

COUNTY COUNCIL OF BEAUFORT COUNTY
ADMINISTRATION BUILDING
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STEWART H. RODMAN
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VICE CHAIRMAN

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ASHLEY M. JACOBS
COUNTY ADMINISTRATOR

SARAH W. BROCK
CLERK TO COUNCIL

AGENDA
COUNTY COUNCIL OF BEAUFORT COUNTY
REGULAR SESSION

Monday, September 9, 2019

6:00 p.m.

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

1. **CALL TO ORDER REGULAR SESSION** – Chairman Stu Rodman 6:00 p.m.

2. **PLEDGE OF ALLEGIANCE AND INVOCATION** – Councilman Flewelling

[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** (backup)

A. June 24, 2019

5. **PRESENTATIONS**

A. Blue Angels

6. **CITIZEN COMMENTS** *[See Clerk to Council for sign-in prior to meeting. Speakers shall limit comments to three minutes and comments must pertain to items on the Agenda.]*

7. **ADMINISTRATOR'S REPORT**

8. **CHAIRMAN'S MINUTE**

9. **CONSENT AGENDA**

A. **Items Originating from the Finance Committee – Councilman Passiment**

1. **Third and Final Reading of an Ordinance authorizing the execution and delivery of a Fee Agreement by and between Beaufort County, South Carolina and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto** (backup)

1. Consideration of third and final reading on September 9, 2019

2. Second reading approved on July 22, 2019 / Vote 9:2



3. Public Hearing on July 22, 2019
4. First reading approved, by title only, on June 24, 2019 / Vote 10:0
5. Finance Committee discussion occurred on June 24, 2019 / (*no vote was taken*)

2. Third and Final Reading of an Ordinance adopting an Intergovernmental Agreement with the City of Hardeeville for the collection of Public Facility Development Impact Fees (backup)

1. Consideration on third and final reading on September 9, 2019
2. Second Reading approved on August 26, 2019 / Vote 10:0
3. Public Hearing on August 26, 2019
4. First Reading approved on July 22, 2019 / 11:0
5. Finance Committee discussion occurred on June 24, 2019 / Vote 10:0

3. Third and Final Reading of an Ordinance amending the County's 2019 General Bond ordinance (Ordinance No. 2019/21) to add \$500,000 to the bond amount for TCL training kitchen (backup)

1. Consideration on third and final reading on September 9, 2019
2. Second Reading approved on August 26, 2019 / Vote 10:0
3. Public Hearing on August 26, 2019
4. First Reading approved on July 22, 2019 / 11:0
5. Finance Committee recommended approval on June 3, 2019 / Vote 9:0

4. Second Reading of an Ordinance authorizing the issuance and sale of General Obligation Bonds, series 2019c, in the amount not to exceed \$25,000,000; fixing the form and details of the bonds; authorizing the County Administrator or her lawfully-authorized designee to determine certain matters relating to the bonds; providing for the payment of the bonds and the disposition of the proceeds thereof; and other matters relating thereto (backup)

1. Consideration of second reading on September 9, 2019
2. Third Reading and Public Hearing – Monday, September 23, 2019, 6:00 p.m., Buckwalter Recreation Center, Buckwalter Regional Park, 905 Buckwalter Pkwy, Bluffton
3. First Reading approved on August 26, 2019 / Vote 10:0
4. Finance Committee recommended approval on August 19, 2019 / Vote 11:0

B. Items Originating from the Public Facilities Committee – Councilman Flewelling

1. First Reading of an Ordinance to terminate the lease agreement on the “Lucky” Property (backup)

1. Consideration of first reading on September 9, 2019
2. Public Hearing – Monday, September 23, 2019, 6:00p.m., Buckwalter Recreation Center,
3. Buckwalter Regional Park, 905 Buckwalter Pkwy, Bluffton
4. Public Facilities Committee recommended approval on June 3, 2019 / Vote 8:0

2. Adoption of a Resolution approving an Impact Fee Credit reduction for Beaufort Memorial Hospital (backup)

1. Consideration of adoption on September 9, 2019
2. Public Facilities Committee recommended approval on August 12, 2019 / Vote 11:0

C. Items Originating from the Governmental Committee – Vice Chair Sommerville

- 1. Third and Final Reading of an ordinance authorizing the execution of a lease for Agnes Major Community Center to the Boys and Girls Club of the Lowcountry** (backup)
 1. Consideration on third and final reading on September 9, 2019
 2. Second Reading approved on August 26, 2019 / Vote 10:0
 3. Public Hearing on August 26, 2019
 4. First Reading approved on July 22, 2019 / 11:0
 5. Governmental Committee recommended approval on June 24, 2019 / Vote 9:0

10. PUBLIC HEARINGS

- A. Public Hearing and Second Reading of an Ordinance authorizing the execution and delivery of a utility easement encumbering property owned by Beaufort County known as the Wright Family Park** (backup)
 1. Public Hearing on September 9, 2019
 2. Consideration of Second Reading on September 9, 2019
 3. First Reading approved on August 26, 2019 / Vote 10:0
 4. Public Facilities Committee recommended approval on August 12, 2019 / Vote 11:0
- B. Public Hearing and Second Reading of an Ordinance to appropriate \$21,677 from the local hospitality tax for waterfront structure inspections of portions of the Spanish Moss Trail and Wimbee Creek Fishing Pier** (backup)
 1. Public Hearing on September 9, 2019
 2. Consideration of Second Reading on September 9, 2019
 3. First Reading approved on August 26, 2019 / Vote 10:0
 1. Public Facilities Committee recommended approval on August 12, 2019 / Vote 11:0
- C. Public Hearing and Second Reading of an Ordinance to appropriate \$27,000 each year for five (5) years from the 3% Local Accommodation Tax funds for the inspections of Broad River Fishing Pier subject to appropriation** (backup)
 1. Public Hearing on September 9, 2019
 2. Consideration of Second Reading on September 9, 2019
 3. First Reading approved on August 26, 2019 / Vote 10:0
 4. Public Facilities Committee recommended approval on August 12, 2019 / Vote 11:0
- D. Public Hearing and Second Reading of an Ordinance pertaining to the sale of Myrtle Business Park** (backup)
 1. Public Hearing on September 9, 2019
 2. Consideration of Second Reading on September 9, 2019
 3. First Reading approved on August 26, 2019 / Vote 10:0
 4. Executive Committee recommended approval on August 12, 2019 / Vote 10:1

11. ACTION / DISCUSSION ITEMS

- A. Adoption of the US 278 Corridor Guiding Principles** (backup)
 1. Consideration of adoption on September 9, 2019
- B. Adoption of a Resolution establishing a Regional Housing Trust Fund** (backup)

1. Consideration of adoption on September 9, 2019
2. Natural Resources Committee recommended approval on August 19, 2019 / 11:0
3. Finance Committee recommended approval on August 19, 2019 / Vote 10:1

C. First Reading of an Ordinance approving Beaufort County School District's request Millage Surcharge Rate (backup)

1. Consideration of first reading on September 9, 2019
2. Public Hearing – Monday, September 23, 2019, 6:00 p.m., Buckwalter Recreation Center, Buckwalter Regional Park, 905 Buckwalter Pkwy, Bluffton
3. Finance Committee recommended approval on August 19, 2019 / Vote 9:2

12. COMMITTEE REPORTS

Upcoming Meetings

1. Finance – TBD
2. Public Facilities - TBD
3. Community Services (September 16, 2019)
4. Natural Resources (September 16, 2019)
5. Governmental (September 23, 2019)

13. CITIZEN COMMENTS *[See Clerk to Council for sign-in prior to meeting. Speakers shall limit comments to three minutes.]*

14. EXECUTIVE SESSION

- A. Receipt of legal advice regarding status of retiree litigation / Thomas J. Keaveny II, Beaufort County Attorney and Al Nichols, Nichols Law Firm**

15. MATTERS ARISING OUT OF EXECUTIVE SESSION

16. ADJOURNMENT

MINUTES
COUNTY COUNCIL OF BEAUFORT COUNTY
REGULAR SESSION

June 24, 2019

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

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

Attendance

Present: Chairman Stu Rodman, and Council Members Joe Passiment, York Glover, Alice Howard, Lawrence McElynn, Paul Sommerville, Chris Hervochon, Michael Covert, Mark Lawson and Brian Flewelling.

Absent: Gerald Dawson

CALL TO ORDER

Chairman Rodman called the meeting to order at 6:07 p.m.

PLEDGE OF ALLEGIANCE -- Vice Chairman Sommerville

INVOCATION — Vice Chairman Sommerville

APPROVAL OF AGENDA

Chairman Rodman asked for a motion to approve the agenda.

Motion: It was moved by Councilman Passiment, seconded by Councilwoman Howard that Council approve the agenda. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman McElynn, Councilman Flewelling, Councilman Lawson, Councilman Sommerville, Councilman Hervochon and Councilman Covert. The motion passed unanimously.

CITIZEN COMMENT

Pat Allison questioning the RFP process regarding the lease for Marshside Mama's.

Terry Laseter spoke against Malind Bluff. Asked if any traffic study had been conducted.

Peggy Allard spoke in support of completion of Crystal Lake Park.

Anna Clark spoke against the store portion of Marshside Mama's being part of the lease

Jim Griffin spoke against the lease amendment for Marshside Mama's.

Chase Allen spoke against the lease for Marshside Mama's.

Rikki Parker spoke against the Malind Bluff development agreement.

PRESENTATION

Craig Winn, SCDOT spoke in reference to the 278 Corridor Environmental Assessment and Jenkins Island improvements. Mr. Winn presented an overview of the project scope and needs from Moss Creek to Spanish Moss Road. Corridor improvements including replacing the bridge, and improved entrances to both the boat landing and Pinckney Island Wildlife Refuge. Public information meetings will be held to obtain citizen comment.

Councilman Flewelling asked that every Council member receive a copy of the materials.

Councilman Covert asked that greater outreach and more communication with citizens be done.

CONSENT AGENDA

A. Items Originating from the Public Facilities Committee – Councilman Flewelling

1. Third Reading of an ordinance approving the lease of Bob Jones Property

B. Items Originating from the Natural Resources Committee – Councilwoman Howard

1. Appointments and Reappointments to Boards and Commissions
 1. Katherine Pringle to the Historic Preservation Board
2. Approval of Contract for \$1,272,504 for Widgeon Point Park Improvements
3. Approval of Contract for \$413,101 for Crystal Lake Phase III
4. Approval of contract with BrightView Landscape Services, Inc., for \$328,436.57 for the Highway 278 Medians between Rose Hill and Berkeley Hall Plantations
5. First reading of an ordinance regarding text amendments to the Beaufort County Code of Ordinances for 19 Covenant Drive from S1 Industrial to T2 Rural

C. Items Originating from the Finance Committee – Councilman Passiment

1. Third Reading of an ordinance to appropriate funds not to exceed \$114,450.00 from the 3% local accommodations tax funds to the county general fund to provide support for the 2019 Dixie Junior Boys and Dixie Boys World Series Baseball Event
2. Third Reading of Fiscal Year 2019-2020 Airports Budget Proposal (Enterprise Fund)

3. Third Reading of Fiscal Year 2019-2020 Stormwater Management Utility Budget Proposal (Enterprise Fund)

D. Items Originating from the Executive Committee – Chairman Rodman

1. Second Reading of an ordinance amending the 2008 Osprey Point / Malind Bluff development agreement and PUD
2. Second Reading of an ordinance to authorize the Administrator to execute an amended a lease agreement for the Marshside Mama’s building to include the adjacent General Store square footage and to also terminate the existing lease agreement for the General Store space
3. A resolution to adopt the Beaufort County Airports Hangar Use Agreement

Chairman Rodman asked if any Council member would like to remove items before the vote on the consent agenda.

Councilman Lawson requested that D.2.--Second Reading of an ordinance to authorize the Administrator to execute an amended a lease agreement for the Marshside Mama’s building to include the adjacent General Store square footage and to also terminate the existing lease agreement for the General Store space—be removed.

Chairman Rodman asked for a motion to vote on the amended consent agenda.

Motion: It was moved by Councilman Passiment, seconded by Councilwoman Howard that Council amend the consent agenda to remove D.2.--Second Reading of an ordinance to authorize the Administrator to execute an amended a lease agreement for the Marshside Mama’s building to include the adjacent General Store square footage and to also terminate the existing lease agreement for the General Store space. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilwoman Howard, Councilman Rodman, Councilman Sommerville, Councilman Hervochon, Councilman McElynn, Councilman Lawson, Councilman Flewelling, and Councilman Covert. The motion passed unanimously 10-0.

Discussion: Councilman Lawson reviewed the original intent of the RFP that started as a month to month agreement was just the store. Eventually the restaurant space was added and the RFP was amended. He said opinions on how the RFP is written and what’s included are equally divided. Option 1-let Mr. Huggins have the entire building. Option 2—find more space. Option 3—a new RFP which will set things back and might not give Daufuskie another much needed restaurant. He invited Mr. Huggins up to speak who reviewed the current situation and that the general store is more of a priority with the restaurant to come later.

Amended Agenda Items

- D. 2. Second Reading of an ordinance to authorize the Administrator to execute an amended a lease agreement for the Marshside Mama’s building to include the adjacent General Store square footage and to also terminate the existing lease agreement for the General Store space**

Discussion: Councilman Flewelling requested a store inventory be included in the RFP to make sure essentials for the Islanders will be made available.

Councilman McElynn inquired about rent adjustments.
Chairman Rodman asked for a motion.

Motion: It was moved by Councilman Lawson, seconded by Councilman Flewelling that Council to move forward to a Third Reading item D.2. - Second Reading of an ordinance to authorize the Administrator to execute an amended a lease agreement for the Marshside Mama's building to include the adjacent General Store square footage and to also terminate the existing lease agreement for the General Store space. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilman Rodman, Councilman Sommerville, Councilman McElynn, Councilman Lawson, Councilwoman Howard, Councilman Flewelling, Councilman Hervocho, and Councilman Covert. The motion passed unanimously 10-0.

1. TIME-SENSITIVE ITEMS POTENTIALLY COMING FORTH FROM JUNE 24, 2019 FINANCE COMMITTEE MEETING FOR COUNCIL CONSIDERATION

A. First reading of an ordinance authorizing the execution and delivery of a fee agreement by and between Beaufort County, South Carolina and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto.

Chairman Rodman asked for a motion.

Motion: It was moved by Councilman Passiment, seconded by Councilman Flewelling that Council to approve item 1.A. - First reading of an ordinance authorizing the execution and delivery of a fee agreement by and between Beaufort County, South Carolina and Project Burnt Church Distillery providing for a payment of a Fee in Lieu of Taxes and other matters related thereto. The vote: YEAS: Councilman Passiment, Councilman Hervocho, Councilman Glover, Councilman Rodman, Councilman Sommerville, Councilman McElynn, Councilman Lawson, Councilwoman Howard, Councilman Flewelling, and Councilman Covert. The motion passed unanimously 10-0.

PUBLIC HEARINGS

1. Third Reading of an ordinance to provide for the levy of tax for school purposes for Beaufort County for the fiscal year beginning July 1, 2019 and ending June 30, 2019 and to make appropriations for said purposes

Chairman Rodman opened the floor for a public hearing.

Citizen Comment

Denise Bell spoke in support of the school budget

Estee Williams spoke in support of the school budget

Nancy Ungvarsky spoke in support of the school budget

Kathy Bingham spoke in support of the school budget

Denise Unruh spoke in support of the school budget

Jodie Srutek spoke in support of the school budget

Christina Peth spoke in support of the school budget

Catherine Forester spoke in support of the school budget

Celena Dupree spoke in support of the school budget

Chairman Rodman closed the public hearing.

Chairman Rodman asked for a motion to initiate discussion.

Motion: The motion to initiate discussion was moved by Councilman Passiment and seconded by Councilman Glover.

Discussion: Chairman Rodman clarified the two primary numbers involved in the discussion: the actual budget number and the millage rate. Because of that he asked the discussion be split into two discussions.

Chairman Rodman asked for a motion.

Motion: The motion to bifurcate the vote was moved by Councilman Flewelling, seconded by Councilman Passiment.

