit, may result in termination of the grant agreement by SCDOT or such remedy as SCDOT deems appropriate.

Signature of Authorized Official

March 23, 2020

Date

County Administrator

Title of Authorized Official

DBE GOOD FAITH EFFORTS CERTIFICATION**APPLIES TO ALL APPLICANTS**

This is to certify that in all purchase and contract selections the Applicant is committed to and shall make good faith efforts to purchase from and award contracts to Disadvantaged Business Enterprises (DBEs).

DBE good faith efforts will include the following items that are indicated by check mark(s) or narrative:

- Write a letter to Certified DBEs in the service area to inform them of purchase or contract opportunities;
- Document telephone calls, emails and correspondence with or on behalf of DBEs;
- Advertise purchase and contract opportunities on local TV Community Cable Network;
- Request purchase/contract price quotes/bids from DBEs;
- Monitor newspapers for new businesses that are DBE eligible;
- Encourage interested eligible firms to become SCDOT certified. Interested firms should contact the SCDOT Office of Business Development and Special Programs (DBE Program Development Unit);
- Consult [SCDOT Unified DBE or SBE Directory](#). A DBE company will be listed in the DBE Directory for each work type or area of specialization that it performs. You may obtain a copy of this Directory at
- Other efforts: Describe: _____

Documentation of all good faith efforts shall be retained by the applicant for a period of five (5) years.

I certify that, to the best of my knowledge, the above information describes the DBE good faith efforts of:

Beaufort County, SC

Agency Name

Signature/Title of Authorized Representative

Ashley M. Jacobs, County Administrator

Printed Name/Title of Authorized Representative

March 23, 2020

Date

APPLIES TO ALL APPLICANTS**Other Provisions****ETHICS ACT**

By submitting an application, the Applicant certifies that they have and will comply with, and have not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed. [02-2A075-2]

QUALIFICATION OF APPLICANT

To be eligible for award of a contract, a prospective recipient of State funds must be responsible. In evaluating an Applicant's responsibility, the State Standards of Responsibility [R.19-445.2125] and information from any other source may be considered. An Applicant must, upon request of the State, furnish satisfactory evidence of its ability to meet all contractual requirements. Unreasonable failure to supply information promptly in connection with a responsibility inquiry may be grounds for determining that an Agency is ineligible to receive an award. S.C. Code Section 11-35-1810.

QUALIFICATIONS – REQUIRED INFORMATION

In order to evaluate an Applicant's responsibility, the Applicant may, at the request of SCDOT, submit the following information or documentation for itself and any subcontractor, if the value of subcontractor's portion of the work exceeds 10% of the Operating expenses:

- (a) Include a brief history of the Applicant's experience in providing work of similar size and scope.
- (b) Applicant's most current financial statement, financial statements for your last two fiscal years, and information reflecting your current financial position. If you have audited financial statements meeting these requirements, you must provide those statements. [Reference Statement of Concepts No. 5 (FASB, December, 1984)]
- (c) List of failed projects, suspensions, debarments, and significant litigation.

CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS

(a)(1) By submitting an Application, Applicant certifies, to the best of its knowledge and belief, that-

(i) Applicant and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) Applicant has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Applicant/Subrecipient shall provide immediate written notice to SCDOT if, at any time prior to contract award, Applicant/Subrecipient learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) If Applicant/Subrecipient is unable to certify the representations stated in paragraphs (a) (1), Applicant/Subrecipient must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Applicant/Subrecipient's responsibility. Failure of the Applicant/Subrecipient to furnish additional information as requested by the State may render the Applicant/Subrecipient non-responsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Applicant/Subrecipient is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Applicant/Subrecipient knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, SCDOT may terminate the contract resulting from this solicitation for default.

SUBCONTRACTOR – IDENTIFICATION

If you intend to subcontract with another business for any portion of the work/project and that portion exceeds 10% of your Operating expenses, your application must identify that business and the portion of work which they are to perform. Identify potential subcontractors by providing the business' name, address, phone, taxpayer identification number, and point of contact. In determining your responsibility, the state may evaluate your proposed subcontractors.

DRUG AND ALCOHOL TESTING. Applicants or subrecipients that receive only Section 5310 program assistance are not subject to FTA's drug and alcohol testing rules, but must comply with the Federal Motor Carrier Safety Administration (FMCSA) rule for all employees who hold commercial driver's licenses (49 CFR part 382).

Section 5310 recipients and subrecipients that also receive funding under one of the covered FTA programs (Section 5307, 5309, or 5311) should include any employees funded under Section 5310 projects in their testing program.

An FTA compliant testing program, as required by the receipt of FTA operating or capital funding (5307, 5309, 5311), may be used for Section 5310 employees; there is no need to have separate testing programs. Employees of a subrecipient of Section 5310 funds from a state or designated recipient of another FTA program (e.g., 5307 or 5311) should also be included in the designated recipient's testing program.

DRUG-FREE WORKPLACE

The Drug-Free Workplace Act of 1988, as well as Section 44-107-30, S.C. Code of Laws (1976), as amended, requires all grantees receiving grants from any federal or state agency to certify they will maintain a drug-free workplace.

BUDGET ADJUSTMENTS

(1) Method of Adjustment. Any adjustment in the contract price shall be consistent with the awarded Contract Scope/Project; Is dependent upon the availability of SCDOT-Administered SMTF; and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Subrecipient:

- (a) by agreement on a fixed budget adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
- (b) by unit costs specified in the Contract or subsequently agreed upon;
- (c) by the costs attributable to the event or situation covered by the project scope or modification or subsequently agreed upon; or
- (d) in such other manner as the parties may mutually agree;

(2) Submission of Financial or Cost Data. Upon request of SCDOT, the Subrecipient shall provide reasonably available factual information to substantiate that the budget adjustment is reasonable and consistent with the provisions of Section 11-35-1830.

Beaufort County, SC

Agency Name

Signature/Title of Authorized Representative

Ashley M. Jacobs, County Administrator

Printed Name/Title of Authorized Representative

March 23, 2020

Date

End of Program Signature Documents

proposed



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

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

Council Committee:

Executive Committee

Meeting Date:

March 09, 2020

Committee Presenter (Name and Title):

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

Issues for Consideration:

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

Points to Consider:

- Annual recurring cost of \$210,095
- One time fee of \$4000.
- Cost savings resulting from conversion would include on-premise server removal and reallocation at approximately \$26,000.

Funding & Liability Factors:

Account 10001111-51110, Beaufort County's Fiscal Year 2020 contract renewal for the maintenance and support of Tyler Technologies software (Munis and related software) was approved on June 10, 2019, in the amount of \$147,879. The increase in the recurring annual cost from \$147,879 to \$210,095 was appropriated within the Fiscal Year 2020 General Fund budget. The annual recurring costs are allocated across various departments that utilize the software.

Council Options:

Approve the request for enterprise software conversion from on-premise to Software as a Service (SaaS).

Recommendation:

The Purchasing Department recommends that the Executive Committee approve and recommend to County Council approval of purchasing Munis Software as a Service (SaaS) from Tyler Technologies with a recurring annual fee of \$210,095 and one time fee of \$4,000.



COUNTY COUNCIL OF BEAUFORT COUNTY

PURCHASING DEPARTMENT

106 Industrial Village Road, Bldg. 2, Post Office Drawer 1228
Beaufort, South Carolina 29901-1228

David L Thomas, Purchasing Director
dthomas@bcgov.net 843.255.2353

TO: Councilman Stewart Rodman, Chairman, Executive Committee

FROM: David L Thomas, CPPO, Purchasing Director

SUBJ: Sole Source Purchase
Request for an Enterprise Software Conversion from an On-Premise to Software as a Service (SaaS)

DATE: 03/09/2020

BACKGROUND:

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

VENDOR INFORMATION:

Tyler Technologies

COST:

\$210,095 (Annual Recurring Fees)

Tyler Technologies

\$4,000 (one time fees)

FUNDING:



Beaufort County's Fiscal Year 2020 contract renewal for the maintenance and support of Tyler Technologies software (Munis and related software) was approved on June 10, 2019, in the amount of \$147,879. The increase in the recurring annual cost from \$147,879 to \$210,095 was appropriated within the Fiscal Year 2020 General Fund budget. The annual recurring costs are allocated across various departments that utilize the software.

Funding approved: Yes By: aholland Date: 02/21/2020

FOR ACTION: Executive Committee on March 9, 2020.

RECOMMENDATION:

The Purchasing Department recommends that the Executive Committee approve and recommend to County Council approval of purchasing Munis Software as a Service (SaaS) from Tyler Technologies with a recurring annual fee of \$210,095 and one time fee of \$4,000.