Main Motion: It was moved by Councilman Flewelling, seconded by Councilman Passiment to bifurcate the question related to the discussion on item 8.1. Third Reading of an ordinance to provide for the levy of tax for school purposes for Beaufort County for the fiscal year beginning July 1, 2019 and ending June 30, 2019 and to make appropriations for said purposes. The vote: YEAS: Councilman Passiment, Councilman Hervochon, Councilman Glover, Councilman Rodman, Councilman Sommerville, Councilman McElynn, Councilman Lawson, Councilwoman Howard, Councilman Flewelling, and Councilman Covert. The motion passed unanimously 10-0.

Discussion: Chairman Rodman began discussion with the school budget number. The school budget includes a 5.5% increase bringing the total amount to \$254, 297, 442.

Councilman Sommerville clarified his comments from the previous meeting regarding the difference in impact between 4% taxpayers and 6% taxpayers.

Councilman Glover expressed his concern on the impact to those with heirs property.

Motion: It was moved by Councilman Passiment, seconded by Councilman Flewelling to approve the budget portion of item 8.1. Third Reading of an ordinance to provide for the levy of tax for school purposes for Beaufort County for the fiscal year beginning July 1, 2019 and ending June 30, 2019 and to make appropriations for said purposes. The vote: YEAS: Councilman Passiment, Councilman Glover, Councilman Rodman, Councilman Sommerville, Councilman McElynn, Councilman Lawson, Councilwoman Howard, and Councilman Flewelling. The NAYS: Councilman Covert and Councilman Hervochoch. The motion passed 8-2.

Discussion: Chairman Rodman reviewed the timeline of Finance Committee discussions of mill rate numbers. The proposed increase would put the mill rate at 114 mills.

Chairman Rodman asked for a motion.

Discussion: Councilman Flewelling made a motion to amend the millage section of the proposed ordinance so the school operations millage is at 105.00 and delete the language about the budget cap.

Councilman Sommerville expressed concerns that the millage rate proposed would not be enough to cover expenses.

Tonya Crosby BOE CFO said the proposed rate is too low to give them a comfortable financial cushion.

County Auditor Jim Beckert said that according to his knowledge Council has already approved a millage rate.

Chairman Rodman reviewed the timeline of Finance Committee discussions of mill rate numbers. The proposed increase would put the mill rate at 114 mills.

Intervening Motion: It was moved by Councilman Flewelling, seconded by Councilman Hervochoch, to extend the meeting beyond 8 p.m. The YEAS: Councilman Rodman, Councilman Flewelling, Councilman Covert, and Councilman Hervochoch, Councilman Sommerville, Councilman McElynn, Councilman Lawson, Councilwoman Howard, and Councilman McElynn. The NAYS: Councilman Glover. The motion passes 9-1.

Amended Motion: It was moved by Councilman Flewelling, seconded by Councilman Hervochoch to approve the millage rate increase to 105 and remove the cap portion of item 8.1. Third Reading of an ordinance to provide for the levy of tax for school purposes for Beaufort County for the fiscal year beginning July 1, 2019 and ending June 30, 2019 and to make appropriations for said purposes. The vote: YEAS: Councilman Flewelling, Councilman Covert, and Councilman Hervochoch. The NAYS: Councilman Sommerville, Councilman McElynn, Councilman Lawson, Councilwoman Howard, and Councilman McElynn. Councilman Glover and Councilman Rodman. The amended motion fails 3-7.

Chairman Rodman asked for a vote. Councilman Passiment offered an amended motion.

Discussion: Council asked Tonya Crosby to crunch the numbers quickly at that mill rate. She wants to make sure there is not too much nor too little collected. She looks forward to working with both the Treasurer and Auditor. Councilman Covert asked if she could pay her bills with the 108 mills and she said no. Reserves would have to be used.

Councilman Glover hoped that whatever mill is set would not have BOE dipping into their reserves.

Amended Motion: It was moved by Councilman Passiment, seconded by Councilman Sommerville to approve the school operations levy to 108.6 mills of item 8.1. Third Reading of an ordinance to provide for the levy of tax for school purposes for Beaufort County for the fiscal year beginning July 1, 2019 and ending June 30, 2019 and to make appropriations for said purposes. The vote: YEAS: Councilman Sommerville, Councilman Glover, Councilwoman Howard and Councilman Passiment. The NAYS: Councilman Covert, Councilman McElynn, Councilman Lawson, Councilman Hervocho, and Councilman Rodman. The amended motion fails 4-6.

Chairman Rodman, hearing no further discussion and no further amendments offered, called the main motion.

Main Motion: It was moved by Councilman Passiment, seconded by Councilman Sommerville to approve the school operations levy to 114 mills of item 8.1. Third Reading of an ordinance to provide for the levy of tax for school purposes for Beaufort County for the fiscal year beginning July 1, 2019 and ending June 30, 2019 and to make appropriations for said purposes. The vote: YEAS: Councilman Sommerville, Councilman Glover, Councilwoman Howard and Councilman Passiment, Councilman Rodman, and Councilman Lawson The NAYS: Councilman Covert, Councilman McElynn, Councilman Flewelling, and Councilman Hervocho. The amended motion passes 6-4.

2. Third Reading of Fiscal Year 2019-2020 Beaufort County Budget Proposal

Chairman Rodman opened the floor for a public hearing.

No one came forward.

Chairman Rodman closed the public hearing.

Councilman Flewelling made a motion to approve the County budget, seconded by Councilman Glover.

Discussion: Councilman Passiment made a motion to amend the County budget to add .16 mills for indigent care at Beaufort Memorial Hospital. That would increase the mill rate from 65.22 to 65.38. BMH and Beaufort Jasper Comprehensive Health Initiative are the only two facilities handling indigent care in the County. They turn no one away.

Amended Motion: It was moved by Councilman Passiment, seconded by Councilwoman Howard to add .16 mills dedicated for indigent care to item 8.2.—Third Reading of Fiscal Year 2019-2020

Beaufort County Budget Proposal. The YEAS: Councilman Glover, Councilwoman Howard, Councilman Passiment, Councilman Sommerville, Councilman Rodman, Councilman McElynn, and Councilman Lawson. The NAYS: Councilman Hervochon, Councilman Flewelling, and Councilman Covert. The amendment passes 7-3.

Chairman Rodman offered a budget amendment to add \$65,000 offset by the funds previously set aside for an internal audit to fund an affordable housing trust fund.

Councilman Hervochon expressed concern as the County has not had an internal audit in 10 years.

Amended Motion: It was moved by Councilman Rodman, seconded by Councilwoman Howard, to add \$65,000 to the budget for an affordable housing trust fund in exchange for \$75,000 allotted for an internal audit. The YEAS: Councilman Rodman and Councilwoman Howard. The NAYS: Councilman Hervochon, Councilman Glover, Councilman Passiment, Councilman Sommerville, Councilman McElynn, Councilman Flewelling, Councilman Covert, and Councilman Lawson. The amendment fails 2-8.

Main Motion: It was moved by Councilman Flewelling, seconded by Councilman Glover to approve item 8.2—Third Reading of Fiscal Year 2019-2020 Beaufort County Budget Proposal. The YEAS: Councilman Glover, Councilwoman Howard, Councilman Passiment, Councilman Sommerville, Councilman Rodman, Councilman McElynn, and Councilman Lawson, The NAYS: Councilman Hervochon, Councilman Flewelling, and Councilman Covert. The motion passes 7-3.

DISCUSSION AND ACTION ITEMS

A. Committee Reports

Finance Committee, Chairman Joseph Passiment

No report given.

Governmental Committee, Chairman Paul Sommerville

Mr. Sommerville reported that a number of items to be discussed between the County and the municipalities. They will be on the Committee's July agenda.

Added Item: Chairman Rodman requested an item be added for First Reading by Title Only, to add a JETA bond (state level) for affordable apartments in the Town of Port Royal. This is a matter of process, \$23 million bond, need Council's approval, no risk to endorse it.

Motion: It was moved by Councilman Rodman, seconded by Councilwoman Howard, to approve a JETA bond (state level) for affordable apartments in the Town of Port Royal for First Reading by Title Only. The YEAS: Councilman Glover, Councilwoman Howard, Councilman Passiment, Councilman Sommerville, Councilman Rodman, Councilman McElynn, and Councilman Lawson, Councilman Flewelling, and Councilman Covert The NAYS: Councilman Hervochon. The motion passes 9-1.

CITIZEN COMMENTS

Chairman Rodman made a motion to go immediately into Executive Session, seconded by

Councilwoman Howard.

EXECUTIVE SESSION

1. Receipt of legal advice regarding retention of council to clarify or renegotiate terms of existing contract.
2. Receipt of legal advice regarding retention of council to represent Beaufort County in pending litigation.
3. Receipt of legal advice regarding a person regulated by County Council.

MATTERS ARISING OUT OF EXECUTIVE SESSION

Chairman Rodman called the meeting back into order.

CITIZEN COMMENT

Skip Hoaglund expressed concerns about transparency and meeting protocol.

ADJOURNMENT

The meeting adjourned at 8:45 p.m.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council
Ratified: June 17, 2019

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ORDINANCE

ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A FEE AGREEMENT BY AND BETWEEN BEAUFORT COUNTY, SOUTH CAROLINA AND PROJECT BURNT CHURCH PROVIDING FOR A PAYMENT OF A FEE IN LIEU OF TAXES AND OTHER MATTERS RELATED THERETO.

WHEREAS, Beaufort County, South Carolina (the “County”) acting by and through its County Council (the “County Council”) is authorized and empowered pursuant to the provisions of Title 12, Chapter 44 of the Code of Laws of South Carolina, 1976, as amended (the “Act”), to enter into fee agreements with any industry, with said agreements identifying certain properties of such industries as economic development property, through which powers the industrial development of the State of South Carolina (the “State”) and the County will be promoted and trade developed by inducing manufacturing and commercial enterprises to locate, remain, and expand in the State and the County and thus utilize and employ the manpower, products, and natural resources and benefit the general public welfare of the State and County by providing services, employment, or other public benefits not otherwise adequately provided locally; and

WHEREAS, a company current identified as “Project Burnt Church” (referred to hereinafter as the “Company”) intends to invest in the establishment of a manufacturing facility in the County through the acquisition of land, a building, and improvements thereon (the “Land and Building”); the construction of improvements thereon and/or therein; and/or the acquisition of personal property, including, but not limited to, machinery, equipment, and furniture to be installed on and/or in the Land and Building, which would constitute a project within the meaning of the Act and which are eligible for inclusion as economic development property, the cost of which is estimated to be \$10,250,000, and which is anticipated to result in the creation of 27 new, full-time jobs in the County, over five years (the “Project”), all as more fully set forth in the Fee Agreement attached hereto, and provided that approvals of various incentives contemplated for the Project are formalized by the State and/or County; and

WHEREAS, pursuant to an Inducement Resolution dated as of June 24, 2019, the County authorized the execution of an agreement providing for fee in lieu of tax payments; and

WHEREAS, the Company has caused to be prepared and presented to this meeting the form of the Fee Agreement by and between the County and the Company (the “Fee Agreement”), which provides for fee in lieu of tax payments utilizing a 6% assessment ratio for a period of 20 years for the Project or each component thereof placed in service during the initial investment period; and

WHEREAS, it appears that the Fee Agreement, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED by the County Council in a meeting duly assembled as follows:

Section 1. In order to promote industry, develop trade, and utilize and employ the manpower, products, and natural resources of the State of South Carolina by assisting the Company to expand or locate an industrial facility in the State of South Carolina, the Fee Agreement is hereby authorized, ratified, and approved.

Section 2. It is hereby found, determined, and declared by the County Council, as follows:

- (a) The Project will constitute a “project” as said term is referred to and defined in the Act, and the County’s actions herein will subserve the purposes and in all respects conform to the provisions and requirements of the Act.
- (b) The Project and the payments in lieu of taxes set forth herein are beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made and the anticipated costs and benefits to the County.
- (c) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.
- (d) The Project gives rise to no pecuniary liability of the County or any incorporated municipality or a charge against the general credit or taxing power of either.
- (e) The purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes.
- (f) The inducement of the location or expansion of the Project within the County and State is of paramount importance.
- (g) The benefits of the Project to the public will be greater than the costs.

Section 3. The form, terms, and provisions of the Fee Agreement presented to this meeting are hereby approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Fee Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council and/or the County Administrator are authorized, empowered, and directed to execute, acknowledge, and deliver the Fee Agreement in the name of and on behalf of the County, and thereupon to cause the Fee Agreement to be delivered to the Company. The Fee Agreement is to be in substantially the form now before this meeting and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of Counsel to the County, such official’s execution thereof to constitute conclusive evidence of

such official's approval of any and all changes or revisions therein from the form of the Fee Agreement now before this meeting.

Section 4. The Chairman of the County Council and/or the County Administrator, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Fee Agreement and the performance of all obligations of the County under and pursuant to the Fee Agreement.

Section 5. The provisions of this Ordinance are hereby declared to be separable, and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

Section 6. All orders, resolutions, ordinances, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed, and this Ordinance shall take effect and be in full force from and after its passage and approval.

(SIGNATURE PAGE TO FOLLOW)

Passed and approved this ____ day of _____, 2019.

**BEAUFORT COUNTY,
SOUTH CAROLINA**

Signature: _____
Name: _____
Title: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

I, the undersigned, Clerk to County Council of Beaufort County, South Carolina (“County Council”), DO HEREBY CERTIFY:

That the foregoing constitutes a true, correct, and verbatim copy of an Ordinance adopted by the County Council. The Ordinance was read and received a favorable vote at three public meetings of the County Council on _____, _____, and _____. At least one day passed between first and second reading, and at least seven days passed between second and third readings. A public hearing was held on _____, and notice of the public hearing was published in the _____ on _____. At each meeting, a quorum of County Council was present and remained present throughout the meeting.

Attached hereto are excerpts of the minutes of the meetings of the County Council. The County Council complied with the Freedom of Information Act, Chapter 4, Title 30 of the S.C. Code of Laws, 1976, in connection with said meetings of County Council.

The Ordinance is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of Beaufort County Council, South Carolina, as of this ____ day of _____, 2019.

Signature: _____
Name: _____
Title: Clerk to County Council

FEE AGREEMENT

Between

BEAUFORT COUNTY, SOUTH CAROLINA

and

PROJECT BURNT CHURCH

Dated as of _____, 2019

RECAPITULATION OF CONTENTS OF
FEE AGREEMENT PURSUANT TO S.C. CODE §12-44-55(A)

The parties have agreed to waive this requirement pursuant to S.C. Code Ann. § 12-44-55(B).

FEE AGREEMENT

THIS FEE AGREEMENT (the “Fee Agreement”) is made and entered into as of _____, 2019 by and between BEAUFORT COUNTY, SOUTH CAROLINA (the “County”), a body politic and corporate and a political subdivision of the State of South Carolina (the “State”), acting by and through the Beaufort County Council (the “County Council”) as the governing body of the County, and PROJECT BURNT CHURCH (the “Company”).

RECITALS

1. Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended (the “Act”) authorizes the County (i) to induce industries to locate in the State; (ii) to encourage industries now located in the State to expand their investments and thus make use of and employ manpower, products, and other resources of the State; and (iii) to enter into a fee agreement with entities meeting the requirements of such Act, which identifies certain property of such entities as economic development property.

2. Pursuant to Section 12-44-40(H)(1) of the Act, the County finds that: (a) the Project (as defined herein) is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally; (b) the Project gives rise to no pecuniary liability of the County or any incorporated municipality and to no charge against its general credit or taxing power; (c) the purposes to be accomplished by the Project are proper governmental and public purposes; and (d) the benefits of the Project are greater than the costs.

3. The County Council has evaluated the Project based on all relevant criteria that include, but are not limited to, the purposes the Project is to accomplish, the anticipated dollar amount and nature of the investment, and the anticipated costs and benefits to the County.

4. An Ordinance that the County Council adopted contemporaneously with the execution of this Fee Agreement (the “Fee Ordinance”) authorizes the County and the Company to enter into a Fee Agreement that classifies the Project as Economic Development Property under the Act and provides for the payment of fees in lieu of taxes, all as further described herein.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the respective representations and agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 The terms that this Article defines shall for all purposes of this Fee Agreement have the meanings herein specified, unless the context clearly requires otherwise:

“Act” shall mean Title 12, Chapter 44, Code of Laws of South Carolina, 1976, as amended, and all future acts successor or supplemental thereto or amendatory thereof.

“Act Minimum Investment Requirement” shall mean an investment of at least \$2,500,000 by the Company of property eligible as economic development property under the Act, provided, however, that in the event of a reduction of the minimum investment level in Section 12-44-30(14) or any successor section by legislative action, then the Act Minimum Investment Requirement shall equal such reduced amount.

“Commencement Date” shall mean the last day of the property tax year during which the Project or the first Phase thereof is placed in service, which date must not be later than the last day of the property tax year which is three years from the year in which the County and the Company enter into this Fee Agreement.

“Company” shall mean PROJECT BURNT CHURCH and any surviving, resulting, or transferee entity in any merger, consolidation, or transfer of assets; or any other person or entity which may succeed to the rights and duties of the Company.

“County” shall mean Beaufort County, South Carolina, a body politic and corporate and a political subdivision of the State of South Carolina, its successors and assigns, acting by and through the County Council as the governing body of the County.

“County Council” shall mean the Beaufort County Council, the governing body of the County.

“Department” shall mean the South Carolina Department of Revenue.

“Diminution in Value” in respect of the Project or any Phase of the Project shall mean any reduction in the value using the original fair market value (without regard to depreciation) as determined in Step 1 of Section 4.1(a) of this Fee Agreement, of the items which constitute a part of the Project or such Phase and which are subject to FILOT payments which may be caused by (i) the Company’s removal and/or disposal of equipment pursuant to Section 4.6 of this Fee Agreement; (ii) a casualty to the Project, such Phase of the Project, or any part thereof, described in Section 4.7 of this Fee Agreement; or (iii) a condemnation of the Project, such Phase of the Project, or any part thereof, described in Section 4.8 of this Fee Agreement.

“Economic Development Property” shall mean those items of real and tangible personal property of the Project which are eligible for inclusion as economic development property under the Act, selected and identified by the Company in its annual filing of a SCDOR PT-300S or comparable form with the Department (as such filing may be amended from time to time) for each year within the Investment Period.

“Equipment” shall mean all of the machinery, equipment, furniture, office equipment, and fixtures, together with any and all additions, accessions, replacements, and substitutions thereto or therefor used or to be used in the County by the Company for the purposes described in Section 2.2(b) hereof, provided, however, that repairs, alterations, or modifications to personal property which is not economic development property or property subject to a fee in lieu of taxes prior to this Fee Agreement, are not eligible to become Economic Development Property, except for modifications which constitute an expansion of existing real property improvements.

“Event of Default” shall mean any event of default specified in Section 5.1 of this Fee Agreement.

“Exemption Period” shall mean the period beginning on the first day of the property tax year after the property tax year in which an applicable piece of Economic Development Property is placed in service and ending on the Termination Date. In case there are Phases of the Project, the Exemption Period applies to each year’s investment made during the Investment Period.

“Fee,” “Fee in Lieu of Taxes,” “FILOT,” or “Payments in Lieu of Taxes” shall mean the amount paid or to be paid in lieu of *ad valorem* property taxes as provided herein.

“Fee Agreement” shall mean this Fee Agreement.

“Fee Term” shall mean the period from the date of this Fee Agreement until the Termination Date.

“Improvements” shall mean all improvements to the Real Property, including buildings, building additions, roads, sewer lines, and infrastructure, together with any and all additions, fixtures, accessions, replacements, and substitutions thereto or therefor used or to be used in the County for the purposes described in Section 2.2(b) hereof; provided, however, that repairs, alterations, or modifications to real property which is not economic development property or property subject to a fee in lieu of taxes prior to this Fee Agreement, are not eligible to become Economic Development Property, except for modifications which constitute an expansion of existing real property improvements.

“Investment Period” shall mean the period beginning with the first day of any purchase or acquisition of Economic Development Property and ending five years after the Commencement Date, provided that the Company and the County may agree to a later date pursuant to Section 12-44-30(13) of the Act.

“Phase” or “Phases” in respect of the Project shall mean that the Equipment, Improvements, and/or Real Property of the Project are placed in service during more than one year in the Investment Period, and the word “Phase” shall therefore refer to the applicable portion of the Project placed in service in a given year in the Investment Period.

“Project” shall mean all the Equipment, Improvements, and/or Real Property located on the Real Property in the County and that the Company determines to be necessary, suitable, or useful for the purposes that Section 2.2(b) describes, and first placed in service in calendar year 2019 or thereafter. The Project shall not include existing buildings and improvements on the Real Property, as of the date of the commencement of the Project by the Company, and any machinery and equipment which have previously been subject to South Carolina *ad valorem* taxation.

“Real Property” shall mean real property that the Company uses or will use in the County for the purposes that Section 2.2(b) describes, and generally located on the land identified on Exhibit A hereto, together with all and singular the rights, members, hereditaments, and appurtenances belonging or in any way incident or appertaining thereto.

“Removed Components” shall mean the following types of components or Phases of the Project or portions thereof which are subject to FILOT payments, all of which the Company shall be entitled to remove from the Project with the result that the same shall no longer be subject to the terms of the Fee Agreement: (a) components or Phases of the Project or portions thereof which the Company, in its sole discretion, determines to be inadequate, obsolete, worn-out, uneconomic, damaged, unsuitable, undesirable, or unnecessary pursuant to Section 4.6 hereof or otherwise; or (b) components or Phases of the Project or portions thereof which the Company in its sole discretion, elects to be treated as removed pursuant to Section 4.7(c) or Section 4.8(b)(iii) of this Fee Agreement.

“Replacement Property” shall mean any property which is placed in service as a replacement for any item of Equipment, any Improvement, or any Real Property previously subject to this Fee Agreement regardless of whether such property serves the same functions as the property it is replacing and regardless of whether more than one piece of property replaces any item of Equipment, any Improvement, or any Real Property, to the fullest extent that the Act permits.

“Sponsor” shall mean an entity that joins with or is an affiliate of, the Company and that participates in the investment in, or financing of, the Project and which meets the requirements under the Act to be entitled to the benefits of this Agreement with respect to its participation in the Project.

“Termination Date” shall mean in case the entire Project is placed in service in one year, the end of the last day of the property tax year which is the 19th year following the first property tax year in which the entire Project is placed in service, or in case there are Phases of the Project, the Termination Date shall mean with respect to each Phase of the Project the end of the last day of the property tax year which is the 19th year following the first property tax year in which such Phase of the Project is placed in service, provided, that the intention of the parties is that the Company will make at least 20 annual FILOT payments under Article IV hereof with respect to each Phase of the Project and provided further, that if this Fee Agreement is terminated earlier in accordance with the terms hereof, the Termination Date is the date of such termination.

Any reference to any agreement or document in this Article I or otherwise in this Fee Agreement shall include any and all amendments, supplements, addenda, and modifications to such agreement or document.

Section 1.2 The term “investment” or “invest” as used herein shall include not only investments made by the Company, but also to the fullest extent permitted by law, those investments made by or for the benefit of the Company in connection with the Project through federal, state, or local grants, to the extent such investments are subject to *ad valorem* taxes or FILOT payments by the Company.

ARTICLE II

REPRESENTATIONS, WARRANTIES, AND AGREEMENTS

Section 2.1 Representations, Warranties, and Agreements of the County. The County hereby represents, warrants, and agrees as follows:

(a) The County is a body politic and corporate and a political subdivision of the State and acts through the County Council as its governing body. The Act authorizes and empowers the County to enter into the transactions that this Fee Agreement contemplates and to carry out its obligations hereunder. The County has duly authorized the execution and delivery of this Fee Agreement and any and all other agreements described herein or therein and has obtained all consents from third parties and taken all actions necessary or that the law requires to fulfill its obligations hereunder.

(b) Based upon representations by the Company, the Project constitutes a “project” within the meaning of the Act, and the County is a County that the Act authorizes to enter into fee in lieu of tax agreements with companies that satisfy the Act Minimum Investment Requirement within the County.

(c) The County has agreed that each item of real and tangible personal property comprising the Project which is eligible to be economic development property under the Act and that the Company selects shall be considered Economic Development Property and is thereby exempt from *ad valorem* taxation in South Carolina.

(d) The millage rate in Section 4.1 hereof is 234.3 mills, the millage rate in effect with respect to the location of the proposed Project on June 30, 2019, as provided under Section 12-44-50(A)(1)(d) of the Act. **COUNTY, PLEASE CONFIRM MILLAGE RATE FOR 7/1/18-6/30/19 FISCAL YEAR.**

(e) The County will not be in default in any of its obligations (contractual or otherwise), including any violation of its statutory debt limit, as a result of entering into and performing under this Fee Agreement.

Section 2.2 Representations, Warranties, and Agreements of the Company. The Company hereby represents, warrants, and agrees as follows:

(a) The Company is in good standing under the laws of the State of _____, is duly authorized to transact business in the State of South Carolina, has power to enter into this Fee Agreement, and has duly authorized the execution and delivery of this Fee Agreement.

(b) The Company intends to operate the Project as a “project” within the meaning of the Act as in effect on the date hereof. The Company intends to operate the Project as a manufacturing facility, and for such other purposes that the Act permits as the Company may deem appropriate.

(c) The Company will use commercially reasonable efforts to ensure that its investment in Economic Development Property of the Project will exceed the Act Minimum Investment Requirement.

ARTICLE III

COMMENCEMENT AND COMPLETION OF THE PROJECT

Section 3.1 The Project. The Company intends to invest in Equipment, Improvements, and/or Real Property, which together comprise the Project and which are anticipated to create at least the Act Minimum Investment Requirement in eligible Economic Development Property investment subject to Payments in Lieu of Taxes in the County.

The parties hereto agree that, to the extent that applicable law allows or is revised or construed to allow the benefits of the Act, in the form of Payments-in-Lieu-of-Taxes to be made under Article IV hereof, to be applicable to leased assets including, but not limited to a building and/or personal property to be installed in the buildings and leased to but not purchased by the Company from one or more Sponsors under any form of lease, then such property shall, at the election of the Company, be subject to Payments-in-Lieu-of-Taxes to the same extent as the Company's assets covered by this Fee Agreement, subject, at all times, to the requirement of such applicable law. The parties hereto further agree that this Fee Agreement may be interpreted or modified as may be necessary or appropriate in order to give proper application of this Fee Agreement to such tangible property without such construction or modification constituting an amendment to this Fee Agreement, and thus not requiring any additional action by the County Council. The County Manager, after consulting with the County Attorney, shall be and hereby is authorized to make such modifications, if any, as may be necessary or appropriate in connection therewith. Such leased property shall constitute a part of the Project for all purposes of this Agreement, including the calculation of the Clawback Minimum Requirements, removal, replacement, and termination, and such Sponsor shall be deemed to be a party to this Agreement provided, however, that no Sponsor shall be liable for any payments pursuant to Section 4.2(b) hereof, which shall remain the Company's liability.

Pursuant to the Act and subject to Section 4.2 hereof, the Company and the County hereby agree that the Company shall identify annually those assets which are eligible for FILOT payments under the Act and which the Company selects for such treatment by listing such assets on the applicable schedule in its annual PT-300 form (or comparable form) to be filed with the Department (as such may be amended from time to time) and that by listing such assets, such assets shall automatically become Economic Development Property and therefore be exempt from all *ad valorem* taxation during the Exemption Period. Anything contained in this Fee Agreement to the contrary notwithstanding, the Company shall not be obligated to complete the acquisition of the Project. However, if the Company does not meet the Act Minimum Investment Requirement, this Fee Agreement shall be terminated as provided in Section 4.2 hereof.

Section 3.2 Diligent Completion. The Company agrees to use its reasonable efforts to cause the completion of the Project as soon as practicable, but in any event on or prior to the end of the Investment Period.

Section 3.3 Filings and Reports.

(a) Each year during the term of the Fee Agreement, the Company shall deliver to the County, the County Auditor, the County Assessor, and the County Treasurer, a copy of its most recent annual filings with the Department with respect to the Project, not later than 30 days following delivery thereof to the Department.

(b) The Company shall cause the filing of a copy of this Fee Agreement, as well as a copy of the completed Form PT-443 of the Department, to be filed with the County Auditor and the County Assessor of the County and any partner county, if the Project is placed in a joint county industrial and business park, and the Department within 30 days after the date of execution and delivery hereof by all parties hereto.

(c) The Company agrees to maintain complete books and records accounting for the acquisition, financing, construction, and operation of the Project. Such books and records shall (i) permit ready identification of the various Phases and components thereof; (ii) confirm the dates on which each Phase was placed in service; and (iii) include copies of all filings made by the Company in accordance with Section 3.3(a) or (b) above with respect to property placed in service as part of the Project.

(d) Whenever the County shall be required by any governmental or financing entity to file or produce any reports, notices, returns, or other documents related to this transaction while this Fee Agreement is in effect, the Company shall promptly furnish to the County through the County Administrator the completed form of such required documents, to the extent that the Company possesses the information necessary to complete the documents. In the event of a failure or refusal of the Company to comply with this provision, within 30 days after presentation of a statement by the County, the Company shall pay the attorney's fees the County incurs in producing and filing such documents and any fees, penalties, assessments, or damages that the law imposes upon the County by reason of its failure duly to file or produce such documents.

ARTICLE IV

PAYMENTS IN LIEU OF TAXES

Section 4.1 Negotiated Payments.

(a) Pursuant to Section 12-44-50 of the Act, the Company is required to make payments in lieu of *ad valorem* taxes to the County with respect to the Economic Development Property. Inasmuch as the Company anticipates an initial investment of sums sufficient for the Project to qualify for a fee in lieu of tax arrangement under Section 12-44-50(A)(1) of the Act, the County and the Company have negotiated the amount of the Payments in Lieu of Taxes in accordance therewith. The Company shall make payments in lieu of *ad valorem* taxes on all Economic Development Property which comprises the Project and is placed in service, as follows: the Company shall make payments in lieu of *ad valorem* taxes during the Exemption Period with respect to the Economic Development Property or, if there are Phases of the Economic Development Property, with respect to each Phase of the Economic Development Property, said payments to be made annually and to be due and payable and subject to penalty

assessments on the same dates and in the same manner as prescribed by the County for *ad valorem* taxes. The determination of the amount of such annual Payments in Lieu of Taxes shall be in accordance with the following procedure (subject, in any event, to the procedures that the Act requires):

- Step 1: Determine the fair market value of the Economic Development Property (or Phase of the Economic Development Property) placed in service during the Exemption Period using original income tax basis for State income tax purposes for any Real Property and Improvements without regard to depreciation (provided, the fair market value of real property, as the Act defines such term, that the Company obtains by construction or purchase in an arms length transaction is equal to the original income tax basis, and otherwise, the determination of the fair market value is by appraisal) and original income tax basis for State income tax purposes for any personal property less depreciation for each year allowable for property tax purposes, except that no extraordinary obsolescence shall be allowable. The fair market value of the Real Property for the first year of the Fee Term remains the fair market value of the Real Property for the life of the Fee Term. The determination of these values shall take into account all applicable property tax exemptions that State law would allow to the Company if the property were taxable, except those exemptions that Section 12-44-50(A)(2) of the Act specifically disallows.
- Step 2: Apply an assessment ratio of six percent (6%) to the fair market value in Step 1 to establish the taxable value of the Economic Development Property (or each Phase of the Economic Development Property) in the year it is placed in service and in each of the 19 years thereafter.
- Step 3: Use a fixed millage rate equal to the millage rate in effect on June 30, 2019, which is 234.3 mills, as Section 12-44-50(A)(1)(d) of the Act provides, during the Exemption Period against the taxable value to determine the amount of the Payments in Lieu of Taxes due during the Exemption Period on the payment dates that the County prescribes for such payments. **[COUNTY: PLEASE CONFIRM MILLAGE.]**

(b) In the event that a final order of a court of competent jurisdiction or an agreement of the parties determines that the calculation of the minimum Payment in Lieu of Taxes applicable to this transaction is to be other than by the procedure herein, the payment shall be reset at the minimum permitted level so determined.