Attachment:  TYLER FLIP.pdf 2.5 MB  No file attached

cc: Ashley Jacobs, County Administrator

Approved: Yes Date: 02/21/2020

Check to override approval: Overridden by:

Override Date:

Alicia Holland, Assistant County Administrator, Finance

Approved: Yes Date: 02/21/2020

Christopher S. Ingles Deputy County Administrator

Approved: Yes Date: 02/21/2020

Check to override approval: Overridden by:

Override Date: ready for admin:

Monica Spells, Assistant County Administrator, Civic Engager

Approved: Yes Date: 02/21/2020

Check to override approval: Overridden by:

Override Date: ready for admin:

Daniel Morgan, Director, Mapping and Applications Departm

Approved: Yes Date: 02/21/2020

Check to override approval: Overridden by:

Override Date: ready for admin:

After Initial Submission, Use the Save and Close Buttons



COUNTY COUNCIL OF BEAUFORT COUNTY
PURCHASING DEPARTMENT
106 Industrial Village Road, Bldg 2 - Post Office Drawer 1228
Beaufort, South Carolina 29901-1228

TO: Council Member Stewart H. Rodman, Chairman, Executive Committee
FROM: Dave Thomas, CPPO, Purchasing Director
SUBJ: Request for an enterprise software conversion from an on-premise to Software as a Service (SaaS)
DATE: February 20, 2020

BACKGROUND:

The Purchasing Department received a request from the Mapping and Applications Department to upgrade the Tyler Technologies Munis software from an on-premise-hosted solution to a cloud-hosted solution by Tyler Technologies. This project supports the County's Disaster Recovery plan and will benefit Beaufort County through reduced costs and staff efforts, leveraging the latest technologies, heightened security, and robust backup. This project includes the removal of several on-premise-hosted servers providing a maintenance and equipment cost savings of approximately \$26,000 and a reallocation of services.

VENDOR:

Tyler Technologies
Tyler Technologies

Total Cost

\$210,095 (Recurring Fees)
\$4,000 (one time fees)

FUNDING: Account: 10001111-51110 – Finance Department, Maintenance Contracts, Beaufort County's Fiscal Year 2020 contract renewal for the maintenance and support of Tyler Technologies software (Munis and related software) was approved on June 10, 2019, in the amount of \$147,879. The increase in the recurring annual cost from \$147,879 to \$210,095 was appropriated within the Fiscal Year 2020 General Fund budget. The annual recurring costs are allocated across various departments that utilize the software.

FOR ACTION: Executive Committee on March 09, 2020

RECOMMENDATION: The Purchasing Department recommends that the Executive Committee approve and recommend to County Council approval of purchasing Munis Software as a Service (SaaS) from Tyler Technologies with a recurring annual fee of \$210,095 and one time fee of \$4,000.

cc: Ashley Jacobs, County Administrator
Christopher Inglese, Deputy County Administrator
Alicia Holland, Assistant County Administrator, Finance
Monica Spells, Assistant County Administrator, Civic Engagement & Outreach
Daniel Morgan, Mapping and Applications Director

Attachment: Tyler Technologies Service Agreement



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

Sales Quotation For

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

SaaS

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

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

Other Services

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

Summary

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

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

Customer Approval: _____ Date: _____

Print Name:

P.O. #:

All primary values quoted in US Dollars

Comments

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

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

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

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

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

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

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

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

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

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

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

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



SOFTWARE AS A SERVICE AGREEMENT

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

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

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

SECTION A – DEFINITIONS

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

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

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

SECTION B – SAAS SERVICES

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

3.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.

3.3 You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.

4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.

5. Software Warranty. We warrant that the Tyler Software will perform without Defects during the term of this Agreement. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the maintenance and support process set forth in Section C(8), below, the SLA and our then current Support Call Process.

6. SaaS Services.

6.1 Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on Standards for Attestation Engagements ("SSAE") No. 18. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. Upon execution of a mutually agreeable Non-Disclosure Agreement ("NDA"), we will provide you with a summary of our compliance report(s) or its equivalent. Every year thereafter, for so long as the NDA is in effect and in which you make a written request, we will provide that same information.

6.2 You will be hosted on shared hardware in a Tyler data center, but in a database dedicated to you, which is inaccessible to our other customers.

6.3 We have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or component failure. In the event any of your Data has been lost or damaged due to an act or omission of Tyler or its subcontractors or due to a defect in Tyler's software, we will use best commercial efforts to restore all the Data on servers in accordance with the architectural design's capabilities and with the goal of minimizing any Data loss as greatly as possible. In no case shall the recovery point objective ("RPO") exceed a maximum of twenty-four (24) hours from declaration of disaster. For purposes of this subsection, RPO represents the maximum tolerable period during which your Data may be lost, measured in relation to a disaster we declare, said declaration will not be unreasonably withheld.

6.4 In the event we declare a disaster, our Recovery Time Objective ("RTO") is twenty-four (24) hours. For purposes of this subsection, RTO represents the amount of time, after we declare a disaster, within which your access to the Tyler Software must be restored.

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

SECTION C – OTHER PROFESSIONAL SERVICES

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

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

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

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

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

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

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

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

SECTION D – THIRD PARTY PRODUCTS

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

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

3. Third Party Products Warranties.

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

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

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

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

SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES

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

SECTION F – TERM AND TERMINATION

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

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

SECTION G – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. Intellectual Property Infringement Indemnification.

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

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

2. General Indemnification.

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

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

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

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

SECTION H – GENERAL TERMS AND CONDITIONS

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

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

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

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

Exhibit A Investment Summary

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

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

Tyler Technologies, Inc.

Beaufort County

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

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

Address for Notices:

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



Exhibit A
Investment Summary

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

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

Sales Quotation For

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

SaaS

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

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

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

Other Services

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

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

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

Customer Approval: _____ Date: _____

Print Name: _____ P.O. #: _____

All primary values quoted in US Dollars

Comments

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

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

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

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

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

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

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

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

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

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

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

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



Exhibit B Invoicing and Payment Policy

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

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

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

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

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

3. Third Party Products.

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

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

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

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

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

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

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

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



Exhibit B
Schedule 1
Business Travel Policy

1. Air Travel

A. Reservations & Tickets

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

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

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

B. Baggage Fees

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

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

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

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

B. Rental Car

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

C. Public Transportation

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

D. Parking & Tolls

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

3. Lodging

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

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

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

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

4. Meals and Incidental Expenses

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

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

A. Overnight Travel

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

Departure Day

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

Return Day

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

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

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

Breakfast	15%
Lunch	25%
Dinner	60%

B. Same Day Travel

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

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

5. Internet Access – Hotels and Airports

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

6. International Travel

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

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

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

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



Exhibit C

SERVICE LEVEL AGREEMENT

I. Agreement Overview

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

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

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

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

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

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

III. Service Availability

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

a. Your Responsibilities

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

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

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

b. Our Responsibilities

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

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

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

c. Client Relief

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

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

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

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

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

IV. Applicability

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

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

V. Force Majeure

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



Exhibit C Schedule 1 Support Call Process

Support Channels

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

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

Support Resources

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

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

Support Availability

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

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

Issue Handling

Incident Tracking

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

Incident Priority

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

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

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

Incident Escalation

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

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

group

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

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

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

Remote Support Tool

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



Exhibit D
End User License Agreement

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

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DocOrigin

SOFTWARE LICENSE

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A. Per-CPU. The total number of CPUs on a computer used to operate the Software may not exceed the licensed quantity of CPUs. For purposes of this license metric: (a) CPUs may contain more than one processing core, each group of two (2) processing cores is consider one (1) CPU., and any remaining unpaired processing core, will be deemed a CPU. (b) all CPUs on a computer on which the Software is installed shall be deemed to operate the Software unless You configure that computer (using a reliable and verifiable means of hardware or software partitioning) such that the total number of CPUs that actually operate the Software is less than the total number on that computer.

B. Per-Document. This is defined as a fee per document based on the total number of documents generated annually by merging data with a template created by the Software. The combined data and template produce documents of one or more pages. A document may contain 1 or more pages. For instance a batch of invoices for 250 customers may contain 1,000 pages, this will be counted as 250 documents which should correspond to 250 invoices.

C. Per-Surface. This is defined as a fee per surface based on the total number of surfaces generated annually by merging data with a template created by the Software. The combined data and template produce documents of one or more pages, the pages may be printed one side (one surface) or duplexed (2 surfaces). The documents may be rendered to a computer file (i.e. PDF), each page placed in the file is considered a surface. A document may contain 1 or more surfaces. For instance a batch of invoices for 250 customers may contain 500 pages duplexed, this will be counted as 1000 surfaces.

1.5 Disaster Recovery License. You may request a Disaster Recovery license of the Software for each production license You have purchased as a failover in the event of loss of use of the production server(s). This license is for disaster recovery purposes only and under no circumstance may the disaster recovery license be used for production simultaneously with a production license with which it is paired.

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- 7.3 Your rights to use the Software will immediately terminate upon termination or expiration of this Agreement. Within five (5) days of termination or expiration of this Agreement, You shall purge all Software and all copies thereof from all computer systems and storage devices on which it was stored, and certify such to OF Software Ltd.

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- 8.2 **Severability.** If any provision of this Agreement is, or becomes, unenforceable, it will be severed from this Agreement and the remainder of this Agreement will remain in full force and effect.
- 8.3 **Assignment.** You may not transfer or assign this Agreement (whether voluntarily, by operation of law, or otherwise) without OF Software Ltd.'s prior written consent. OF Software Ltd. may assign this Agreement at any time without notice. This Agreement is binding upon and will inure to the benefit of both parties, and their respective successors and permitted assigns.
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8.5 **Entire Agreement.** This Agreement is the entire understanding and agreement between You and OF Software Ltd. with respect to the subject matter hereof, and it supersedes all prior negotiations, commitments and understandings, verbal or written, and purchase order issued by You. This Agreement may be amended or otherwise modified by OF Software Ltd. from time to time and the most recent version of the Agreement will be available on the OF Software website www.docorigin.com.