In the event that a final order of a court of competent jurisdiction from which no further appeal is allowable declares the Act and/or the herein-described Payments in Lieu of Taxes invalid or unenforceable, in whole or in part, for any reason, the parties express their intentions to reform such payments so as to effectuate most closely the intent thereof and so as to afford the Company with the benefits to be derived herefrom, the intention of the County being to offer the Company a strong inducement to locate the Project in the County. If the Economic Development

Property is deemed to be subject to *ad valorem* taxation, this Fee Agreement shall terminate, and the Company shall pay the County regular *ad valorem* taxes from the date of termination, but with appropriate reductions equivalent to all tax exemptions which are afforded to the Company. Any amount determined to be due and owing to the County from the Company, with respect to a year or years for which the Company previously remitted Payments in Lieu of Taxes to the County hereunder, shall (i) take into account all applicable tax exemptions to which the Company would be entitled if the Economic Development Property was not and had not been Economic Development Property under the Act; and (ii) be reduced by the total amount of Payments in Lieu of Taxes the Company had made with respect to the Project pursuant to the terms hereof. Notwithstanding anything contained herein to the contrary, neither the Company nor any successor in title or interest shall be required to pay FILOT payments and *ad valorem* taxes for the same property over the same period in question.

(c) The County's right to receive FILOT payments hereunder shall have a first priority lien status pursuant to Sections 12-44-90(E) and (F) of the Act and Chapters 4, 49, 51, 53, and 54 of Title 12 of the Code of Laws of South Carolina, 1976, as amended.

(d) In the event the Company should fail to make any of the payments that this Article IV requires, the item or installment so in default shall continue as an obligation of the Company until the Company shall have fully paid the amount, and the Company agrees to pay the same with interest thereon at a rate of 5% per annum, compounded monthly, to accrue from the date on which the payment was due and, in the case of FILOT payments, subject to the penalties the law provides until payment.

Section 4.2 Failure to Achieve Act Minimum Investment Requirement.

(a) In the event that the cost of the Economic Development Property (without regard to depreciation) that the Company acquires does not reach the Act Minimum Investment Requirement by the end of the Investment Period, this Fee Agreement shall terminate as to such entity failing to meet the minimum investment level. In such event, the Company shall pay the County an amount (the "Additional Payment") pursuant to the Act which is equal to the excess, if any, of (i) the total amount of *ad valorem* taxes as would result from taxes levied on the Project by the County, municipality or municipalities, school district or school districts, and other political units as if the items of property comprising the Economic Development Property were not Economic Development Property, but with appropriate reductions equivalent to all tax exemptions and abatements to which the Company would be entitled in such a case, through and including the end of the Investment Period, over (ii) the total amount of FILOT payments the Company has made with respect to the Economic Development Property through and including the end of the Investment Period. Any amounts determined to be owing pursuant to the foregoing sentence shall be subject to the minimum amount of interest that the Act may require.

(b) The County's right to receive FILOT payments hereunder shall have a first priority lien status pursuant to Sections 12-44-90(E) and (F) of the Act and Chapters 4, 49, 51, 53, and 54 of Title 12 of the Code of Laws of South Carolina, 1976, as amended.

(c) In the event the Company should fail to make any of the payments that this Article IV requires, the item or installment so in default shall continue as an obligation of the

Company until the Company shall have fully paid the amount, and the Company agrees to pay the same with interest thereon at a rate of 5% per annum, compounded monthly, to accrue from the date on which the payment was due and, in the case of FILOT payments, subject to the penalties the law provides until payment.

Section 4.3 Payments in Lieu of Taxes on Replacement Property. If the Company elects to replace any Removed Components and to substitute such Removed Components with Replacement Property as a part of the Economic Development Property, or the Company otherwise utilizes Replacement Property, then, pursuant and subject to Section 12-44-60 of the Act, the Company shall make statutory payments in lieu of *ad valorem* taxes with regard to such Replacement Property in accordance with the following:

- (i) Replacement Property does not have to serve the same function as the Economic Development Property it is replacing. Replacement Property is deemed to replace the oldest Economic Development Property subject to the Fee, whether real or personal, which is disposed of in the same property tax year in which the Replacement Property is placed in service. Replacement Property qualifies as Economic Development Property only to the extent of the original income tax basis of Economic Development Property which is being disposed of in the same property tax year. More than one piece of property can replace a single piece of Economic Development Property. To the extent that the income tax basis of the Replacement Property exceeds the original income tax basis of the Economic Development Property which it is replacing, the excess amount is subject to annual payments calculated as if the exemption for Economic Development Property were not allowable. Replacement Property is entitled to treatment under the Fee Agreement for the period of time remaining during the Exemption Period for the Economic Development Property which it is replacing; and
- (ii) The new Replacement Property which qualifies for the Fee shall be recorded using its income tax basis, and the calculation of the Fee shall utilize the millage rate and assessment ratio in effect with regard to the original property subject to the Fee.

Section 4.4 Reductions in Payments of Taxes Upon Removal, Condemnation, or Casualty. In the event of a Diminution in Value of the Economic Development Property or any Phase of the Economic Development Property, the Payment in Lieu of Taxes with regard to the Economic Development Property or that Phase of the Economic Development Property shall be reduced in the same proportion as the amount of such Diminution in Value bears to the original fair market value of the Economic Development Property or that Phase of the Economic Development Property as determined pursuant to Step 1 of Section 4.1(a) hereof; *provided, however,* that if at any time subsequent to the end of the Investment Period, the total value of the Project based on the original income tax basis of the Equipment, Real Property, and Improvements contained therein, without deduction for depreciation, is less than the Act Minimum Investment Requirement, beginning with the first payment thereafter due hereunder and continuing until the end of the Fee Term, the Company shall no longer be entitled to the

incentive provided in Section 4.1, and the Company shall therefore commence to pay regular *ad valorem* taxes on the Economic Development Property part of the Project.

Section 4.5 Place and Allocation of Payments in Lieu of Taxes. The Company shall make the above-described Payments in Lieu of Taxes directly to the County in accordance with applicable law.

Section 4.6 Removal of Equipment. Subject, always, to the other terms and provisions hereof, the Company shall be entitled to remove and dispose of components or Phases of the Project from the Project in its sole discretion with the result that said components or Phases shall no longer be considered a part of the Project and, to the extent such constitute Economic Development Property, shall no longer be subject to the terms of this Fee Agreement to the fullest extent allowed by the Act, as amended. Economic Development Property is disposed of only when it is scrapped or sold or it is removed from the Project. If it is removed from the Project, it is subject to *ad valorem* property taxes to the extent the Property remains in the State and is otherwise subject to *ad valorem* property taxes.

Section 4.7 Damage or Destruction of Economic Development Property.

(a) Election to Terminate. In the event the Economic Development Property is damaged by fire, explosion, or any other casualty, the Company shall be entitled to terminate this Fee Agreement. The Company shall only be required to make FILOT payments as to all or any part of the tax year in which the damage or casualty occurs to the extent property subject to *ad valorem* taxes would otherwise have been subject to such taxes under the same circumstances for the period in question.

(b) Election to Rebuild. In the event the Economic Development Property is damaged by fire, explosion, or any other casualty, and if the Company does not elect to terminate this Fee Agreement, the Company may commence to restore the Economic Development Property with such reductions or enlargements in the scope of the Economic Development Property, changes, alterations, and modifications (including the substitution and addition of other property) as may be desired by the Company. All such restorations and replacements shall be considered, to the fullest extent permitted by law and this Fee Agreement, substitutions of the destroyed portions of the Economic Development Property and shall be considered part of the Economic Development Property for all purposes hereof, including, but not limited to, any amounts due by the Company to the County under Section 4.1 hereof.

(c) Election to Remove. In the event the Company elects not to terminate this Fee Agreement pursuant to subsection (a) and elects not to rebuild pursuant to subsection (b), the damaged portions of the Economic Development Property shall be treated as Removed Components.

Section 4.8 Condemnation.

(a) Complete Taking. If at any time during the Fee Term title to or temporary use of the Economic Development Property should become vested in a public or quasi-public authority by virtue of the exercise of a taking by condemnation, inverse condemnation, or the right of eminent domain; by voluntary transfer under threat of such taking; or by a taking of title to a

portion of the Economic Development Property which renders continued use or occupancy of the Economic Development Property commercially unfeasible in the judgment of the Company, the Company shall have the option to terminate this Fee Agreement by sending written notice to the County within a reasonable period of time following such vesting. The Company shall only be required to make FILOT payments as to all or any part of the tax year in which the taking occurs to the extent property subject to *ad valorem* taxes would otherwise have been subject to such taxes under the same circumstances for the period in question.

(b) Partial Taking. In the event of a partial taking of the Economic Development Property or a transfer in lieu thereof, the Company may elect: (i) to terminate this Fee Agreement; (ii) subject to the Act and the terms and provisions of this Fee Agreement, to repair and restore the Economic Development Property, with such reductions or enlargements in the scope of the Economic Development Property, changes, alterations, and modifications (including the substitution and addition of other property) as the Company may desire, and all such changes, alterations, and modifications shall be considered as substitutions of the taken parts of the Economic Development Property; or (iii) to treat the portions of the Economic Development Property so taken as Removed Components.

(c) The Company shall only be required to make FILOT payments as to all or any part of the tax year in which the taking occurs to the extent property subject to *ad valorem* taxes would otherwise have been subject to such taxes under the same circumstances for the period in question.

Section 4.9 Confidentiality/Limitation on Access to Project. The County acknowledges and understands that the Company utilizes confidential and proprietary processes and materials, services, equipment, trade secrets, and techniques (herein “Confidential Information”) and that any disclosure of Confidential Information concerning the Company’s operations may result in substantial harm to the Company and could thereby have a significant detrimental impact on the Company’s employees and also upon the County. The Company acknowledges that the County is subject to the Freedom of Information Act, and, as a result, must disclose certain documents and information on request absent an exemption. For these reasons, the Company shall clearly label all Confidential Information it delivers to the County “Confidential Information.” Therefore, the County agrees that, except as required by law, neither the County nor any employee, agent, or contractor of the County shall (i) request or be entitled to receive any such Confidential Information, or (ii) disclose or otherwise divulge any such Confidential Information to any other person, firm, governmental body or agency, or any other entity unless specifically required to do so by law; provided, however, that the County shall have no less rights concerning information relating to the Project and the Company than concerning any other property or property taxpayer in the County, and, provided further, that the confidentiality of such confidential or proprietary information is clearly disclosed to the County in writing as previously described. Prior to disclosing any Confidential Information, subject to the requirements of law, the Company may require the execution of reasonable, individual, confidentiality and non-disclosure agreements by any officers, employees, or agents of the County or any supporting or cooperating governmental agencies who would gather, receive, or review such information. In the event that the County is required to disclose any Confidential Information obtained from the Company to any third party, the County agrees to provide the Company with as much advance notice as possible of such requirement before making such

disclosure, and to cooperate reasonably with any attempts by the Company to obtain judicial or other relief from such disclosure requirement.

Section 4.10 Assignment. With the prior written consent of the County or a subsequent written ratification by the County, which consent or ratification the County will not unreasonably withhold unless Section 12-44-120 of the Act or any successor provision expressly does not require consent, and in accordance with the Act, the Company may assign this Fee Agreement in whole or in part. The Company agrees to notify the County and the Department of the identity of such transferee within 60 days of the transfer. In case of a transfer, the transferee assumes the transferor's basis in the Project for purposes of calculating the Fee. No approval is required for transfers to sponsor affiliates or other financing related transfers, as defined in the Act.

Section 4.11 No Double Payment; Future Changes in Legislation.

(a) Notwithstanding anything contained herein to the contrary, and except as expressly required by law, neither the Company nor any Sponsor shall ever be required to make a Payment in Lieu of Taxes in addition to a regular property tax payment in the same year over the same piece of property, nor shall the Company or any Sponsor be required to make a Payment in Lieu of Taxes on property in cases where, absent this Fee Agreement, property taxes would otherwise not be due on such property.

In case there is any legislation enacted which provides for more favorable treatment for property to qualify as, or for the calculation of the fee related to, Economic Development Property under Sections 4.4, 4.6, 4.7, 4.8, or the calculation of the Investment Period, the County agrees to give expedient and full consideration to such legislation, with a view to allow for such more favorable treatment or calculation.

Section 4.12 Administration Expenses.

(a) The Company agrees to pay the reasonable and necessary expenses that the County incurs with respect to the execution and administration of this Fee Agreement, including without limitation reasonable and actual attorney's fees (the "Administration Expenses"); provided, however, that no such expense shall be an Administration Expense until the County has furnished to the Company a statement in writing indicating the amount of such expense and the reason for its incurrence.

ARTICLE V

DEFAULT

Section 5.1 Events of Default. The following shall be "Events of Default" under this Fee Agreement, and the term "Events of Default" shall mean, whenever used with reference to this Fee Agreement, any one or more of the following occurrences:

(a) Failure by the Company to make the Payments in Lieu of Taxes described in Section 4.1 hereof, which failure shall not have been cured within 30 days following receipt of written notice thereof from the County; *provided, however*, that the Company shall be entitled to all redemption rights granted by applicable statutes; or

(b) A representation or warranty made by the Company which is deemed materially incorrect when deemed made; or

(c) Failure by the Company to perform any of the terms, conditions, obligations, or covenants hereunder (other than those under (a) above), which failure shall continue for a period of 30 days after written notice from the County to the Company specifying such failure and requesting that it be remedied, unless the Company shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the Company is diligently pursuing corrective action; or

(d) A representation or warranty made by the County which is deemed materially incorrect when deemed made; or

(e) Failure by the County to perform any of the terms, conditions, obligations, or covenants hereunder, which failure shall continue for a period of 30 days after written notice from the Company to the County specifying such failure and requesting that it be remedied, unless the County shall have instituted corrective action within such time period and is diligently pursuing such action until the default is corrected, in which case the 30-day period shall be extended to cover such additional period during which the County is diligently pursuing corrective action; or

(f) A cessation of operations at the Project by the Company.

Section 5.2 Remedies on Default.

(a) Whenever any Event of Default by the Company shall have occurred and shall be continuing, the County may take any one or more of the following remedial actions:

- (1) terminate the Fee Agreement; or
- (2) take whatever action at law or in equity may appear necessary or desirable to collect the amounts due hereunder. In no event shall the Company be liable to the County or otherwise for monetary damages resulting from the Company's failure to meet the Act Minimum Investment Requirement, other than as expressly set forth herein.

In addition to all other remedies provided herein, the failure to make FILOT payments shall give rise to a lien for tax purposes as Section 12-44-90 of the Act provides. In this regard, and notwithstanding anything in this Fee Agreement to the contrary, the County may exercise the remedies that general law (including Title 12, Chapter 49 of the Code of Laws of South Carolina, 1976, as amended) provides with regard to the enforced collection of *ad valorem* taxes to collect any FILOT payments due hereunder.

(b) Whenever any Event of Default by the County shall have occurred or shall be continuing, the Company may take one or more of the following actions:

- (1) bring an action for specific enforcement;
- (2) terminate the Fee Agreement; or

- (3) in case of a materially incorrect representation or warranty, take such action as is appropriate, including legal action, to recover its damages, to the extent allowed by law.

Section 5.3 Reimbursement of Legal Fees and Expenses and Other Expenses. Upon the occurrence of an Event of Default hereunder, should a party be required to employ attorneys or incur other reasonable expenses for the collection of payments due hereunder or for the enforcement of performance or observance of any obligation or agreement, the successful party shall be entitled, within 30 days of demand therefor, to reimbursement of the reasonable fees of such attorneys and such other reasonable expenses so incurred. The Company further agrees to pay reasonable legal fees and expenses and other expenses of the County.

Section 5.4 No Waiver. No failure or delay on the part of any party hereto in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder. No waiver of any provision hereof shall be effective unless the same shall be in writing and signed by the waiving party hereto.

ARTICLE VI

MISCELLANEOUS

Section 6.1 Notices. Any notice, election, demand, request, or other communication to be provided under this Fee Agreement shall be effective when delivered to the party named below or when deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed as follows (or addressed to such other address as any party shall have previously furnished in writing to the other party), except where the terms hereof require receipt rather than sending of any notice, in which case such provision shall control:

IF TO THE COMPANY:

Project Burnt Church

Attn: _____

IF TO THE COUNTY:

Beaufort County, South Carolina
Attn: County Administrator
P.O. Box 1228
Beaufort, SC 29901-1228

WITH A COPY TO:

Haynsworth Sinkler Boyd, P.A.
Attn: William R. Johnson
P.O. Box 11889
Columbia, SC 29211

Section 6.2 Binding Effect. This Fee Agreement and each document contemplated hereby or related hereto shall be binding upon and inure to the benefit of the Company, the County, and their respective successors and assigns. In the event of the dissolution of the County or the consolidation of any part of the County with any other political subdivision or the transfer of any rights of the County to any other such political subdivision, all of the covenants, stipulations, promises, and agreements of this Fee Agreement shall bind and inure to the benefit of the successors of the County from time to time and any entity, officer, board, commission, agency, or instrumentality to whom or to which any power or duty of the County has been transferred.

Section 6.3 Counterparts. This Fee Agreement may be executed in any number of counterparts, and all of the counterparts taken together shall be deemed to constitute one and the same instrument.

Section 6.4 Governing Law. This Fee Agreement and all documents executed in connection herewith shall be construed in accordance with and governed by the laws of the State of South Carolina.

Section 6.5 Headings. The headings of the articles and sections of this Fee Agreement are inserted for convenience only and shall not be deemed to constitute a part of this Fee Agreement.

Section 6.6 Amendments. The provisions of this Fee Agreement may only be modified or amended in writing by any agreement or agreements entered into between the parties.

Section 6.7 Further Assurance. From time to time, and at the expense of the Company, to the extent any expense is incurred, the County agrees to execute and deliver to the Company such additional instruments as the Company may reasonably request and as are authorized by law and reasonably within the purposes and scope of the Act and Fee Agreement to effectuate the purposes of this Fee Agreement.

Section 6.8 Invalidity; Change in Laws. In the event that the inclusion of property as Economic Development Property or any other issue is unclear under this Fee Agreement, the County hereby expresses its intention that the interpretation of this Fee Agreement shall be in a manner that provides for the broadest inclusion of property under the terms of this Fee Agreement and the maximum incentive permissible under the Act, to the extent not inconsistent with any of the explicit terms hereof. If any provision of this Fee Agreement is declared illegal, invalid, or unenforceable for any reason, the remaining provisions hereof shall be unimpaired, and such illegal, invalid, or unenforceable provision shall be reformed to effectuate most closely the legal, valid, and enforceable intent thereof and so as to afford the Company with the maximum benefits to be derived herefrom, it being the intention of the County to offer the Company the strongest inducement possible, within the provisions of the Act, to locate the Project in the County. In case a change in the Act or South Carolina laws eliminates or reduces any of the restrictions or limitations applicable to the Company and the Fee incentive, the parties agree that the County will give expedient and full consideration to reformation of this Fee Agreement, and, if the County Council so decides, to provide the Company with the benefits of such change in the Act or South Carolina laws.

Section 6.9 Force Majeure. The Company shall not be responsible for any delays or non-performance caused in whole or in part, directly or indirectly, by strikes, accidents, freight embargoes, fires, floods, inability to obtain materials, conditions arising from governmental orders or regulations, war or national emergency, acts of God, and any other cause, similar or dissimilar, beyond the Company's reasonable control.

Section 6.10 Termination by Company. The Company is authorized to terminate this Fee Agreement at any time with respect to all or part of the Project upon providing the County with 30 days' notice; *provided, however,* that (i) any monetary obligations existing hereunder and due and owing at the time of termination to a party hereto; and (ii) any provisions which are intended to survive termination shall survive such termination. In the year following such termination, all property shall be subject to ad valorem taxation or such other taxation or fee in lieu of taxation that would apply absent this agreement. The Company's obligation to make fee in lieu of tax payments under this Fee Agreement shall terminate in the year following the year of such termination pursuant to this section.

Section 6.11 Entire Understanding. This Fee Agreement expresses the entire understanding and all agreements of the parties hereto with each other, and neither party hereto has made or shall be bound by any agreement or any representation to the other party which is not expressly set forth in this Fee Agreement or in certificates delivered in connection with the execution and delivery hereof.

Section 6.12 Waiver. Either party may waive compliance by the other party with any term or condition of this Fee Agreement only in a writing signed by the waiving party.

Section 6.13 Business Day. In the event that any action, payment, or notice is, by the terms of this Fee Agreement, required to be taken, made, or given on any day which is a Saturday, Sunday, or legal holiday in the jurisdiction in which the person obligated to act is domiciled, such action, payment, or notice may be taken, made, or given on the following

business day with the same effect as if given as required hereby, and no interest shall accrue in the interim.

Section 6.14 Limitation of Liability. Anything herein to the contrary notwithstanding, any financial obligation the County may incur hereunder, including for the payment of money shall not be deemed to constitute a pecuniary liability or a debt or general obligation of the County; provided, however, that nothing herein shall prevent the Company from enforcing its rights hereunder by suit for *mandamus* or specific performance.

ARTICLE VII

INDEMNIFICATION, INDIVIDUAL LIABILITY

Section 7.1 Indemnification Covenants.

(a) Notwithstanding any other provisions in this Fee Agreement or in any other agreements with the County (i) the Company shall agree to indemnify and save the County, its members, officers, employees, servants, and agents (collectively, the “Indemnified Parties”), harmless against and from all claims by or on behalf of any person, firm, or corporation arising from the conduct or management of, or from any work or thing done on the Project during the Fee Term, and, the Company further shall indemnify and save the Indemnified Parties harmless against and from all claims arising during the Fee Term from (A) any condition of the Project, (B) any breach or default on the part of the Company in the performance of any of its obligations under this Fee Agreement, (C) any act of negligence of the Company, or of any agents, contractors, servants, employees, or licensees, (D) except in such cases where the County has released the Company, any act of negligence of any assignee or sublessee of the Company, or of any agents, contractors, servants, employees, or licensees of any assignee or sublessee of Company, and/or (E) any environmental violation, condition, or effect. The Company shall indemnify and save the County harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon, and upon notice from the County, the Company shall defend it in any such action, prosecution, or proceeding.

(b) Notwithstanding the fact that it is the intention of the parties that the Indemnified Parties shall not incur pecuniary liability by reason of the terms of this Fee Agreement, or the undertakings required of the County hereunder, by reason of the granting of the Fee, by reason of the execution of this Fee Agreement, by reason of the performance of any act requested of it by the Company, or by reason of the County’s relationship to the Project or the operation of the Project by the Company, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if the County, its agents, officers, or employees should incur any such pecuniary liability, then in such event the Company shall indemnify and hold them harmless against all claims by or on behalf of any person, firm, or corporation, arising out of the same, and all costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, and upon notice, the Company shall defend them in any such action or proceeding; provided, however, that such indemnity shall not apply to the extent that any such claim is attributable to

(i) the gross negligent acts or omissions or willful misconduct of the County, its agents, officers, or employees, or (ii) any breach of this Fee Agreement by the County.

(c) The above-referenced indemnification covenants shall be considered included in and incorporated by reference in subsequent documents after the delivery of this Fee Agreement which the County is requested to sign on behalf of the Company with respect to the Project, and any other indemnification covenants in any subsequent documents shall not be construed to reduce or limit the above indemnification covenants.

(d) No termination of this Fee Agreement pursuant to any provision elsewhere in this Fee Agreement shall relieve the Company of its liability and obligations to make the payments required by this Section 7.1, all of which shall survive any such termination.

Section 7.2 No Liability of County Personnel. All covenants, stipulations, promises, agreements, and obligations of the County contained herein shall be deemed to be covenants, stipulations, promises, agreements, and obligations of the County and shall be binding upon any member of the County Council or any officer, agent, servant, or employee of the County only in his or her official capacity and not in his or her individual capacity, and no recourse shall be had for the payment of any moneys hereunder against any member of the governing body of the County or any officer, agent, servant, or employee of the County, and no recourse shall be had against any member of the County Council or any officer, agent, servant, or employee of the County for the performance of any of the covenants and agreements of the County herein contained or for any claims based thereon except solely in their official capacity.

(Signature Page Follows)

IN WITNESS WHEREOF, the County, acting by and through the County Council, has caused this Fee Agreement to be executed in its name and behalf by the County Administrator and to be attested by the Clerk of the County Council; and the Company has caused this Fee Agreement to be executed by its duly authorized officer, all as of the day and year first above written.

**BEAUFORT COUNTY,
SOUTH CAROLINA**

Signature: _____
Name: _____
Title: _____

ATTEST:

Signature: _____
Name: _____
Title: Clerk to County Council

PROJECT BURNT CHURCH

Signature: _____
Name: _____
Title: _____

**EXHIBIT A
LEGAL DESCRIPTION**

[COMPANY: PLEASE PROVIDE LEGAL DESCRIPTION.]



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

AN ORDINANCE OF THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA, ADOPTING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF HARDEEVILLE FOR THE COLLECTION OF PUBLIC FACILITY DEVELOPMENT IMPACT FEES.

Council Committee:

Meeting Date:

JULY 22, 2019

Committee Presenter (Name and Title):

Issues for Consideration:

Points to Consider:

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve

ORDINANCE 2019/ _____

AN ORDINANCE OF THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA, ADOPTING AN INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF HARDEEVILLE FOR THE COLLECTION OF PUBLIC FACILITY DEVELOPMENT IMPACT FEES.

NOW, THEREFORE, County Council of Beaufort County, South Carolina hereby authorizes the execution of an Intergovernmental Agreement with the City of Hardeeville to ensure that public facilities development impact fees are collected in accordance with the Beaufort County Impact Fee Procedure Ordinance, Library Facilities Ordinance, Parks and Recreation Facilities Ordinance, and Road Facilities Ordinance (Ordinance No. 2006/24) and any amendments thereto.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

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



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

An Ordinance amending the County's 2019 General Bond ordinance (Ordinance No. 2019/21) to add \$500,000 to the bond amount for TCL training kitchen

Council Committee:

Finance Committee June 3, 2019

Meeting Date:

CC July 22, 2019

Committee Presenter (Name and Title):

Alicia Holland, CFO; Christopher Inglese, Deputy County Attorney

Issues for Consideration:

Decreases available portion of our 8% debt limit.

Points to Consider:

The intention is that these funds are a loan to TCL. However, the loan terms have yet to be memorialized. The record should reflect Council's intention to lend these funds and give some idea about what terms should be included in a promissory note.

Funding & Liability Factors:

There is no enforcement mechanism in the event TCL defaults on repayment of the loan.

Council Options:

Adopt the amended and restated ordinance. Or, amend. Or, deny.

Recommendation:

Approve with conditions. State for the record that the funds are a loan and provide preliminary discussion of what terms should be included in a promissory note.

AMENDED AND RESTATED ORDINANCE NO. 2019/___

AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2019B, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, OF BEAUFORT COUNTY, SOUTH CAROLINA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$11,775,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR OR HIS LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA, AS FOLLOWS:

SECTION 1. Findings and Determinations. The County Council (the “County Council”) of Beaufort County, South Carolina (the “County”), hereby finds and determines:

(a) Pursuant to Section 4-9-10, Code of Laws of South Carolina 1976, as amended (the “Code”), and the results of a referendum held in accordance therewith, the Council-Administrator form of government was adopted and the County Council constitutes the governing body of the County.

(b) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (the “Constitution”), provides that each county shall have the power to incur bonded indebtedness in such manner and upon such terms and conditions as the General Assembly shall prescribe by general law. Such debt must be incurred for a public purpose and a corporate purpose in an amount not to exceed eight percent (8%) of the assessed value of all taxable property of such county.

(c) Pursuant to Title 4, Chapter 15 of the Code (the same being and hereinafter referred to as the “County Bond Act”), the governing bodies of the several counties of the State of South Carolina (the “State”) may each issue general obligation bonds to defray the cost of any authorized purpose and for any amount not to exceed its applicable constitutional limit.

(d) The County Bond Act provides that as a condition precedent to the issuance of bonds an election be held and the result be favorable thereto. Title 11, Chapter 27 of the Code (“Title 11, Chapter 27”), provides that if an election be prescribed by the provisions of the County Bond Act, but not be required by the provisions of Article X of the Constitution, then in every such instance, no election need be held (notwithstanding the requirement therefor) and the remaining provisions of the County Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.

(e) Pursuant to Ordinance No. 2012/10 adopted on August 13, 2012, the County Council adopted Written Procedures related to Tax-Exempt Debt.

(f) The assessed value of all the taxable property in the County as of June 30, 2018, is \$1,813,283,219. Eight percent of the assessed value is \$145,062,657. As of the date hereof, the outstanding general obligation debt of the County subject to the limitation imposed by Article X, Section 14(7) of the Constitution is \$97,748,931. Thus, the County may incur \$47,313,726 of additional general obligation debt within its applicable debt limitation.

(g) It is now in the best interest of the County for County Council to provide for the issuance and sale of not to exceed \$11,775,000 principal amount general obligation bonds of the County to provide funds for the following purposes: (i) capital improvements; (ii) providing funds to the Technical College of the Lowcountry for the construction of a training kitchen facility at the May River Campus; (iii) paying costs of issuance of the Bonds (hereinafter defined); and (iv) such other lawful purposes as the County Council shall determine.

SECTION 2. Authorization and Details of Bonds. Pursuant to the aforesaid provisions of the Constitution and laws of the State, there is hereby authorized to be issued not to exceed \$11,775,000 aggregate principal amount of general obligation bonds of the County to be designated “\$11,775,000 (or such lesser amount issued) General Obligation Bonds, (appropriate series designation), of Beaufort County, South Carolina” (the “Bonds”), for the purposes set forth in Section 1(g) and other costs incidental thereto, including without limiting the generality of such other costs, engineering, financial and legal fees.

The Bonds shall be issued as fully registered bonds registrable as to principal and interest; shall be dated their date of delivery to the initial purchaser(s) thereof; shall be in denominations of \$5,000 or any integral multiple thereof not to exceed the principal amount of Bonds maturing each year; shall be subject to redemption if such provision is in the best interest of the County; shall be numbered from R-1 upward; shall bear interest from their date payable at such times as hereinafter designated by the Interim County Administrator and/or his lawfully-authorized designee at such rate or rates as may be determined at the time of the sale thereof; and shall mature serially in successive annual installments as determined by the Interim County Administrator and/or his lawfully-authorized designee.

Both the principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts. Regions Bank, Atlanta, Georgia, shall serve as Registrar/Paying Agent for the Bonds.

SECTION 3. Delegation of Authority to Determine Certain Matters Relating to the Bonds. The County Council hereby delegates to the Interim County Administrator or his lawfully-authorized designee the authority to: (a) determine the par amount of the Bonds; (b) determine the maturity dates of the Bonds and the respective principal amounts maturing on such dates; (c) determine the interest payment dates of the Bonds; (d) determine the redemption provisions, if any, for the Bonds; (e) determine the date and time of sale of the Bonds; (f) receive bids on behalf of the County Council; and (g) award the sale of the Bonds to the lowest bidder therefor in accordance with the terms of the Notice of Sale for the Bonds.

After the sale of the Bonds, the Interim County Administrator and/or his lawfully-authorized designee shall submit a written report to County Council setting forth the details of the Bonds as set forth in this paragraph.

SECTION 4. Registration, Transfer and Exchange of Bonds. The County shall cause books (herein referred to as the “registry books”) to be kept at the offices of the Registrar/Paying Agent, for the registration and transfer of the Bonds. Upon presentation at its office for such purpose the Registrar/Paying Agent shall register or transfer, or cause to be registered or transferred, on such registry books, the Bonds under such reasonable regulations as the Registrar/Paying Agent may prescribe.

Each Bond shall be transferable only upon the registry books of the County, which shall be kept for such purpose at the principal office of the Registrar/Paying Agent, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar/Paying Agent duly executed by the registered owner or his duly

authorized attorney. Upon the transfer of any such Bond the Registrar/Paying Agent on behalf of the County shall issue in the name of the transferee a new fully registered Bond or Bonds, of the same aggregate principal amount, interest rate, and maturity as the surrendered Bond. Any Bond surrendered in exchange for a new registered Bond pursuant to this Section shall be canceled by the Registrar/Paying Agent.

The County and the Registrar/Paying Agent may deem or treat the person in whose name any fully registered Bond shall be registered upon the registry books as the absolute owner of such Series Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such Bond and for all other purposes and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the County nor the Registrar/Paying Agent shall be affected by any notice to the contrary. In all cases in which the privilege of transferring Bonds is exercised, the County shall execute and the Registrar/Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. Neither the County nor the Registrar/Paying Agent shall be obliged to make any such transfer of Bonds during the fifteen (15) days preceding an interest payment date on such Bonds.