Last Updated: [July 18 2013]



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Securitas Security Services

Council Committee:

Executive Committee Meeting

Meeting Date:

March 9, 2020

Committee Presenter (Name and Title):

Jon Rembold Airports Director

Issues for Consideration:

Approval of Securitas Security Services at Hilton Head Island Airport

Points to Consider:

Securitas Security Services will provide additional security at the terminal which will be crucial especially during the busy season. Primary role is to provide curbside traffic flow control.

Funding & Liability Factors:

100% Operating Revenue paid for with airlines rates and charges

Council Options:

Approve, Modify or Reject

Recommendation:

Approve



COUNTY COUNCIL OF BEAUFORT COUNTY
PURCHASING DEPARTMENT
106 Industrial Village Road, Bldg. 2, Post Office Drawer 1228
Beaufort, South Carolina 29901-1228

David L Thomas, Purchasing Director
dthomas@bcgov.net 843.255.2353

TO: Councilman Stewart Rodman, Chairman, Executive Committee
FROM: David L Thomas, CPPO, Purchasing Director
SUBJ: New Contract as a Result of Solicitation
RFP 112819, Curbside Patrol, Hilton Head Island Airport and Administration Building

DATE: 03/09/2020

BACKGROUND:

Hilton Head Island Airport's passenger growth creates a need for additional security services. These services include curbside traffic control, additional roving security, and secure employee escort in hours of darkness. Proposals were solicited by Beaufort County Purchasing and Securitas has been selected as the firm to provide these services. The annual cost of these security services will be funded through airline rates and charges in the airport operations account.

VENDOR INFORMATION:

Securitas Security Services

COST:

\$127,764

FUNDING:



Airport Operating Revenue – from Airline Rates and Charges

Funding approved: Yes By: aholland Date: 02/26/2020

FOR ACTION: Executive Committee meeting occurring March 9, 2020.

RECOMMENDATION:

Beaufort County Executive Committee approve, and recommend to County Council, approval of the subject contract in the amount of \$127,764.

Attachment:  Airport Securitas.pdf 541.05 KB  No file attached

cc: Ashley Jacobs, County Administrator

Approved: Yes Date: 02/27/2020

Check to override approval: Overridden by:

Override Date:

Alicia Holland, Assistant County Administrator, Finance

Approved: Yes Date: 02/26/2020

Jon Rembold, Director, Airports Department

Approved: Yes Date: 02/26/2020

Check to override approval: Overridden by:

Override Date: ready for admin:

After Initial Submission, Use the Save and Close Buttons

Curbside Patrol HHI Airport and Admin Building

RFP 112819

Summary Score Sheet

<u>Evaluators</u>	<u>Name of Company</u>	<u>Name of Company</u>
J. Rembold	Coastal Security Services	Securitas
M. Roseneau	70	98
P. Tanner	81	97
TOTALS:	60	90
	211	285
1. Securitas	285	
2. Coastal Security Services	211	



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

TO: Councilman Stu Rodman, Chairman, Beaufort County Executive Committee
FROM: Dave Thomas, CPPO, Purchasing Director
SUBJ: **Approval of Securitas Security Services Contract**
DATE: February 25, 2020

BACKGROUND:

Hilton Head Island Airport's passenger growth creates a need for additional security services. These services include curbside traffic control, additional roving security, and secure employee escort in hours of darkness. Proposals were solicited by Beaufort County Purchasing and Securitas has been selected as the firm to provide these services.

The annual cost of these security services will be funded through airline rates and charges in the airport operations account.

VENDOR BID INFORMATION:

Securitas Security Services

COST:

\$127,764.00

FUNDING:

Airport Operating Revenue – from Airline Rates and Charges

FOR ACTION:

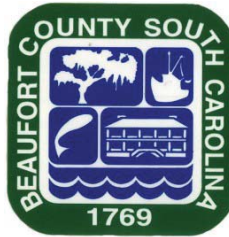
Executive Committee meeting occurring March 9, 2020.

RECOMMENDATION:

Beaufort County Executive Committee approval of subject contract

cc: Ashley Jacobs, County Administrator
Chris Inglese, Deputy County Administrator
Alicia Holland, Asst. County Administrator, Finance
Jon Rembold, C.M., Airports Director

Encl: Recommendation Memo – BCAB Chairman Ackerman



TO: Councilman Stu Rodman, Chairman, Beaufort County Executive Committee

FROM: Howard Ackerman, Chairman, Beaufort County Airports Board

SUBJ: **Approval of Securitas Security Services**

DATE: February 25, 2020

BACKGROUND:

Hilton Head Island Airport's passenger growth creates a need for additional security services. These services include curbside traffic control, additional roving security, and secure employee escort in hours of darkness. Proposals were solicited by Beaufort County Purchasing and Securitas has been selected as the firm to provide these services. The annual cost of these security services will be funded through airline rates and charges in the airport operations account.

VENDOR INFORMATION:

Securitas Security Services, Bluffton, SC

COST (annual):

\$127,764.00

FUNDING:

Airport Operating Revenue – paid through airline rates and charges.

FOR ACTION:

Executive Committee meeting occurring March 9, 2020.

RECOMMENDATION:

Approve contract and forward to County Council for authorization

Encl: Securitas Security Services Contract



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

TO: Councilman Stu Rodman, Chairman, Beaufort County Executive Committee
FROM: Dave Thomas, CPPO, Purchasing Director
SUBJ: **Approval of Securitas Security Services Contract**
DATE: February 25, 2020

BACKGROUND:

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The annual cost of these security services will be funded through airline rates and charges in the airport operations account.

VENDOR BID INFORMATION:

Securitas Security Services

COST:

\$127,764.00

FUNDING:

Airport Operating Revenue – from Airline Rates and Charges

FOR ACTION:

Executive Committee meeting occurring March 9, 2020.

RECOMMENDATION:

Beaufort County Executive Committee approval of subject contract

cc: Ashley Jacobs, County Administrator
Chris Inglese, Deputy County Administrator
Alicia Holland, Asst. County Administrator, Finance
Jon Rembold, C.M., Airports Director

Encl: Recommendation Memo – BCAB Chairman Ackerman



TO: Mr. Howard Ackerman, BCAB Chairman
FROM: Jon Rembold, Airports Director
SUBJ: Approval of Securitas Security Services Contract
DATE: February 25, 2020

BACKGROUND:

Hilton Head Island Airport's passenger growth creates a need for additional security services. These services include curbside traffic control, additional roving security, and secure employee escort in hours of darkness. Proposals were solicited by Beaufort County Purchasing and Securitas has been selected as the firm to provide these services. The annual cost of these security services will be funded through airline rates and charges in the airport operations account.

VENDOR INFORMATION:

Securitas Security Services, Bluffton, SC

COST (annual):

\$127,764.00

RECOMMENDATION: Airports Board recommend approval of this contract to Executive Committee of County Council.

- Unarmed Rate: \$19.45
- Armed Rate: \$23.20
- Unarmed Rate for Extra Coverage and Special Events: \$19.45 (72 hour notice required)
- Armed Rate for Extra Coverage and Special Events: \$23.20 (72 hour notice required)

“Contract Documents” means all exhibits, attachments, specifications, and any addenda to this Contract which are incorporated by reference into this Contract and which are marked as follows:

“Contract Price” means the price listed in the Contract for service to be received in return.

“Contract Quantities” means the estimated quantities listed on the Bid form.

“Contractor” has the meaning assigned above to that term, and includes that company’s agents, employees, and representatives.

"County" means County of Beaufort, South Carolina, a public body politic and corporate and political subdivision of the State of South Carolina.

“Notice to Proceed” means the written notice to be given by the County to the Contractor to commence Work under this Contract.

“Procurement Director” means the Procurement Director for Beaufort County.

“Project” means the “Work” and is used interchangeably with that term.

“Project Manager” shall be the field representative designated by the County to serve as project manager for the Work.

“Project Site” means the site or sites where the Work is performed. This term is used interchangeably with "Work Site."

“Work” means the work specified and described in Exhibit B (“Scope of Work (with Appendices)”) to this Contract and includes, but is not limited to, materials, workmanship, manufacture and fabrication of components.

“Work Site” means the “Project Site” and is used interchangeably with that term.

SECTION TWO

Contract Documents

The Parties agree that the Contract Documents shall include the following, which are incorporated herein by reference:

- Exhibit A - Request for Proposals (RFP) No. 112819
- Exhibit B - Scope of Work/Specifications (with Appendices)
- Exhibit C - Contractor’s Insurance Certificate(s) and Endorsement(s)
- Exhibit D - Contractor's Proposal dated November 25, 2019
- Exhibit C-“Best and Final Offer Email dated January 28, 2020

In the event of any conflict, discrepancy, or inconsistency among any of the documents which make up this Contract, the following shall control:

- a. As between the Contract and any other document to include, but not limited to, the plans or specifications, the Contract shall govern.
- b. In the event of any conflict, discrepancy, or inconsistency among any of the other Contract Documents, the Contractor shall notify the County immediately upon discovery of same, and the County will notify the Contractor of the resolution.
- c. Any documents not included or expressly contemplated in this Contract do not, and shall not, form a part of this Contract. The Contract Exhibits are intended to be complementary, and a requirement in one document shall be deemed a requirement in all documents.

As provided in Exhibit B, Scope of Work (with Appendices) attached hereto, certain publications shall also govern the work hereunder, unless otherwise provided herein, and are also hereby incorporated by reference.