SECTION 5. Record Date. The County hereby establishes a record date for the payment of interest or for the giving of notice of any proposed redemption of Bonds, and such record date shall be the fifteenth (15th) day (whether or not a business day) preceding an interest payment date on such Bond or in the case of any proposed redemption of Bonds, such record date shall be the fifteenth (15th) day (whether or not a business day) prior to the giving of notice of redemption of bonds.

SECTION 6. Mutilation, Loss, Theft or Destruction of Bonds. In case any Bond shall at any time become mutilated in whole or in part, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the owner, the County shall execute and the Registrar shall authenticate and deliver at the principal office of the Registrar, or send by registered mail to the owner thereof at his request, risk and expense a new Bond of the same series, interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute Bond shall furnish the County and the Registrar evidence or proof satisfactory to the County and the Registrar of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity in an amount as may be required by the laws of the State of South Carolina or such greater amount as may be required by the County and the Registrar. Any duplicate Bond issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance as was the original Bond in lieu of which such duplicate Bond is issued, and shall be entitled to equal and proportionate benefits with all the other Bonds of the same series issued hereunder.

All expenses necessary for the providing of any duplicate Bond shall be borne by the applicant therefor.

SECTION 7. Execution of Bonds. The Bonds shall be executed in the name of the County with the manual or facsimile signature of the Chairman of the County Council attested by the manual or facsimile signature of the Clerk to the County Council under a facsimile of the seal of the County impressed, imprinted or reproduced thereon; provided, however, the facsimile signatures appearing on the Bonds may be those of the officers who are in office on the date of enactment of this Ordinance. The execution of the Bonds in such fashion shall be valid and effectual, notwithstanding any subsequent

change in such offices. The Bonds shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. Each Bond shall bear a certificate of authentication manually executed by the Registrar in substantially the form set forth herein.

SECTION 8. Form of Bonds. The Bonds including the certificate of authentication shall be in substantially the form set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION 9. Security for Bonds. The full faith, credit, and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. There shall be levied annually by the County Auditor and collected by the County Treasurer, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

The County Council shall give the County Auditor and County Treasurer written notice of the delivery of and payment for the Bonds and they are hereby directed to levy and collect annually, on all taxable property in the County, a tax, without limit, sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

SECTION 10. Notice of Public Hearing. The County Council hereby ratifies and approves the publication of a notice of public hearing regarding the Bonds and this Ordinance, such notice in substantially the form attached hereto as Exhibit B, having been published in *The Island Packet* and *The Beaufort Gazette*, newspapers of general circulation in the County, not less than 15 days prior to the date of such public hearing.

SECTION 11. Initiative and Referendum. The County Council hereby delegates to the Interim County Administrator and/or his lawfully-authorized designee the authority to determine whether the Notice prescribed under the provisions of Section 5 of Title 11, Chapter 27 of the Code relating to the initiative and referendum provisions contained in Title 4, Chapter 9, Article 13 of the Code shall be given with respect to this Ordinance. If said Notice is given, the Interim County Administrator and/or his lawfully-authorized designee are authorized to cause such Notice to be published in a newspaper of general circulation in the County, in substantially the form attached hereto as Exhibit C.

SECTION 12. Exemption from State Taxes. Both the principal of and interest on the Bonds shall be exempt, in accordance with the provisions of Section 12-2-50 of the Code from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

SECTION 13. Federal Tax Covenants. The County hereby covenants and agrees with the holders of the Bonds that it will not take any action which will, or fail to take any action which failure will, cause interest on the Bonds to become includable in the gross income of the holders of the Bonds for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the "IRC") and regulations promulgated thereunder in effect on the date of original issuance of the Bonds. The County further covenants and agrees with the holders of the Bonds that no use of the proceeds of the Bonds shall be made which, if such use had been reasonably expected on the date of issue of the Bonds would have caused the Bonds to be "arbitrage bonds," as defined in Section 148 of the IRC, and to that end the County hereby shall:

(a) comply with the applicable provisions of Sections 103 and 141 through 150 of the IRC and any regulations promulgated thereunder so long as the Bonds are outstanding;

(b) establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and

(c) make such reports of such information at the time and places required by the IRC.

SECTION 14. Declaration of Intent to Reimburse Certain Expenditures. This Resolution shall constitute the County's declaration of official intent pursuant to Regulation §1.150-2 of the Code to reimburse the County from a portion of the proceeds of the Bonds for expenditures it anticipates incurring (the "Expenditures") with respect to the Projects prior to the issuance of the Bonds. The Expenditures which are reimbursed are limited to Expenditures which are: (1) properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Regulation §1.150-2 of the IRC) under general federal income tax principals; or (2) certain de minimis or preliminary Expenditures satisfying the requirements of Regulation §1.150-2(f) of the IRC. The source of funds for the Expenditures with respect to the Projects will be the County's reserve funds. To be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (a) the date on which the Expenditures were paid; or (b) the date such Projects were placed in service, but in no event more than three (3) years after the original Expenditures.

SECTION 15. Eligible Securities. The Bonds initially issued (the "Initial Bonds") will be eligible securities for the purposes of the book-entry system of transfer maintained by The Depository Trust Company, New York, New York ("DTC"), and transfers of beneficial ownership of the Initial Bonds shall be made only through DTC and its participants in accordance with rules specified by DTC. Such beneficial ownership must be of \$5,000 principal amount of Bonds of the same maturity or any integral multiple of \$5,000.

The Initial Bonds shall be issued in fully-registered form, one Bond for each of the maturities of the Bonds, in the name of Cede & Co., as the nominee of DTC. When any principal of or interest on the Initial Bonds becomes due, the Paying Agent, on behalf of the County, shall transmit to DTC an amount equal to such installment of principal and interest. DTC shall remit such payments to the beneficial owners of the Bonds or their nominees in accordance with its rules and regulations.

Notices of redemption of the Initial Bonds or any portion thereof shall be sent to DTC in accordance with the provisions of the Ordinance.

If (a) DTC determines not to continue to act as securities depository for the Bonds, or (b) the County has advised DTC of its determination that DTC is incapable of discharging its duties, the County shall attempt to retain another qualified securities depository to replace DTC. Upon receipt by the County the Initial Bonds together with an assignment duly executed by DTC, the County shall execute and deliver to the successor securities depository Bonds of the same principal amount, interest rate, and maturity registered in the name of such successor.

If the County is unable to retain a qualified successor to DTC or the County has determined that it is in its best interest not to continue the book-entry system of transfer or that interests of the beneficial owners of the Bonds might be adversely affected if the book-entry system of transfer is continued (the

County undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify beneficial owners of the Bonds by mailing an appropriate notice to DTC, upon receipt by the County the Initial Bonds together with an assignment duly executed by DTC, the County shall execute, authenticate and deliver to the DTC participants Bonds in fully-registered form, in substantially the form set forth on Exhibit A attached to this Ordinance in the denomination of \$5,000 or any integral multiple thereof.

SECTION 16. Sale of Bonds, Form of Notice of Sale. The Bonds shall be offered for public sale on the date and at the time designated by the Interim County Administrator and/or his lawfully-authorized designee. A Notice of Sale in substantially the form set forth as Exhibit D attached hereto and incorporated herein by reference shall be distributed to prospective bidders and a summary of such Notice of Sale shall be published in a newspaper of general circulation in the State and/or in a financial publication published in the City of New York not less than seven (7) days prior to the date set for such sale.

SECTION 17. Preliminary and Final Official Statement. The County Council hereby authorizes and directs the Interim County Administrator and/or his lawfully-authorized designee to prepare, or cause to be prepared, a Preliminary Official Statement to be distributed to prospective purchasers of the Bonds together with the Notice of Sale. The County Council authorizes the Interim County Administrator to designate the Preliminary Official Statement as “final” for purposes of Rule 15c2-12 of the Securities Exchange Commission. The Interim County Administrator and/or his lawfully-authorized designee are further authorized to see to the completion of the final form of the Official Statement upon the sale of the Bonds so that it may be provided to the purchaser of the Bonds.

SECTION 18. Filings with Central Repository. In compliance with Section 11-1-85 of the Code, the County covenants that it will file or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of the annual financial report of the County within thirty (30) days from the County’s receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which adversely affects more than five (5%) percent of the revenues of the County or the County’s tax base.

SECTION 19. Continuing Disclosure. In compliance with the Securities and Exchange Commission Rule 15c2-12, the County covenants and agrees for the benefit of the holders from time to time of the Bonds to execute and deliver prior to closing, and to thereafter comply with the terms of a Continuing Disclosure Certificate in substantially the form appearing as Exhibit E attached to this Ordinance. In the event of a failure of the County to comply with any of the provisions of the Continuing Disclosure Certificate, an event of default under this Ordinance shall not be deemed to have occurred. In such event, the sole remedy of any bondholder or beneficial owner shall be an action to compel performance by this Ordinance.

SECTION 20. Deposit and Use of Proceeds. The proceeds derived from the sale of the Bonds shall be deposited with the County Treasurer in a special fund to the credit of the County and shall be applied solely to the purposes for which the Bonds have been issued, including payment of costs of issuance of the Bonds.

SECTION 21. Defeasance. The obligations of the County under this Ordinance and the pledges, covenants and agreements of the County herein made or provided for, shall be fully discharged and satisfied as to any portion of the Bonds, and such Bond or Bonds shall no longer be deemed to be outstanding hereunder when:

(a) such Bond or Bonds shall have been purchased by the County and surrendered to the County for cancellation or otherwise surrendered to the County or the Paying Agent and is canceled or subject to cancellation by the County or the Paying Agent; or

(b) payment of the principal of and interest on such Bonds either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with a corporate trustee in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment, or (2) Government Obligations (hereinafter defined) maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment and all necessary and proper fees, compensation and expenses of the corporate trustee. At such time as the Bonds shall no longer be deemed to be outstanding hereunder, such Bonds shall cease to draw interest from the due date thereof and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this Ordinance.

“Government Obligations” shall mean any of the following:

- (i) direct obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which, in the opinion of the Attorney General of the United States, is fully and unconditionally guaranteed by the United States of America; and
- (ii) non-callable, U. S. Treasury Securities - State and Local Government Series (“SLGS”).

SECTION 22. Miscellaneous. The County Council hereby authorizes the Administrator and the Clerk to County Council to execute such documents and instruments as may be necessary to effect the issuance of the Bonds. The County Council hereby retains Burr & Forman LLP (Burr Forman McNair), as Bond Counsel and Hilltop Securities as Financial Advisor, in connection with the issuance of the Bonds. The Administrator is authorized to execute such contracts, documents or engagement letters as may be necessary and appropriate to effectuate these engagements.

All rules, regulations, resolutions, and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Bonds are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its enactment.

[Signatures follow]

Enacted this ____ day of _____, 2019.

BEAUFORT COUNTY, SOUTH CAROLINA

Chair, County Council

(SEAL)

ATTEST:

Clerk, County Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

FORM OF BOND

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
GENERAL OBLIGATION BOND, SERIES 2019B

No. R-

INTEREST	MATURITY	ORIGINAL	
<u>RATE</u>	<u>DATE</u>	<u>ISSUE DATE</u>	<u>CUSIP</u>

REGISTERED HOLDER:

PRINCIPAL AMOUNT: DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that Beaufort County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to the registered holder specified above, or registered assigns, the principal amount specified above on the maturity date specified above, upon presentation and surrender of this Bond at the principal office of _____ in _____ (the "Paying Agent"), and to pay interest on such principal amount from the date hereof at the rate per annum specified above until this Bond matures. Interest on this Bond is payable _____ 1, 20__, and semiannually on _____ 1 and _____ 1 of each year thereafter, until this Bond matures, and shall be payable by check or draft mailed to the person in whose name this Bond is registered on the registration books of the County maintained by the registrar, presently _____ in _____ (the "Registrar"), at the close of business on the fifteenth (15th) day of the calendar month preceding each semiannual interest payment date. The principal of and interest on this Bond are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts; provided, however, that interest on this fully registered Bond shall be paid by check or draft as set forth above.

This Bond shall not be entitled to any benefit under the Ordinance (hereafter defined), nor become valid or obligatory for any purpose, until the certificate of authentication hereon shall have been duly executed by the Registrar.

For the payment hereof, both principal and interest, as they respectively mature and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the County are irrevocably pledged and there shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as they respectively mature and to create such sinking fund as may be necessary therefor.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinance. One bond certificate with respect to each date on which the Bonds are stated to mature, registered in the name of the securities depository nominee, is being issued and required to be deposited with the securities depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the securities depository's participants, beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the securities depository and its participants pursuant to rules and procedures established by the securities depository and its participants. The County and the Registrar/Paying Agent will recognize the securities depository nominee, while the registered owner of this bond, as the owner of this bond for all purposes, including payments of principal of and redemption premium, if any, and interest on this bond, notices and voting. Transfer of principal and interest payments to participants of the securities depository will be the responsibility of the securities depository, and transfer of principal, redemption premium, if any, and interest payments to beneficial owners of the Bonds by participants of the securities depository will be the responsibility of such participants and other nominees of such beneficial owners. The County will not be responsible or liable for such transfers of payments or for maintaining, supervision or reviewing the records maintained by the securities depository, the securities depository nominee, its participants or persons acting through such participants. While the securities depository nominee is the owner of this bond, notwithstanding, the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this bond shall be made in accordance with existing arrangements between the Registrar/Paying Agent or its successors under the Ordinance and the securities depository.

This Bond is one of a series of Bonds of like date of original issue, tenor and effect, except as to number, denomination, date of maturity, redemption provisions, and rate of interest, aggregating _____ Dollars (\$ _____), issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including Article X of the Constitution of the State of South Carolina, 1895, as amended; Title 4, Chapter 15, Code of Laws of South Carolina 1976, as amended; Title 11, Chapter 27, Code of Laws of South Carolina 1976, as amended; and Ordinance No. _____ duly enacted by the County Council on _____, 2019.

[Redemption Provisions]

This Bond is transferable as provided in the Ordinance, only upon the books of the County kept for that purpose at the principal office of the Registrar by the registered holder in person or by his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered holder or his duly authorized attorney. Thereupon a new fully registered Bond or Bonds of the same aggregate principal amount, interest rate redemption provisions, if any, and maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance. The County, the Registrar and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

Under the laws of the State of South Carolina (the "State"), this Bond and the interest hereon are exempt from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State to exist, to happen and to be performed precedent to or in the issuance of this Bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the amount of this Bond, together with all other indebtedness of the County, does not exceed the applicable limitation of indebtedness under the laws of the State; and that provision has been made for the levy and collection of a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as the same shall respectively mature and to create such sinking fund as may be necessary therefor.

IN WITNESS WHEREOF, BEAUFORT COUNTY, SOUTH CAROLINA, has caused this Bond to be signed with the manual or facsimile signature of the Chairman of the County Council, attested by the manual or facsimile signature of the Clerk to the County Council and the seal of the County impressed, imprinted, or reproduced hereon.

BEAUFORT COUNTY, SOUTH CAROLINA

Chair of County Council

(SEAL)

ATTEST:

Clerk of County Council

[FORM OF REGISTRAR'S CERTIFICATE OF AUTHENTICATION]

Date of Authentication:

This bond is one of the Bonds described in the within mentioned Ordinance of Beaufort County, South Carolina.

_____ as Registrar

By: _____ Authorized Officer

The following abbreviations, when used in the inscription on the face of this Bond shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - As tenants in common

UNIF GIFT MIN. ACT

TEN ENT - As tenants by the entireties

_____ Custodian _____
(Cust.) (Minor)

JT TEN - As joint tenants with right of survivorship and not as tenants in common

under Uniform Gifts to Minors

_____ (State)

Additional abbreviations may also be used though not in list above.

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

_____ (Name and address of Transferee)

the within Bond and does hereby irrevocably constitute and appoint _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranteed:

(Authorizing Officer)

Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agents Medallion Program ("STAMP") or similar program.

NOTICE: The signature to this agreement this agreement must correspond with the name of the registered holder as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

A copy of the final approving opinion to be rendered shall be attached to each Bond and preceding the same a certificate shall appear, which shall be signed on behalf of the County with a manual or facsimile signature of the Clerk to the County Council. The certificate shall be in substantially the following form:

[FORM OF CERTIFICATE]

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the complete final approving opinion (except for date and letterhead) of Burr & Forman LLP, Columbia, South Carolina, approving the issue of Bonds of which the within Bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for the Bonds and a copy of which is on file with the County Council of Beaufort County, South Carolina.

BEAUFORT COUNTY, SOUTH CAROLINA

By: _____
Clerk of County Council

FORM OF NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the County Council of Beaufort County, South Carolina (the "County"), County Administration Building, 100 Ribaut Road, Beaufort, South Carolina, at 6:30 p.m. on _____, 2019.

The purpose of the public hearing is to consider an Ordinance providing for the issuance and sale of General Obligation Bonds of Beaufort County, South Carolina, in the principal amount of not to exceed \$_____ (the "Bonds"). The proceeds of the Bonds will be used for the following purposes: (i) capital improvements; (ii) providing funds to the Technical College of the Lowcountry for the construction of a training kitchen facility at the May River Campus; (iii) paying costs of issuance of the Bonds (hereinafter defined); and (iv) such other lawful purposes as the County Council shall determine.

The full faith, credit, and taxing power of the County will be pledged for the payment of the principal of and interest on the Bonds and a tax, without limit, will be levied on and collected annually, in the same manner other County taxes are levied and collected, on all taxable property of the County sufficient to pay to principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

At the public hearing all taxpayers and residents of the County and any other interested persons who appear will be given an opportunity to express their views for or against the Ordinance and the issuance of the Bonds.

COUNTY COUNCIL OF BEAUFORT COUNTY,
SOUTH CAROLINA

FORM OF NOTICE

NOTICE OF ADOPTION OF ORDINANCE

Notice is hereby given that on _____, 2019, the Beaufort County Council adopted an ordinance entitled: "ORDINANCE NO. _____ AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2019B, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, OF BEAUFORT COUNTY, SOUTH CAROLINA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$ _____; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE INTERIM COUNTY ADMINISTRATOR OR HIS LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO" (the "Ordinance"). The Ordinance authorizes the issuance and sale of not to exceed \$ _____ General Obligation Bonds, Series 2019B (the "Bonds") of the County.

The proceeds of the Bonds will be used for the following purposes: (i) capital improvements; (ii) providing funds to the Technical College of the Lowcountry for the construction of a training kitchen facility at the May River Campus; (iii) paying costs of issuance of the Bonds (hereinafter defined); and (iv) such other lawful purposes as the County Council shall determine.

Pursuant to Section 11-27-40(8) of the South Carolina Code of Laws, 1976, as amended, unless a notice, signed by not less than five (5) qualified electors of the County, of the intention to seek a referendum is filed both in the office of the Clerk of Court of the County and with the Clerk of the County Council, the initiative and referendum provisions of South Carolina law, Sections 4-9-1210 to 4-9-1230, South Carolina Code of Laws 1976, as amended, shall not be applicable to the Ordinance. The notice of intention to seek a referendum must be filed within twenty (20) days following the publication of this notice of the adoption of the aforesaid Ordinance in a newspaper of general circulation in Beaufort County.

COUNTY COUNCIL OF BEAUFORT COUNTY,
SOUTH CAROLINA

FORM OF NOTICE OF SALE

OFFICIAL NOTICE OF SALE

\$ _____ GENERAL OBLIGATION BONDS, SERIES 2019B,
OF BEAUFORT COUNTY, SOUTH CAROLINA

Time of Sale: NOTICE IS HEREBY GIVEN that bids will be received on behalf of Beaufort County, South Carolina (the "County"), until 11:00 a.m, South Carolina time, on _____, _____, 2019, at which time said proposals will be publicly opened for the purchase of \$ _____ General Obligation Bonds, Series 2019B, of the County (the "Bonds").

Electronic Bids: Electronic proposals must be submitted through i-Deal's Parity Electronic Bid Submission System ("Parity"). No electronic bids from any other providers of electronic bidding services will be accepted. Information about the electronic bidding services of Parity may be obtained from i-Deal, 1359 Broadway, 2nd Floor, New York, New York 10018, Customer Support, telephone (212) 849-5021.

Book-Entry-Only Bonds: The Bonds will be issued in fully-registered form. One Bond representing each maturity will be issued to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), as registered owner of the Bonds and each such Bond will be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof not to exceed the principal amount of Bonds maturing each year; Purchasers will not receive physical delivery of certificates representing their interest in the Bonds purchased. The winning bidder, as a condition to delivery of the Bonds, will be required to deposit the Bond certificates representing each maturity with DTC.

The Bonds will be issued in fully-registered form registered as to principal and interest; will be dated _____, 2019; will be in denominations of \$5,000 or any integral multiple thereof not to exceed the principal amount of Bonds maturing in each year; and will mature serially in successive annual installments on _____ in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Principal Amount*</u>	<u>Year</u>	<u>Principal Amount*</u>
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*Preliminary, subject to adjustment.

Adjustment of Maturity Schedule. The County reserves the right, in its sole discretion, either to decrease or increase the principal amount of the Bonds maturing in any year (all calculations to be rounded to the near \$5,000), provided that any such decrease or increase shall not exceed 10% of the Bonds. Such adjustment(s), if any, shall be made within twenty-four (24) hours of the award of the Bonds. In order to calculate the yield on the Bonds for federal tax law purposes and as a condition precedent to the award of the Bonds, bidders must disclose to the County in connection with their respective bids the price (or yield to maturity) at which each maturity of the Bonds will be reoffered to the public.

In the event of any adjustment of the maturity schedule for the Bonds as described herein, no rebidding or recalculation of the proposals submitted will be required or permitted. Nevertheless, the award of the Bonds will be made to the bidder whose proposal produces the lowest true interest cost solely on the basis of the Bonds offered, without taking into account any adjustment in the amount of the Bonds pursuant to this paragraph.

[Redemption Provisions]

Registrar/Paying Agent: Regions Bank will serve as Registrar/Paying Agent for the Bonds.

Bid Requirements: Bidders shall specify the rate or rates of interest per annum which the Bonds are to bear, to be expressed in multiples of 1/20 or 1/8 of 1% and the interest rate specified for any maturity shall not be lower than the interest rate specified for any previous maturity. Bidders are not limited as to the number of rates of interest named, but the rate of interest on each separate maturity must be the same single rate for all Bonds of that maturity from their date to such maturity date. A bid for less than all the Bonds, a bid at a price less than par or a bid which includes a premium in excess of 10% of the par amount of the Bonds will not be considered. In addition to the bid price, the successful bidder must pay accrued interest from the date of the Bonds to the date of full payment of the purchase price.

Award of Bid. The Bonds will be awarded to the bidder or bidders offering to purchase the Bonds at the lowest true interest cost (TIC) to the County. The TIC will be the nominal interest rate which, when compounded semiannually and used to discount all debt service payments on the Bonds (computed at the interest rates specified in the bid and on the basis of a 360-day year of twelve 30-day months) to the dated date of the Bonds, results in an amount equal to the price bid for the Bonds. In the case of a tie bid, the winning bid will be awarded by lot. The County reserves the right to reject any and all bids or to waive irregularities in any bid. Bids will be accepted or rejected no later than 3:00 p.m., South Carolina time, on the date of the sale.

Security: The full faith, credit, and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. There shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, an ad valorem tax, without limit, on all taxable property in the County sufficient to pay the principal and interest of the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

Good Faith Deposit: No good faith deposit is required.

Official Statement: Upon the award of the Bonds, the County will prepare an official statement (the "Official Statement") in substantially the same form as the preliminary official statement subject to minor additions, deletions and revisions as required to complete the Official Statement. Within seven (7) business days after the award of the Bonds, the County will deliver the Official Statement to the successful bidder in sufficient quantity to comply with Rule G-32 of the Municipal Securities Rulemaking Board. The successful bidder agrees to supply to the County all necessary pricing information and any Underwriter identification necessary to complete the Official Statement within 24 hours after the award of the Bonds.

Continuing Disclosure: In order to assist the bidders in complying with S.E.C. Rule 15c2-12(b)(5), the County will undertake, pursuant to an ordinance and a Continuing Disclosure Certificate to provide certain annual financial information and notices of the occurrence of certain events, if material. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement.

Legal Opinion: The County Council shall furnish upon delivery of the Bonds the final approving opinion of McNair Law Firm, P.A., Columbia, South Carolina, which opinion shall accompany each Bond, together with the usual closing documents, including a certificate of the County that no litigation is pending affecting the Bonds.

Issue Price Certificate: [TO BE PROVIDED]

Delivery: The Bonds will be delivered on or about _____, 2019, in New York, New York, at the expense of the County. The balance of the purchase price then due, including the amount of accrued interest, must be paid in federal funds or other immediately available funds.

CUSIP Numbers: It is anticipated that CUSIP identification numbers will be set forth on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of its proposal. The CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of and shall be paid for by the successful bidder.

Additional Information: The Preliminary Official Statement of the County with respect to the Bonds will be furnished to any person interested in bidding for the Bonds upon request to Burr & Forman LLP, Attention: Francenia B. Heizer, telephone (803) 799-9800, e-mail: fheizer@burr.com. The Preliminary Official Statement shall be reviewed by bidders prior to submitting a bid. Bidders may not rely on this Notice of Sale as to the complete information concerning the Bonds. Persons seeking information should communicate with the County's Financial Advisor, Jeff Minch, Vice President, Hilltop Securities, 5925 Carnegie Boulevard, Suite 380, Charlotte, North Carolina 28209, telephone (704) 654-3451, e-mail: jeff.minch@hilltopsecurities.com..

BEAUFORT COUNTY, SOUTH CAROLINA

FORM OF CONTINUING DISCLOSURE CERTIFICATE

CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by Beaufort County, South Carolina (the “County”) in connection with the issuance of \$_____ General Obligation Bonds, Series 2019B, Beaufort County, South Carolina (the “Bonds”). The Bonds are being issued pursuant to an ordinance adopted by the County Council of the County (the “Ordinance”). The County covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the County for the benefit of the beneficial owners and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below).

SECTION 2. Definitions. The following capitalized terms shall have the following meanings:

“**Annual Report**” shall mean any Annual Report provided by the County pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“**Bonds**” shall mean the \$_____ General Obligation Bonds, Series 2019B, Beaufort County, South Carolina, dated _____, 2019.

“**Dissemination Agent**” shall mean the County or any successor Dissemination Agent designated in writing by the County and which has filed with the County a written acceptance of such designation.

“**Financial Obligation**” is defined by the Rule as and for purposes of this Disclosure Certificate shall mean (1) a debt obligation, (2) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (3) a guarantee of either of the foregoing; provided, however, that a “Financial Obligation” shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

“**Listed Events**” shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

“**National Repository**” shall mean for purposes of the Rule, the Electronic Municipal Market Access (EMMA) system created by the Municipal Securities Rulemaking Board.

“**Participating Underwriter**” shall mean _____ and any other original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“**Repository**” shall mean each National Repository and each State Depository, if any.

“**Rule**” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“**State Depository**” shall mean any public or private repository or entity designated by the State of South Carolina as a state depository for the purpose of the Rule. As of the date of this Certificate, there is no State Depository.

SECTION 3. Provision of Annual Reports.

(a) The County shall, or shall cause the Dissemination Agent to provide, not later than February 1 of each year, commencing in 2020, to the Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than fifteen (15) business days prior to such date the County shall provide the Annual Report to the Dissemination Agent, if other than the County; provided, that if the audited financial statements required pursuant to Section 4 hereof to be included in the Annual Report are not available for inclusion in the Annual Report as of such date, unaudited financial statements of the County may be included in such Annual Report in lieu thereof, and the County shall replace such unaudited financial statements with audited financial statements within fifteen (15) days after such audited financial statements become available for distribution. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the County may be submitted separately from the balance of the Annual Report.

(b) If the County is unable to provide to the Repository an Annual Report by the date required in subsection (a), the County shall send a notice to the Municipal Securities Rulemaking Board and State Depository, if any, in substantially the form attached hereto as Exhibit A.

(c) The Dissemination Agent shall:

(1) determine each year prior to the date for providing the Annual Report the name and address of the Repository; and

(2) if the Dissemination Agent is other than the County, file a report with the County and (if the Dissemination Agent is not the Registrar) the Registrar certifying whether the Annual Report has been provided pursuant to this Disclosure Certificate, and, if provided, stating the date it was provided, and listing the Repository to which it was provided.

SECTION 4. Content of Annual Reports. The County's Annual Report shall contain or incorporate by reference the most recent audited financial statements, which shall be prepared in conformity with generally accepted accounting principles (or, if not in such conformity, to be accompanied by a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information) applicable to governmental entities such as the County, and shall, in addition, contain or incorporate by reference the following information for the most recently completed fiscal year:

- (a) County population;
- (b) Total state appropriations subject to withholding under Article X, Sec. 15, South Carolina Constitution;
- (c) Outstanding Indebtedness of the County;
- (d) Market Value/Assessment Summary of taxable property in County;
- (e) Tax rates for County;
- (f) Tax collections for County; and
- (g) Five largest taxpayers (including fee-in-lieu-of-tax) for County.

Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues with respect to which the County is an "obligated person" (as defined by the Rule), which have been filed with the Repository or the Securities and Exchange Commission.

If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The County shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the County shall give, or cause to be given, notice of the occurrence of any of the following events (the “Listed Events”):

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders;
- (8) Bond calls;
- (9) Tender offers;
- (10) Defeasances;
- (11) Release, substitution, or sale of property securing repayment of the securities;
- (12) Rating changes;
- (13) Bankruptcy, insolvency, receivership or similar event of the County;
- (14) The consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (15) Appointment of a successor or additional trustee or the change of name of a trustee;
- (16) Incurrence of a Financial Obligation of the County; or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the County, any of which affect security holders; and
- (17) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the County, any of which reflect financial difficulties.

(b) Whenever the County obtains knowledge of the occurrence of a Listed Event described in subsections (a)(2), (7), (8), (11), (14), (15) or (16) above, the County shall as soon as possible determine if such event would be material under applicable federal securities laws. If the County determines that knowledge of the occurrence of such event would be material under applicable federal securities laws, the County shall promptly, and no later than ten business days after the occurrence of the event, file a notice of such occurrence with the Repository.

(c) Whenever the County obtains knowledge of the occurrence of a Listed Event described in subsections (a)(1), (3), (4), (5), (6), (9), (10), (12), (13) or (17) above, the County shall promptly, and no later than ten business days after the occurrence of the event, file a notice of such occurrence with the Repository.

(d) Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8), (9), and (10) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds. For the purposes of the event identified in (a)(13) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the County in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the County, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the County.

SECTION 6. Termination of Reporting Obligation. The County's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of the Bonds.

SECTION 7. Dissemination Agent. The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be the County.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the County may amend this Disclosure Certificate and any provision of this Disclosure Certificate may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the County, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

SECTION 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Certificate, the County shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the County or the Dissemination Agent to comply with any provision of this Disclosure Certificate, any beneficial owner may take such actions as may be necessary and appropriate, including seeking injunctive relief or specific performance by court order, to cause the County, or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Ordinance, and the sole remedy under this Disclosure Certificate in the event of any failure of the County or the Dissemination Agent to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the County agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or

performance of their powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the County under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the County, the Dissemination Agent, the Participating Underwriters, and Holders from time to time of the Bonds and shall create no rights in any other person or entity.

SECTION 13. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

BEAUFORT COUNTY, SOUTH CAROLINA

By: _____
Interim County Administrator

Dated: _____, 2019

NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Beaufort County, South Carolina
Name of Issue: \$_____ General Obligation Bonds, Series 2019B,
Beaufort County, South Carolina
Date of Issuance: _____, 2019

NOTICE IS HEREBY GIVEN that Beaufort County, South Carolina (the “County”) has not provided an Annual Report with respect to the above-named Bonds as required by Sections 3 and 4 of the Continuing Disclosure Certificate executed and delivered by the County as Dissemination Agent. The County has notified us in writing that the Annual Report will be filed by _____.

Dated: _____

BEAUFORT COUNTY, SOUTH CAROLINA

ORDINANCE NO. _____

AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2019C, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, OF BEAUFORT COUNTY, SOUTH CAROLINA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$25,000,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR OR HER LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.