SECTION THREE

Term

The initial term of this Agreement shall begin April 1, 2020 and end on June 30, 2021 with option to renew for up to four additional years. The Contractor shall not commence work prior to the issuance of a Notice to Proceed.

SECTION FOUR

Work

The Contractor agrees to perform and furnish all labor, supervision, materials, equipment, tools, machinery, transportation and supplies necessary for the completion of the Work required under this Contract in a professional, timely manner.

See Exhibit B, Scope of Work (with Appendices), for complete Scope of Work and Plans.

Work is to be completed as indicated in Section Two after the issuance of the Notice to Proceed, absent any extensions as provided in Section Five hereof.

SECTION FIVE

Contract Price: Payment Terms

- A. The Contractor is to perform the Work beginning on the Commencement Date until the termination of this Contract, for the total of \$127,764. Contractor Bill Rates: UNARMED SECURITY OFFICER - \$19.45 PER HOUR; ARMED SECURITY OFFICER - \$23.20 PER HOUR. Actual payments will be based on verified quantities actually incorporated in the Work as priced in Contractor's Bid.

The amount as specified may be increased or decreased by the County through the issuance of a change order or Amendment. Any prices specified in Contractor's Bid or any such change order or Amendment will remain firm for the term of this Contract or any Amendment thereto. Notwithstanding anything to the contrary, Contractor may raise its rates on 30 days' written notice to account for any increases in (a) health care, benefit, or insurance costs, (b) labor or fuel costs,

(c) costs arising from changes to laws, regulations, or insurance premiums, (d) SUI or similar taxes, or (e) any other taxes, fees, costs or charges related to Contractor's services.

- B. The Contractor shall submit monthly invoices itemizing all labor and materials for which payment is requested. Subject to approval of the invoice by the County, the County shall pay Contractor for the performance of the Work, including all labor and items necessary to accomplish and complete the Work, in accordance with all terms and conditions as stated in the Contract Documents, on the following basis:

The Contractor shall submit invoices in the format that shall be provided by the County at the pre-construction meeting and approved by the parties. Failure to follow the format may result in payment delays.

All invoices will be processed by the County once a month

- C. Invoices will be submitted to the Airport's and Facilities Director, and the invoice will contain Contract No. 112819 and the purchase order number.

- D. Intentionally deleted.

No claim shall be made by the Contractor for any loss of anticipated profits because of any such alteration, or by reason of any variation between the approximate quantities and the quantities of work as done. If the altered or added work is of sufficient magnitude as to require additional time in which to complete the Project, such time adjustment will be made at the determination of the County.

- E. No claim by the Contractor for any adjustment under this Contract shall be allowed if asserted after Final Payment under this Contract.

- F. When the County requires substantiating information the Contractor shall submit data justifying dollar amounts in question.

SECTION SIX

Time

The Contractor agrees to punctually and diligently perform all parts of the Work at the time scheduled by the Contractor which shall be subject to change by the County as deemed necessary or convenient to the overall progress of the Project. In this connection, the Contractor agrees that the Contractor will keep itself continually informed of the progress of the job and will, upon its own initiative, confer with the County so as to plan its work in coordinated sequence with the Work of the County and of others and so as to be able to expeditiously undertake and perform the Work at the time most beneficial to the entire Project. The Contractor will be liable for any loss, costs, or damages sustained by the County for delays in performing the Work hereunder, other than excusable delays for which Contractor shall be granted an extension of time. If, in the reasonable opinion of the County, the Contractor is not complying with the progress schedule or will not meet the completion date, the County may require the Contractor to provide additional manpower, or work overtime, or expedite materials, and the Contractor shall take the necessary steps to comply, all without increase in Contract Price.

If the Contractor is delayed at any time in the progress of the Work by any act or neglect of the County, or by any separate contractor employed by the County, or by changes in the Work, or by labor disputes, fire, unusual delay in transportation, unusually severe weather conditions, unavoidable casualties, delays specifically authorized by the County, or by causes beyond the Contractor's control, avoidance, or mitigation, and without the fault or negligence of the Contractor and/or subcontractor or supplier at any tier, then the Contract time shall be extended by change order for such reasonable time, if any, as the County may determine that such event has delayed the progress of the Work or overall completion of the Work, if the Contractor complies with the notice and documentation requirements set forth below.

Any claim for extension of time, except as provided for below with regards to rain delays, shall be made in writing to the County, not more than Five (5) Calendar Days from the beginning of the delay. The notice shall indicate the cause of delay upon the progress of Work. If the cause of the delay is continuing, the Contractor must give written notice every week to the County. Within Five (5) Calendar Days after the elimination of any such delay, the Contractor shall submit further documentation of the delay and a formal change order request for an extension of time for such delay.

The written request for a time extension shall state the cause of the delay, the number of days extension requested, and such analysis and other documentation to demonstrate a delay in the progress of the Work or the overall Project completion. If the Contractor does not comply with the above notice and documentation requirements, the claim for the delay shall be waived by the Contractor.

Extensions of time shall be the Contractor's sole remedy for any and all delays, hindrances, or obstructions. No payment or compensation of any kind shall be made to the Contractor for damages because of hindrance or obstruction in the orderly progress of the Work or delay from any cause in the progress of the Work, whether such hindrances or delays be avoidable or unavoidable. The Contractor expressly agrees not to make, and hereby waives any claim for damages on account of any delay, obstruction, or hindrance for any cause whatsoever, including but not limited to the aforesaid cause and agrees that the Contractor's sole right and remedy in the case of any delay, obstruction, or hindrance, shall be an extension of the time fixed for completion of the Contract. Without limitation, the County's exercise of its rights under the changes clause, regardless of the extent or number of such changes, shall not under any circumstances be construed as compensable, other than through an extension of time, it being acknowledged that the Contract amount includes and anticipates any and all delays, hindrances, or obstructions whatsoever from any cause, whether such be avoidable or unavoidable.

SECTION SEVEN

Insurance Requirements

The Contractor, at its own expense, shall at all times during the term of the Contract, maintain insurance as included in Exhibit A, Insurance Certificate(s) and Endorsement(s), which is attached hereto and previously incorporated by reference. The County may contact the Contractor's insurer(s) or insurer(s)' agent(s) directly at any time regarding the Contractor's coverages, coverage amounts, or other such relevant and reasonable issues related to this Contract. The Contractor shall also require any subcontractors to carry the same coverages in the same amounts. Additional insureds will only be covered by Contractor's insurance for liability assumed by Contractor in this Contract, subject to the terms of Contractor's insurance.

The County must be advised immediately of any changes in required coverages.

SECTION EIGHT
Payment and Performance Security

A. Intentionally deleted.

SECTION NINE
Compliance with Legal Requirements

All applicable federal, state and local laws, ordinances, and rules and regulations of any authorities (including, but not limited to, any laws, ordinances or regulations relating to the S.C. Department of Revenue or the S.C. Board of Contractors) shall be binding upon the Contractor throughout the pendency of the Work. The Contractor shall be responsible for compliance with any such law, ordinance, rule or regulation, and shall hold the County harmless and indemnify same to the extent in the event of Contractor's non-compliance as set forth in the Contract.

By signing a bid, the Contractor certifies that it will comply with the applicable requirements of Title 8, Chapter 14 of South Carolina Code of Laws, 1976, as amended, and agrees to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to the Contractor and its subcontractors or sub-subcontractors; or (b) that the Contractor and its subcontractors or sub-subcontractors are in compliance with Title 8, Chapter 14.

Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the Court or imprisoned for not more than five years, or both."

The Contractor agrees to include in any contracts with subcontractors, language requiring subcontractors to (a) comply with applicable requirements of Title 8, Chapter 14, and (b) include in its contracts with the subcontractors language requiring the sub-subcontractors to comply with the applicable requirements of Title 8, Chapter 14.

The Contractor agrees to and shall certify agreement to abide by the requirements under Title VI of the Civil Rights Act of 1964, and other non-discrimination authorities under Federal Executive Order Number 11246, as amended, and specifically the provisions of the equal opportunity clause.

The Contractor shall comply with all federal, state and local laws, ordinances, rules and regulations of any authorities throughout the duration of this Contract. The Contractor shall be responsible for compliance with any such law, ordinance, rule or regulation, and shall hold the County harmless and indemnify same to the extent of non-compliance of the above laws, ordinances, rules and regulations by Contractor.

SECTION TEN
Drug-free Workplace Act

The Contractor shall comply with the South Carolina Drug-free Workplace Act, Section 44-107-10 et seq., S.C. Code of Laws (1976, as amended). The County requires all Contractors executing contracts for a stated or estimated value of \$50,000 or more to sign a Drug-free Workplace Certification form prior to the issuance of the Notice to Proceed.

SECTION ELEVEN

Material and Workmanship: Warranties and Representations

The Contractor represents that its staff is knowledgeable about and experienced in performing the Work required in this Contract and warrants that it will use best skill and attention to provide above described Work in a professional, timely manner.

The Contractor warrants and represents that it shall be responsible for all subcontractors working directly for it, as well as for their work product, as though Contractor had performed the Work itself.

A. All equipment, materials and articles incorporated in the Work covered by the Contract and supplied by the Contractor are to meet the Federal/State Standard Specifications, unless otherwise stated herein. Unless otherwise specifically provided in this Contract, reference to any equipment, material, article or patented process, by trade name, make or catalog number, shall not be construed as limiting competition. When requested, the Contractor shall furnish to the Contracts and Procurement Director, for approval the name of the manufacturer, the model number, and other identifying data and information respecting the performance, capacity, nature and rating of the machinery and mechanical and other equipment which the Contractor contemplates incorporating in the Work. When required by this Contract or when called for by the Contracts and Procurement Director, the Contractor shall provide full information concerning the material or articles which he contemplates incorporating in the Work. When so directed, samples shall be submitted for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material and articles installed or used without the required prior approval of the County shall be at the risk of subsequent rejection by the County.

B. Any and all manufacturers' warranties on any equipment or materials will be passed on to the County and copies of said warranties will be furnished by the Contractor to the County upon completion and final acceptance of the Project. Notwithstanding anything to the contrary, any equipment/software provided by Contractor (or information collected therewith) in connection with Contractor's services is for Contractor's use and will always be Contractor property. Contractor is not selling or leasing any of the equipment/software to County, and Contractor will remove its equipment/software upon termination of this Contract.

C. The Procurement Director may, in writing, require the Contractor to remove from the Work Site any employee the Procurement Director deems incompetent, careless or otherwise objectionable.

D. In addition to any manufacturer's warranties, all workmanship and materials are warranted to be free from defects for a period of twenty-four (24) months after the date of Final Payment by the County.

SECTION TWELVE
Retention of Records

The Contractor agrees to maintain for three (3) years from the date of Final Payment, or until the end of any audit or closure of all pending matters under this Contract, whichever is later, all books, documents, papers, and records pertinent to this Contract. The Contractor agrees to provide to the County, any federal grantor agency, the Comptroller General of the United States, any state grantor agency, any assignee, or any of their duly authorized representatives reasonable access to such books, documents, papers, and records for the purpose of examining, auditing, and copying them. The Contractor further agrees to include these provisions in any subcontracts issued in connection with this Contract.

SECTION THIRTEEN
State and Local Taxes

Except as otherwise provided, Contract prices shall include all applicable state and local taxes.

The Contractor shall calculate that portion of the Contract that is subject to the to the total South Carolina and local sales and/or use tax, which amount shall be itemized and shown on all invoices, and shall be paid to the SCDOR by Contractor. If the Contractor is a non-South Carolina company, the County will withhold said amount from all invoices and remit payment to the SCDOR, unless Contractor furnishes County with a valid South Carolina Use Tax Registration Certificate Number.

The Contractor shall indemnify and hold harmless the County for any loss, cost, or expense incurred by, levied upon or billed to the County as a result of Contractor's failure to pay any tax of any type due in connection with this Contract.

The Contractor shall ensure that the above sections are included in all subcontracts and sub-subcontracts, and shall ensure withholding on out of state sub and sub-subcontractors to which withholding is applicable.

SECTION FOURTEEN
Independent Contractor

The Contractor is an independent contractor and shall not be deemed the agent or employee of the County for any purpose whatsoever. The Contractor shall not hold himself out as an employee of the County, and shall have no power or authority to bind or obligate the County in any manner, except the County shall make payment to the Contractor for Work and expenses as herein provided. The Contractor shall obtain and maintain all licenses and permits required by law for performance of this Contract by him or his employees, agents, and servants. The Contractor shall be liable for and pay all taxes required by local, state or federal governments, including but not limited to social security, Workers' Compensation, employment security, and any other taxes and licenses or insurance premiums required by law. No employee benefits of any kind shall be paid by the County to or for the benefit of the Contractor or its employees, agents, or servants by reason of this Contract.

SECTION FIFTEEN
Inspection and Acceptance, No-Claim Affidavits

- A. The Contractor shall, without charge, replace any material or correct any workmanship found by the County not to conform to the Contract requirements, unless the County consents in writing to accept such material and workmanship with an appropriate adjustment in Contract Price. The Contractor shall promptly remove rejected material from the premises.
- B. Upon completion and acceptance of all Work, the Contractor shall provide the Project Manager with written affidavits. Such affidavits shall state that all claims arising by virtue of the Contract have been paid in full with any exceptions listed on such affidavits.
- C. Final acceptance of the completed project will be upon final payment to the Contractor. Upon final acceptance, the workmanship and material warranty period will begin.

SECTION SIXTEEN
Cleanup Work

- A. During progress of Work, Contractor will keep the site and affected adjacent areas cleaned up. The Contractor will remove all rubbish, surplus materials, surplus excavates, and unneeded construction equipment so that the sites will be inconvenienced as little as possible.
- B. Where materials or debris have washed or flowed into or have been placed in existing watercourses, ditches, gutters, drains, pipes, or structures by work done under this Contract, the Contractor will remove and dispose of such material or debris during the progress of the Work.
- C. Upon completion of the Work, Contractor will leave all ditches, channels, drains, pipes, structures and work, etc. in a clean and neat condition.
- D. The Contractor will remove all debris from any grounds which have been occupied by the Contractor and leave the roads and all parts of the premises and adjacent site affected by the Contractor's operations in a neat and satisfactory condition.
- E. The Contractor will restore or replace, when and as directed, any public or private property damage by the Contractor's work, equipment or employees to a condition at least equal to that existing immediately prior to the beginning of the operations.

SECTION SEVENTEEN
Conditions Affecting the Work

- A. The Contractor shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the Work and the general and local conditions which can affect the Work or the cost thereof. Any failure by the Contractor to do so will not relieve it from responsibility for successfully performing the Work without additional expense to the County. The County assumes no responsibility for any understanding or representations concerning conditions or anything related to this Contract, made by any of its officers or agents prior to the execution of this Contract, unless such understandings or representations by the County are expressly stated in this Contract.

- B. The Contractor has visited and inspected the Work Site and accepts the conditions at the Work Site as they eventually may be found to exist and warrants and represents that this Contract can and will be performed under such conditions, and that all materials, equipment, labor and other facilities required because of any unforeseen conditions (physical or otherwise) shall be wholly at the Contractor's own cost and expense, anything in this Contract to the contrary notwithstanding.

SECTION EIGHTEEN
Safety of Persons and Property

- A. The following provisions are in addition to those pertinent sections contained in the standard specifications.
- B. The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to:
- (i) employees on the Work Site and other persons who may be affected thereby;
 - (ii) the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's subcontractors or sub-subcontractors; and
 - (iii) other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.
- C. The Contractor shall give notices and comply with applicable laws, ordinances, rules, regulations and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- D. The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting and maintaining danger signs and other warnings against hazards as long as such hazards exist. The Contractor shall also promulgate safety regulations and notify owners and users of adjacent sites and utilities of all construction and related activities.
- E. When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.
- F. The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property to the extent caused by the negligence of Contractor, a subcontractor, a sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible except damage or loss attributable to acts or omissions of the County or anyone directly or indirectly employed by it, or by anyone for whose acts the County may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 25, Indemnification, herein.

- G. The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the County.
- H. The Contractor shall not load or permit any part of the construction or site to be loaded so as to endanger its safety.
- I. In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's best discretion, to prevent threatened damage, injury or loss.

SECTION NINETEEN

Change Orders

One or more changes to the Work within the general scope of this Contract, may be ordered by change order. The County may also issue construction change directives, as set forth below. The Contractor shall proceed with any such changes, and same shall be accomplished in strict accordance with the following terms and conditions:

- A. Change orders shall be submitted on the forms and pursuant to the procedures of the County. Change order shall mean a written order to the Contractor executed by the County after execution of this Contract, directing a change in the Work. A change order may include a change in the Contract Price, (other than a change attributable to damages to the Contractor for delay, which the Parties agree are not allowed under this Contract) or the time for the Contractor's performance, or any combination thereof. Where there is a lack of total agreement on the terms of a change order, the County may also direct a change in the Work in the form of a construction change directive, which will set forth the change in the Work and the change, if any, in the Contract Price or time for performance, for subsequent inclusion in a change order;
- B. Any change in the Contract Price resulting from a change order shall be determined by use of the Unit Prices set forth in the Contractor's bid.
- C. The execution of a change order by the Contractor shall constitute conclusive evidence of the Contractor's contract to the ordered changes in the Work, this Contract as thus amended, the Contract Price, and the time for performance by the Contractor. The Contractor, by executing the change order, waives and forever releases any claim against the County for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed change order.
- D. The Contractor shall notify and obtain the consent and approval of the Contractor's surety with reference to all change orders if such notice, consent or approval is required by the County, the Contractor's surety or by law. The Contractor's execution of the change order shall constitute the Contractor's warranty to the County that the surety has been notified of, and consents to, such change order and the surety shall be conclusively deemed to have been notified of such change order and to have expressly consented thereto.

SECTION TWENTY
Claims and Disputes

- A. Definition. A Claim is a demand or assertion by one of the Parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, and extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the County and the Contractor arising out of or relating to the Contract. Claims must be made by written notice. The responsibility to substantiate Claims shall rest with the Party making the Claim. Following all limits and procedures herein shall be a condition precedent to the Contractor's entitlement to any increased compensation from any claim.
- B. Time Limits on Claims. Claims by either Party must be made within Ten (10) Business Days after occurrence of the event giving rise to such Claim or within Ten (10) Business Days after the claimant first recognizes the condition giving rise to the Claim, whichever is later. An additional Claim made after the initial Claim has been implemented by change order will not be considered.
- C. Continuing Contract Performance. Pending final resolution of a Claim request for review of site conditions, request for information, or resolution of a dispute, unless otherwise agreed in writing the Contractor shall proceed diligently with performance of the Contract and the County shall continue to make payments in accordance with the Contract Documents.
- D. Waiver of Claims: Final Payment. The making of Final Payment shall constitute a waiver of Claims by the County except those arising from:
1. Liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
 2. Failure of the Work to comply with the requirements of the Contract Documents; or
 3. Terms of special warranties required by the Contract Documents.
- E. Claims for Additional Costs. If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 18(I). If the Contractor believes additional cost is involved for reasons including but not limited to (1) an order by the County to stop the Work where the Contractor was not at fault, (2) a written order for a minor change in the Work, (3) failure of payment by the County, (4) termination of the Contract by the County, (5) other reasonable grounds, Claim shall be filed in accordance with the procedure established herein.
- F. Claims for Additional Time. See Section Five herein.
- G. Injury or Damage to Person or Property. If either Party to the Contract suffers injury or damage to person or property because of a negligent act or omission of the other Party, of any of the other Party's employees or agents, or of others for whose acts such Party is legally liable, written notice of such injury or damage, whether or not insured, shall be given to the other Party within a reasonable time not exceeding Ten (10) Business Days after first observance. The notice shall provide sufficient detail to enable the other Party to investigate the matter. If a Claim for additional cost or time related to this Claim is to be asserted, it shall be filed as provided herein.

SECTION TWENTY-ONE
Damages

Intentionally deleted.

SECTION TWENTY-TWO
Suspension of Work

The Procurement Director may order, in writing, the Contractor to suspend, delay, or interrupt all or any part of the Work for such period of time as he may determine to be appropriate for the convenience of the County. The County may suspend performance of its obligations under this Contract in good faith for the convenience of the County or to investigate matters arising in the Work.

The Procurement Director may order suspension of the Work in whole or in part for such time as he deems necessary because of the failure of the Contractor to comply with any of the requirements of this Contract, and the Contract's completion date shall not be extended on account of any such suspension of Work

When the Procurement Director orders any suspension of the Work under the paragraph above, the Contractor shall not be entitled to any payment for Work with respect to the period during which such Work is suspended and shall not be entitled to any costs or damages resulting from such suspension.

The rights and remedies of the County provided in this Section are in addition to any other rights and remedies provided by law or under this Contract.

SECTION TWENTY-THREE
Modification of Contract

The County's Procurement Director has the unilateral right to modify this Contract when the modification is in the best interest of the County, provided however, the Contractor is given written notice of any such modification and the County is responsible for paying Contractor for any additional expenses incurred by Contractor which relate to the modification. Subject to the above, the Contractor shall immediately notify the County in writing of any proposed adjustment in its fee. The Contractor is obligated to perform the revised contract when so directed by the Procurement Director and the County is obligated to pay for the work performed pursuant to the modification. No claim by the Contractor for an adjustment hereunder shall be allowed if asserted after Final Payment under this Contract.

SECTION TWENTY-FOUR
Termination

A. For Convenience

The Procurement Director, by advance written notice, may terminate this Contract when it is in the best interests of the County. If this Contract is so terminated, the Contractor shall be compensated for all necessary and reasonable direct costs of performing the Work actually accomplished. The Contractor will not be compensated for any other costs in connection with a termination for convenience. The Contractor will not be entitled to recover any damages in connection with a

termination for convenience. The Contractor may terminate this Contract, in whole or in part, and without cause or penalty upon Sixty days' written notice.

B. For Default

If the Contractor refuses or fails to perform the Work or any separable part thereof in a timely or workmanlike manner in accordance with the Contract Documents, or otherwise fails, in the sole opinion of the County, to comply with any of the terms and conditions of the Contract Documents deemed, in the sole opinion of the County, to be material (including, without limitation, the requirement that Contractor obtain and maintain in force all necessary permits), such refusal or failure shall be deemed a default under this Contract.

In the event of a default under this Section, the County shall have the right to terminate forthwith this Contract by written notice to the Contractor. In the event of such default, the advance notice period for termination is waived and the Contractor shall not be entitled to any costs or damages resulting from a termination under this section.

Whether or not the Contractor's right to proceed with the Work is terminated, it and its sureties shall be liable for any damage to the County resulting from Contractor's default.

C. Termination for Non-Appropriation of Funds

The Procurement Director, by written advance notice, may terminate this Contract in whole or in part in the event that sufficient appropriation of funds from any source (whether a federal, state, County or other source) are not made or sufficient funds are otherwise unavailable, in either case, to pay the charges under this Contract. If this Contract is so terminated, the Contractor shall be compensated for all necessary and reasonable direct costs of performing the Work actually provided to the date of such termination. The Contractor will not be compensated for any other costs in connection with a termination for non-appropriation. The Contractor will not be entitled to recover any damages in connection with a termination for non-appropriation, including, but not limited to, lost profits.

D. Rights Cumulative

The rights and remedies of the County provided in this Section are in addition to any other rights and remedies provided by law or under this Contract.

SECTION TWENTY-FIVE
Indemnification

Except for expenses or liabilities arising from the negligence or intentional acts of the County, the Contractor hereby expressly agrees to indemnify and hold the County harmless against any and all expenses and liabilities to the extent caused by the negligent performance, or willful misconduct of the Contractor in conduct of this Contract, as follows:

For matters other than those arising from the rendering or failure to render professional services, the Contractor expressly agrees to the extent that there is a causal relationship between its negligence, or the negligence of any of its employees or any person, firm or corporation directly or indirectly employed by

the Contractor and any damage, liability, injury, loss or expense (whether in connection with bodily injury or death or property damage) that is suffered by the County and/or its officers or employees or by any member of the public, to indemnify and save the County and its officers and employees harmless against any and all liabilities, penalties, demands, claims, lawsuits, losses, damages, costs, and expenses to the extent arising out of the negligence of the Contractor. Such costs are to include, without limitation, reasonable defense, settlement and reasonable attorney's fees incurred by the County and its employees. This promise to indemnify shall include, without limitation, bodily injuries or death occurring to the Contractor's employees and any person, directly or indirectly employed by the Contractor (including, without limitation, any employee of any subcontractor) to the extent not caused by the County's negligence, the County's officers or employees, the employees of any other independent contractors, or occurring to any member of the public.

For matters arising out of the rendering or failure to render professional services, the Contractor will indemnify and save the County and its officers and employees harmless from and against all liabilities, penalties, demands, claims, lawsuits, losses, damages, costs and expenses to the extent caused by any negligent act, error or omission of the Contractor in the rendering or failure to render professional services under this Contract. Such costs are to include, without limitation, reasonable defense, settlement and reasonable attorneys' fees incurred by the County and its officers and employees. This promise to indemnify shall include, without limitation, bodily injuries or death occurring to the Contractor's employees and any person, directly or indirectly employed by the Contractor (including, without limitation, any employee of any subcontractor) to the extent not caused by the County's negligence, the County's officers or employees, the employees of any other independent contractors, or occurring to any member of the public.

Notwithstanding anything to the contrary, Contractor's liability will in no event exceed \$2 million. Further, Contractor will not be liable for any (a) punitive or consequential damages, (b) damages arising from events beyond Contractor's reasonable control, or (c) injuries or deaths arising from any conditions of County's premises.

SECTION TWENTY-SIX **Gratuities and Kickbacks**

Gratuities. It shall be unethical for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement of a contract or subcontract, or to any solicitation or proposal therefore.

Kickbacks. It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor, or to hire any subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

Violation of this clause may result in Contract termination.

SECTION TWENTY-SEVEN

Labor: Subcontractors: Employment Consideration

The Contractor shall not contract with a proposed person or entity to whom the County has made reasonable and timely objections. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable and timely objection.

The Contractor shall enforce strict discipline and good order among its employees and other persons carrying out the Contract.

Employment of labor by Contractor shall be effected under conditions which are satisfactory to County. Contractor shall remove or cause to have removed from the project any employee or employees who are considered unsatisfactory by the County.

The Contractor assumes the responsibility for assuring that its working forces are compatible with other forces on the job and Contractor is responsible for making himself aware of those forces. Contractor will furnish a competent representative who is to be kept available to the site to represent the Contractor for the purpose of receiving notices, orders and instruction.

SECTION TWENTY-EIGHT

Other Contracts

The County reserves the right to undertake or award other contracts for additional work/services, and may elect to complete portions of the work/services included in this Contract using its own forces or through other contracts, and the Contractor shall fully cooperate with such other contractors, County employees and carefully fit its own work/services to such work/services as may be directed by the County. The Contractor shall not commit or permit any act by its forces or subcontractors which will interfere with the performance of work/services by any other contractor or by County and or Department employees.

SECTION TWENTY-NINE

Permits and Licenses

The Contractor shall, without additional expense to the County, be responsible for obtaining and maintaining all necessary licenses and permits required by the State of South Carolina, a municipality or the County or any other authority having jurisdiction. Prior to execution of a contract, the Contractor may be required to provide a copy of its current applicable Contractor's License issued by the State of South Carolina and the County. Any subcontractor must comply with the regulations promulgated in the South Carolina Contractor's Licensing Board as enforced by the South Carolina Licensing Board for Contractors. Contractor's (and or any subcontractor's) License Number, Person's Name and Business Name must all be shown on all required licenses.

SECTION THIRTY

Assignment

The Contractor shall not assign in whole or in part the Contract without the prior written consent of the County or its Assignee. The Contractor shall not assign any money due or that may become due to it under said Contract without the prior written consent of the County or its Assignee. Each Party binds itself, its successors, assigns, executors, administrators or other representatives to the other Party hereto and to

successors, assigns, executors, administrators or other representatives of such other Party in connection with all terms and conditions of the Contract.

SECTION THIRTY-ONE

Controlling Law

The laws of South Carolina shall govern this Contract. All litigation arising under this Contract shall be litigated only in a nonjury hearing in the Court of Common Pleas, Fourteenth Judicial Circuit, Beaufort County, South Carolina.

SECTION THIRTY-TWO

Severance

Should any part of this Contract be determined by a Court of competent jurisdiction to be invalid, illegal, or against public policy, said offending Section shall be void and of no effect and shall not render any other Section herein, nor this Contract as a whole, invalid.

SECTION THIRTY-THREE

County's Designated Representative(s)

In the event that any questions or problems arise in the course of performing this Contract, Contractor shall immediately contact one or more of the following County representatives:

David Thomas, Director
Beaufort County Purchasing Department
P.O Drawer 1228
Beaufort, South Carolina 29901
843-255-2304

SECTION THIRTY-FOUR

Notices

Whenever any provision of this Contract requires the giving of written notice, it shall be deemed to have been validly given if delivered by person or by registered mail to the following:

If to the County:
David Thomas, Director
Beaufort County Purchasing Department
P.O Drawer 1228
Beaufort, South Carolina 29901
843-255-2304

If to the Contractor:

Justin Heyward, Area Vice President
Securitas, Inc.
3294 Ashley Phosphate Road, Suite 2F
North Charleston, SC 29418
(843) 554-5503

SECTION THIRTY-FIVE
Non-Waiver

Any waiver of any default by either Party to this Contract shall not constitute waiver of any subsequent default, nor shall it operate to require either Party to waive, or entitle either Party to a waiver of, any subsequent default hereunder. Notwithstanding anything to the contrary, in connection with the US Safety Act, each party waives all claims against the other for damages arising from or related to an act of terrorism, and the parties intend for this waiver to flow down to their respective contractors and subcontractors.

SECTION THIRTY-SIX
Entire Contract

This Contract constitutes the entire understanding and Contract between the Parties hereto and supersedes all prior and contemporaneous written and oral contracts between the Parties and their predecessors in interest regarding the subject matter of this Contract. This Contract may not be changed, altered, amended, modified, or terminated orally, except as specifically provided, and any such change, alteration, amendment, or modification must be in writing and executed by the Parties hereto.

IN WITNESS WHEREOF, the Parties executed this Contract under their several seals the day and year first written above.

SECURITAS, INC.

BEAUFORT COUNTY, SOUTH CAROLINA:

Name: Justin Heyward
Title: Area Vice President

Ashley Jacobs
County Administrator
Beaufort, SC

Attest:

Attest:

1) 1) _____

2) 2) _____

DRAFT



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Gate Reassignment Project - United Airlines

Council Committee:

Executive Committee Meeting

Meeting Date:

March 9, 2020

Committee Presenter (Name and Title):

Jon Rembold Airports Director

Issues for Consideration:

Airline boarding gate reassignment project.

Points to Consider:

The Airport/County will not experience a cash deficit during this process because it is being administered as a "pre-reimbursement" type project. In other words, the Airport will be paid in advance by one party before issuing same payment to second party. But since the overall payment amount will exceed the threshold requiring Council approval, this must be approved by the BCAB and forwarded to Executive Committee of County Council. The Airport and Delta will enter into a reimbursement agreement.

Funding & Liability Factors:

No net expenditure.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve

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

THIS REIMBURSEMENT AGREEMENT (“Agreement”) made and entered into this ____ day of _____, 2020 by and between Beaufort County, a political subdivision of the State of South Carolina (“County”) and Delta Air Lines, Inc., a Georgia corporation (“Delta”); collectively hereinafter referred to as the “Parties”.

WHEREAS, the County is the owner and operator of the Hilton Head Island Airport (“Airport”); and

WHEREAS, Delta operates year-round passenger airline service out of the Airport and has recently increased the number of flights departing from the Airport, which has ultimately resulted in moving its boarding gate location in the terminal to fit its needs; and

WHEREAS, United Airlines, Inc. (“United”) also operates out of the Airport and as a result of Delta’s move, United has been requested to move the location of its boarding gate in the terminal; and

WHEREAS, Delta has agreed to reimburse United the cost of moving the location of its boarding gate in the terminal;

WHEREAS, the County shall serve as the interim party between Delta and United to ensure payment of the moving services rendered pursuant to terms as set forth in this Agreement; and

WHEREAS, the Parties intend by this Agreement to delineate their respective rights, duties, and obligations in respect to the reimbursement of costs associated with United’s moving of its service desk in the Airport’s terminal.

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

1. TERM. The term of this Agreement shall not exceed a period of six (6) months commencing on the date first stated above in this Agreement. This Agreement shall not be renewed.

2. RESPONSIBILITY OF PARTIES.

a. **County Responsibilities.** The County shall work directly with United to ensure the move is completed by an agreed upon vendor. The County shall obtain an invoice for the amount of the services and provide Delta with the invoice pursuant to Section 3 of this Agreement.

b. **Delta Responsibilities.** Delta shall promptly pay the entire invoice received from the County directly to the County pursuant to Section 3 of this Agreement.

3. INVOICING. The County, within seven (7) calendar days of receipt of the invoice from United, shall provide Delta with a copy of the invoice pursuant to Section 5 of this Agreement. Delta shall make payment directly to the County within fourteen (14) calendar days of receiving the aforementioned invoice.

a. **Invoice Discrepancy.** In review of the aforementioned invoice, if Delta has questions or concerns regarding the services or amounts owed, Delta shall work directly with United to resolve the concerns. Delta shall not withhold payment to the County regardless of any invoice discrepancy.

4. **DEFAULT.** If a party to this Agreement determines that the other party is in breach of the terms of this Agreement, the claiming party shall notify the other party of the breach and request voluntary compliance. In the event that voluntary cure is not agreed to within seven (7) days of receipt notice, the claiming party shall give written notice to the other party of such breach and demand corrective action. If the noticed party fails to cure the breach within fourteen (14) days after receipt of the written notice, the claiming party may bring an action at law or in equity in a court of competent jurisdiction.

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

To County:	Beaufort County	To Delta:	Delta Air Lines, Inc.
	Attn: Airport Director		Attn: Corporate Real Estate
	120 Beach City Road		_____
	Hilton Head Island, SC 29926		_____
	jrembold@bcgov.net		_____

6. **OTHER PROVISIONS**

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

b. **Independent Parties.** The Parties mutually agree that this Agreement is for the sole purpose of the provisions of services set forth in this Agreement and does not establish an agency or employment relationship.

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

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

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

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

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

h. **Counterparts.** This Agreement may be executed in multiple counterparts, and all such executed

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

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

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

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

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

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

WITNESSES:

BEAUFORT COUNTY

By: _____

Name: Jon Rembold

Title: Airport Director

DELTA AIR LINES, INC.

By: _____

Name: _____

Title: _____



TO: Mr. Howard Ackerman, BCAB Chairman

FROM: Jon Rembold, Airports Director

SUBJ: Gate Reassignment Project – United Airlines

DATE: February 27, 2020

BACKGROUND:

Last August, Delta Air Lines requested consideration of a gate reassignment into the main hold room in light of their year-round service. This would effectively swap the boarding gate locations of Delta with United, which offers only seasonal service. Delta Air Lines agreed to fund the entire project since they made the request which would force United to move. The request was granted and the project commenced. Delta's portion of the move has been completed and United's is currently underway.

The funding/payment operation is non-standard due to airline system requirements. United will submit an invoice to the Airport. The Airport will then invoice Delta for that amount. Once payment is received from Delta to cover the United expense, the Airport will pay United's invoice. The construction cost will not exceed \$126,038. United will also invoice a related item (equipment/furniture) in the amount of \$32,096. The total cost of the project will not exceed \$158,134.

The Airport/County will not experience a cash deficit during this process, but since payment will be made in an amount that will exceed the threshold requiring Council approval, this must be approved by the BCAB and forwarded to Executive Committee of County Council for their approval.

RECOMMENDATION:

Airports Board recommend approval of this program to Executive Committee of County Council.

VENDOR INFORMATION:

Delta Air Lines and United Airlines

COST

Reimbursable



TO: Councilman Stu Rodman, Chairman, Beaufort County Executive Committee

FROM: Howard Ackerman, Chairman, Beaufort County Airports Board

SUBJ: **Approval of Gate Reassignment Project – United Airlines**

DATE: February 27, 2020

BACKGROUND:

Last August, Delta Air Lines requested consideration of a gate reassignment into the main hold room in light of their year-round service. This would effectively swap the boarding gate locations of Delta with United, which offers only seasonal service. Delta Air Lines agreed to fund the entire project since they made the request which would force United to move. The request was granted and the project commenced. Delta's portion of the move has been completed and United's is currently underway.

The funding/payment operation is non-standard due to airline system requirements. United will submit an invoice to the Airport. The Airport will then invoice Delta for that amount. Once payment is received from Delta to cover the United expense, the Airport will pay United's invoice. The construction cost will not exceed \$126,038. United will also invoice a related item (equipment/furniture) in the amount of \$32,096. The total cost of the project will not exceed \$158,134.

The Airport/County will not experience a cash deficit during this process, but since payment will be made in an amount that will exceed the threshold requiring Council approval, this must be approved by the BCAB and forwarded to Executive Committee of County Council.

VENDOR INFORMATION:

United Airlines, Delta Air Lines

COST:

Reimbursable

FOR ACTION:

Executive Committee meeting occurring March 9, 2020.

RECOMMENDATION:

Approve program and forward to County Council for authorization.

Encl: United Gate Relocation Costs



COUNTY COUNCIL OF BEAUFORT COUNTY
PURCHASING DEPARTMENT

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

TO: Councilman Stu Rodman, Chairman, Beaufort County Executive Committee
FROM: Dave Thomas, CPPO, Purchasing Director
SUBJ: **Gate Reassignment Project – United Airlines**
DATE: February 27, 2020

BACKGROUND:

Last August, Delta Air Lines requested consideration of a gate reassignment into the main hold room in light of their year-round service. This would effectively swap the boarding gate locations of Delta with United, which offers only seasonal service. Delta Air Lines agreed to fund the entire project since they made the request which would force United to move. The request was granted and the project commenced. Delta's portion of the move has been completed and United's is currently underway.

The funding/payment operation is non-standard due to airline system requirements. United will submit an invoice to the Airport. The Airport will then invoice Delta for that amount. Once payment is received from Delta to cover the United expense, the Airport will pay United's invoice. The construction cost will not exceed \$126,038. United will also invoice a related item (equipment/furniture) in the amount of \$32,096. The total cost of the project will not exceed \$158,134.

The Airport/County will not experience a cash deficit during this process, but since payment will be made in an amount that will exceed the threshold requiring Council approval, this must be approved by the BCAB and forwarded to Executive Committee of County Council.

VENDOR BID INFORMATION:

United Airlines, Delta Air Lines

COST:

Reimbursable

FOR ACTION:

Executive Committee meeting occurring March 9, 2020.

RECOMMENDATION:

Beaufort County Executive Committee approval of subject program

cc: Ashley Jacobs, County Administrator
Chris Inglese, Deputy County Administrator
Alicia Holland, Asst. County Administrator, Finance
Jon Rembold, C.M., Airports Director

Encl: Recommendation Memo – BCAB Chairman Ackerman



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Resolution Airport Acquisition

Council Committee:

Executive Committee Meeting

Meeting Date:

March 9, 2020

Committee Presenter (Name and Title):

Jon Rembold Airports Director

Issues for Consideration:

Approval of Resolution airport acquisition

Points to Consider:

A resolution authorizing the county administrator to negotiate and execute the documents necessary for the purchase of properties for the expansion project at Hilton Head Island Airport.

Funding & Liability Factors:

N/A

Council Options:

Approve, Modify or Reject

Recommendation:

Approve

RESOLUTION 2020/ _____

A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO NEGOTIATE AND EXECUTE THE DOCUMENTS NECESSARY FOR THE PURCHASE OF PROPERTIES FOR THE EXPANSION PROJECT AT THE HILTON HEAD ISLAND AIRPORT

WHEREAS, the Hilton Head Island Airport (“Airport”) is in the process of expanding the terminal in order to provide better service to both residents and tourists (“Expansion Project”); and

WHEREAS, on April 8, 2019, the Beaufort County Council approved hiring Talbert, Bright & Ellington, Inc. as consultants (“Consultants”) for the Expansion Project; and

WHEREAS, the Consultants determined the Expansion Project requires Beaufort County to acquire five (5) properties located on Hunter Road, Hilton Head Island, SC 29926 (collectively referred to as the “Properties”) and described in more detail in “Exhibit A”, attached hereto and incorporated herein by reference; and

WHEREAS, the Expansion Project is eligible for Federal Aviation Administration (“FAA”) funding, it is anticipated that the FAA will provide 90% of the funding required to acquire the Properties; and

WHEREAS, the Expansion Project is eligible for South Carolina Aeronautics Commission (“SCAC”) funding, it is anticipated that the SCAC will provide 5% of the funding required to acquire the Properties; and

WHEREAS, the remaining 5% of the funding required for the acquisition of the Properties shall come from the Airport Operating Revenues; 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 negotiate and execute the documents necessary for the purchase of five (5) properties on Hunter Road as further described in Exhibit A.

NOW, THEREFORE, BE IT RESOLVED that Beaufort County Council, duly assembled, does hereby authorize the County Administrator to negotiate and execute the documents necessary for the purchase of five (5) properties on Hunter Road as further described in Exhibit A.

Adopted this ____ day of March, 2020.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Recommendation of Appointment to Airports Board

Council Committee:

Executive Committee

Meeting Date:

March 9, 2020

Committee Presenter (Name and Title):

Issues for Consideration:

Blakely Williams resigned as of February 2020.
Need a Beaufort Regional Chamber Appointee.

Points to Consider:

Funding & Liability Factors:

none

Council Options:

Approve, Modify, Reject

Recommendation:



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Boards and Commission

Council Committee:

Executive Committee

Meeting Date:

March 9, 2020

Committee Presenter (Name and Title):

Issues for Consideration:

Reappointment of David House to Beaufort Memorial Hospital Board of Trustees

Points to Consider:

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve



Beaufort Memorial
HOSPITAL

955 Ribaut Road | Beaufort, SC 29902
843-522-5200 | 877-532-6472
beaufortmemorial.org

November 12, 2019

Mr. D. Paul Sommerville, Chairman
Beaufort County Council
P. O. Drawer 1228
Beaufort, SC 29901-1228

Re: Reappointment

Dear Mr. Sommerville:

I hereby respectfully request that I be considered for reappointment to serve as a member of the Beaufort Memorial Board of Trustees effective March 1, 2020.

Sincerely,

David House

DH/as

cc: Mr. Russell Baxley

Seeking Reappointment
 Intent Unknown
 Vacancy / Resignation

Seeking Reappointment
 Intent Unknown
 Vacancy / Resignation

BEAUFORT MEMORIAL HOSPITAL BOARD OF TRUSTEES

Telephone	Appointed	Reappointed	Term- Years	Term Expires	CC District	Ethnicity	North/ South	Gender
1. Andrea Allen 4 Pigler Cove PO Box 734 Beaufort, SC 29901 jeallen@hatgray.com	4/13/2009	2/1/2013 3/13/2017	4	2/21	3	African American	North	Female
2. Dr. Eric Billig, M.D. 411 King Street Beaufort, SC 29902 ericbillig@gmail.com	1/28/2019		4	2/23	2	Caucasian	North	Male
3. Kathleen R. Cooper 4089 Spring Island Okatie, SC 29909 kcooper@springisland.us	2/11/2013	2/20/2017	4	2/21	5	Caucasian	South	Female
4. William Himmelsbach 289 Spring Island Drive (home) 4489 Spring Island (mailing) Okatie, SC 29909 whimmelsbach@gmail.com	2/10/2014	3/12/2018	4	2/22	5	Caucasian	South	Male
5. David C. House, Chairman (2/3/20) 4516 Spring Island Okatie, SC 29909 David@Serenopartners.com	2/13/2012	2/29/2016	4	2/20	5	Caucasian	South	Male
6. Dr. Stephen Larson 34 Widewater Road Hilton Head Island, SC 29926 Steve_Larson_MD@yahoo.com slarson2@bmhsc.org	4/9/2018		4	2/22	4	Caucasian	North	Male

BEAUFORT MEMORIAL HOSPITAL BOARD OF TRUSTEES

	<u>Telephone</u>	<u>Appointed</u>	<u>Reappointed</u>	<u>Term- Years</u>	<u>Term Expires</u>	<u>CC District</u>	<u>Ethnicity</u>	<u>North/ South</u>	<u>Gender</u>
7. Kathryn McDonagh, PhD 54 Driftwood Court, West Bluffton, SC 29910 drkathymcdonagh@gmail.com	(H)843-540-5095	2/11/2019		4	2/23	4	Caucasian	South	Female
8. Dr. Faith L. Polkey 50 Hewlett Road Beaufort, SC 29907 faith_polkey@gmail.com	(H)843-982-0424 (O)843-726-3341	2/11/2013	2/20/2017	4	2/21	2	African American	North	Female

9.

Hospital Board By Laws - Limited to three terms = 12 years
 Beaufort County Council Liaison Paul Sommerville (Community Services)

Authorized Membership: 9
Vacancies: 1
Terms Expired: 0

Historical Background:
 S.C. Act 1197 of 1966



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Boards and Commission

Council Committee:

Executive Committee

Meeting Date:

March 9, 2020

Committee Presenter (Name and Title):

Issues for Consideration:

Nomination of Eugene Richardson LaBruce to fulfill the expired term of David Tedder.

Points to Consider:

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve



January 29, 2020

Mr. D. Paul Sommerville, Chairman
Beaufort County Council
P. O. Drawer 1228
Beaufort, SC 29901-1228

Re: Board Nomination to fill a full term to replace the expired term of David L. Tedder

Dear Mr. Sommerville:

Beaufort Memorial Hospital Board puts forward the nomination of Mr. Eugene Richardson LaBruce to be filling a full term for the expired term of Mr. David L. Tedder. The Board of Trustees approved and recommended the nomination at its Board meeting today. Mr. Tedder's term expires in February 2020.

Sincerely,

David House, Chair
Beaufort Memorial Hospital Board of Trustees

DH/as

cc: Ms. Alice G. Howard
Sarah W. Brock, JD
Mr. Russell Baxley