BE IT ORDAINED BY THE COUNTY COUNCIL OF BEAUFORT COUNTY, SOUTH CAROLINA, AS FOLLOWS:

SECTION 1. Findings and Determinations. The County Council (the “County Council”) of Beaufort County, South Carolina (the “County”), hereby finds and determines:

(a) Pursuant to Section 4-9-10, Code of Laws of South Carolina 1976, as amended (the “Code”), and the results of a referendum held in accordance therewith, the Council-Administrator form of government was adopted and the County Council constitutes the governing body of the County.

(b) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (the “Constitution”), provides that each county shall have the power to incur bonded indebtedness in such manner and upon such terms and conditions as the General Assembly shall prescribe by general law. Such debt must be incurred for a public purpose and a corporate purpose in an amount not to exceed eight percent (8%) of the assessed value of all taxable property of such county.

(c) Pursuant to Title 4, Chapter 15 of the Code (the same being and hereinafter referred to as the “County Bond Act”), the governing bodies of the several counties of the State of South Carolina (the “State”) may each issue general obligation bonds to defray the cost of any authorized purpose and for any amount not to exceed its applicable constitutional limit.

(d) The County Bond Act provides that as a condition precedent to the issuance of bonds an election be held and the result be favorable thereto. Title 11, Chapter 27 of the Code (“Title 11, Chapter 27”), provides that if an election be prescribed by the provisions of the County Bond Act, but not be required by the provisions of Article X of the Constitution, then in every such instance, no election need be held (notwithstanding the requirement therefor) and the remaining provisions of the County Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.

(e) Pursuant to Ordinance No. 2012/10 adopted on August 13, 2012, the County Council adopted Written Procedures related to Tax-Exempt Debt.

(f) In a referendum (the “Referendum”) held in the County on November 6, 2018, the following question was submitted to the qualified electors of the County:

Shall Beaufort County, South Carolina, issue general obligation bonds, not to exceed \$25 million, for the purpose of land preservation, by purchasing open land in Beaufort County in order to protect water quality, protect local waterways such as the Port Royal Sound, and local creeks and rivers such as the Okatie, Broad and May Rivers, wildlife areas, wetlands, natural lands, farmland, coastal areas, shellfish beds, and nursery areas for recreational and commercial fisheries, and beaches, and provide buffers for the Marine Corps Air Station Beaufort. All expenditures shall be subject to an annual independent audit and an amount not to exceed twenty percent (20%) of the funds created by this referendum may be used to improve existing and newly acquired open space and natural areas protected under this program?

The Referendum was duly conducted and a majority of the qualified electors of the County voted in favor of the issuance of the general obligation bonds.

(g) It is now in the best interest of the County for County Council to provide for the issuance and sale of not to exceed \$25,000,000 principal amount general obligation bonds of the County to provide funds for the following purposes: (i) funding projects approved in the Referendum (the "Projects"); (ii) paying costs of issuance of the Bonds (hereinafter defined); and (iii) such other lawful purposes as the County Council shall determine.

SECTION 2. Authorization and Details of Bonds. Pursuant to the aforesaid provisions of the Constitution and laws of the State, there is hereby authorized to be issued not to exceed \$25,000,000 aggregate principal amount of general obligation bonds of the County to be designated "\$25,000,000 (or such lesser amount issued) General Obligation Bonds, (appropriate series designation), of Beaufort County, South Carolina" (the "Bonds"), for the purposes set forth in Section 1(g) and other costs incidental thereto, including without limiting the generality of such other costs, engineering, financial and legal fees.

The Bonds shall be issued as fully registered bonds registrable as to principal and interest; shall be dated their date of delivery to the initial purchaser(s) thereof; shall be in denominations of \$5,000 or any integral multiple thereof not to exceed the principal amount of Bonds maturing each year; shall be subject to redemption if such provision is in the best interest of the County; shall be numbered from R-1 upward; shall bear interest from their date payable at such times as hereinafter designated by the County Administrator and/or her lawfully-authorized designee at such rate or rates as may be determined at the time of the sale thereof; and shall mature serially in successive annual installments as determined by the County Administrator and/or her lawfully-authorized designee.

Both the principal of and interest on the Bonds shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts. Regions Bank, Atlanta, Georgia, shall serve as Registrar/Paying Agent for the Bonds.

SECTION 3. Delegation of Authority to Determine Certain Matters Relating to the Bonds. The County Council hereby delegates to the County Administrator or her lawfully-authorized designee the authority to: (a) determine the par amount of the Bonds; (b) determine the maturity dates of the Bonds and the respective principal amounts maturing on such dates; (c) determine the interest payment dates of the Bonds; (d) determine the redemption provisions, if any, for the Bonds; (e) determine the date and time of sale of the Bonds; (f) receive bids on behalf of the County Council; and (g) award the sale of the Bonds to the lowest bidder therefor in accordance with the terms of the Notice of Sale for the Bonds.

After the sale of the Bonds, the County Administrator and/or her lawfully-authorized designee shall submit a written report to County Council setting forth the details of the Bonds as set forth in this paragraph.

SECTION 4. Registration, Transfer and Exchange of Bonds. The County shall cause books (herein referred to as the “registry books”) to be kept at the offices of the Registrar/Paying Agent, for the registration and transfer of the Bonds. Upon presentation at its office for such purpose the Registrar/Paying Agent shall register or transfer, or cause to be registered or transferred, on such registry books, the Bonds under such reasonable regulations as the Registrar/Paying Agent may prescribe.

Each Bond shall be transferable only upon the registry books of the County, which shall be kept for such purpose at the principal office of the Registrar/Paying Agent, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar/Paying Agent duly executed by the registered owner or her duly authorized attorney. Upon the transfer of any such Bond the Registrar/Paying Agent on behalf of the County shall issue in the name of the transferee a new fully registered Bond or Bonds, of the same aggregate principal amount, interest rate, and maturity as the surrendered Bond. Any Bond surrendered in exchange for a new registered Bond pursuant to this Section shall be canceled by the Registrar/Paying Agent.

The County and the Registrar/Paying Agent may deem or treat the person in whose name any fully registered Bond shall be registered upon the registry books as the absolute owner of such Series Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such Bond and for all other purposes and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the County nor the Registrar/Paying Agent shall be affected by any notice to the contrary. In all cases in which the privilege of transferring Bonds is exercised, the County shall execute and the Registrar/Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. Neither the County nor the Registrar/Paying Agent shall be obliged to make any such transfer of Bonds during the fifteen (15) days preceding an interest payment date on such Bonds.

SECTION 5. Record Date. The County hereby establishes a record date for the payment of interest or for the giving of notice of any proposed redemption of Bonds, and such record date shall be the fifteenth (15th) day (whether or not a business day) preceding an interest payment date on such Bond or in the case of any proposed redemption of Bonds, such record date shall be the fifteenth (15th) day (whether or not a business day) prior to the giving of notice of redemption of bonds.

SECTION 6. Mutilation, Loss, Theft or Destruction of Bonds. In case any Bond shall at any time become mutilated in whole or in part, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the owner, the County shall execute and the Registrar shall authenticate and deliver at the principal office of the Registrar, or send by registered mail to the owner thereof at his request, risk and expense a new Bond of the same series, interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute Bond shall furnish the County and the Registrar evidence or proof satisfactory to the County and the Registrar of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity in an amount as may be required by the laws of the State of South Carolina or such greater amount as may be required by the County and the Registrar. Any duplicate Bond issued under the provisions of this Section in

exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance as was the original Bond in lieu of which such duplicate Bond is issued, and shall be entitled to equal and proportionate benefits with all the other Bonds of the same series issued hereunder.

All expenses necessary for the providing of any duplicate Bond shall be borne by the applicant therefor.

SECTION 7. Execution of Bonds. The Bonds shall be executed in the name of the County with the manual or facsimile signature of the Chairman of the County Council attested by the manual or facsimile signature of the Clerk to the County Council under a facsimile of the seal of the County impressed, imprinted or reproduced thereon; provided, however, the facsimile signatures appearing on the Bonds may be those of the officers who are in office on the date of enactment of this Ordinance. The execution of the Bonds in such fashion shall be valid and effectual, notwithstanding any subsequent change in such offices. The Bonds shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. Each Bond shall bear a certificate of authentication manually executed by the Registrar in substantially the form set forth herein.

SECTION 8. Form of Bonds. The Bonds including the certificate of authentication shall be in substantially the form set forth in Exhibit A attached hereto and incorporated herein by reference.

SECTION 9. Security for Bonds. The full faith, credit, and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. There shall be levied annually by the County Auditor and collected by the County Treasurer, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

The County Council shall give the County Auditor and County Treasurer written notice of the delivery of and payment for the Bonds and they are hereby directed to levy and collect annually, on all taxable property in the County, a tax, without limit, sufficient to pay the principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

SECTION 10. Notice of Public Hearing. The County Council hereby ratifies and approves the publication of a notice of public hearing regarding the Bonds and this Ordinance, such notice in substantially the form attached hereto as Exhibit B, having been published in The Island Packet and The Beaufort Gazette, newspapers of general circulation in the County, not less than 15 days prior to the date of such public hearing.

SECTION 11. Initiative and Referendum. The County Council hereby delegates to the County Administrator and/or her lawfully-authorized designee the authority to determine whether the Notice prescribed under the provisions of Section 5 of Title 11, Chapter 27 of the Code relating to the initiative and referendum provisions contained in Title 4, Chapter 9, Article 13 of the Code shall be given with respect to this Ordinance. If said Notice is given, the County Administrator and/or her lawfully-authorized designee are authorized to cause such Notice to be published in a newspaper of general circulation in the County, in substantially the form attached hereto as Exhibit C.

SECTION 12. Exemption from State Taxes. Both the principal of and interest on the Bonds shall be exempt, in accordance with the provisions of Section 12-2-50 of the Code from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

SECTION 13. Federal Tax Covenants. The County hereby covenants and agrees with the holders of the Bonds that it will not take any action which will, or fail to take any action which failure will, cause interest on the Bonds to become includable in the gross income of the holders of the Bonds for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the "IRC") and regulations promulgated thereunder in effect on the date of original issuance of the Bonds. The County further covenants and agrees with the holders of the Bonds that no use of the proceeds of the Bonds shall be made which, if such use had been reasonably expected on the date of issue of the Bonds would have caused the Bonds to be "arbitrage bonds," as defined in Section 148 of the IRC, and to that end the County hereby shall:

- (a) comply with the applicable provisions of Sections 103 and 141 through 150 of the IRC and any regulations promulgated thereunder so long as the Bonds are outstanding;
- (b) establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and
- (c) make such reports of such information at the time and places required by the IRC.

SECTION 14. Declaration of Intent to Reimburse Certain Expenditures. This Resolution shall constitute the County's declaration of official intent pursuant to Regulation §1.150-2 of the Code to reimburse the County from a portion of the proceeds of the Bonds for expenditures it anticipates incurring (the "Expenditures") with respect to the Projects prior to the issuance of the Bonds. The Expenditures which are reimbursed are limited to Expenditures which are: (1) properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Regulation §1.150-2 of the IRC) under general federal income tax principals; or (2) certain de minimis or preliminary Expenditures satisfying the requirements of Regulation §1.150-2(f) of the IRC. The source of funds for the Expenditures with respect to the Projects will be the County's reserve funds. To be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (a) the date on which the Expenditures were paid; or (b) the date such Projects were placed in service, but in no event more than three (3) years after the original Expenditures.

SECTION 15. Eligible Securities. The Bonds initially issued (the "Initial Bonds") will be eligible securities for the purposes of the book-entry system of transfer maintained by The Depository Trust Company, New York, New York ("DTC"), and transfers of beneficial ownership of the Initial

Bonds shall be made only through DTC and its participants in accordance with rules specified by DTC. Such beneficial ownership must be of \$5,000 principal amount of Bonds of the same maturity or any integral multiple of \$5,000.

The Initial Bonds shall be issued in fully-registered form, one Bond for each of the maturities of the Bonds, in the name of Cede & Co., as the nominee of DTC. When any principal of or interest on the Initial Bonds becomes due, the Paying Agent, on behalf of the County, shall transmit to DTC an amount equal to such installment of principal and interest. DTC shall remit such payments to the beneficial owners of the Bonds or their nominees in accordance with its rules and regulations.

Notices of redemption of the Initial Bonds or any portion thereof shall be sent to DTC in accordance with the provisions of the Ordinance.

If (a) DTC determines not to continue to act as securities depository for the Bonds, or (b) the County has advised DTC of its determination that DTC is incapable of discharging its duties, the County shall attempt to retain another qualified securities depository to replace DTC. Upon receipt by the County the Initial Bonds together with an assignment duly executed by DTC, the County shall execute and deliver to the successor securities depository Bonds of the same principal amount, interest rate, and maturity registered in the name of such successor.

If the County is unable to retain a qualified successor to DTC or the County has determined that it is in its best interest not to continue the book-entry system of transfer or that interests of the beneficial owners of the Bonds might be adversely affected if the book-entry system of transfer is continued (the County undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify beneficial owners of the Bonds by mailing an appropriate notice to DTC, upon receipt by the County the Initial Bonds together with an assignment duly executed by DTC, the County shall execute, authenticate and deliver to the DTC participants Bonds in fully-registered form, in substantially the form set forth on Exhibit A attached to this Ordinance in the denomination of \$5,000 or any integral multiple thereof.

SECTION 16. Sale of Bonds, Form of Notice of Sale. The Bonds shall be offered for public sale on the date and at the time designated by the County Administrator and/or her lawfully-authorized designee. A Notice of Sale in substantially the form set forth as Exhibit D attached hereto and incorporated herein by reference shall be distributed to prospective bidders and a summary of such Notice of Sale shall be published in a newspaper of general circulation in the State and/or in a financial publication published in the City of New York not less than seven (7) days prior to the date set for such sale.

SECTION 17. Preliminary and Final Official Statement. The County Council hereby authorizes and directs the County Administrator and/or her lawfully-authorized designee to prepare, or cause to be prepared, a Preliminary Official Statement to be distributed to prospective purchasers of the Bonds together with the Notice of Sale. The County Council authorizes the County Administrator to designate the Preliminary Official Statement as “final” for purposes of Rule 15c2-12 of the Securities Exchange Commission. The County Administrator and/or her lawfully-authorized designee are further authorized to see to the completion of the final form of the Official Statement upon the sale of the Bonds so that it may be provided to the purchaser of the Bonds.

SECTION 18. Filings with Central Repository. In compliance with Section 11-1-85 of the Code, the County covenants that it will file or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of the annual financial report of the County within

thirty (30) days from the County's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which adversely affects more than five (5%) percent of the revenues of the County or the County's tax base.

SECTION 19. Continuing Disclosure. In compliance with Rule 15c2-12 promulgated by the Securities and Exchange Commission, the County covenants and agrees for the benefit of the holders from time to time of the Bonds to execute and deliver prior to closing, and to thereafter comply with the terms of a Continuing Disclosure Certificate in substantially the form appearing as Exhibit E attached to this Ordinance. In the event of a failure of the County to comply with any of the provisions of the Continuing Disclosure Certificate, an event of default under this Ordinance shall not be deemed to have occurred. In such event, the sole remedy of any bondholder or beneficial owner shall be an action to compel performance by this Ordinance.

SECTION 20. Deposit and Use of Proceeds. The proceeds derived from the sale of the Bonds shall be deposited with the County Treasurer in a special fund to the credit of the County and shall be applied solely to the purposes for which the Bonds have been issued, including payment of costs of issuance of the Bonds.

SECTION 21. Defeasance. The obligations of the County under this Ordinance and the pledges, covenants and agreements of the County herein made or provided for, shall be fully discharged and satisfied as to any portion of the Bonds, and such Bond or Bonds shall no longer be deemed to be outstanding hereunder when:

(a) such Bond or Bonds shall have been purchased by the County and surrendered to the County for cancellation or otherwise surrendered to the County or the Paying Agent and is canceled or subject to cancellation by the County or the Paying Agent; or

(b) payment of the principal of and interest on such Bonds either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with a corporate trustee in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment, or (2) Government Obligations (hereinafter defined) maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment and all necessary and proper fees, compensation and expenses of the corporate trustee. At such time as the Bonds shall no longer be deemed to be outstanding hereunder, such Bonds shall cease to draw interest from the due date thereof and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this Ordinance.

“Government Obligations” shall mean any of the following:

- (i) direct obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which, in the opinion of the Attorney General of the United States, is fully and unconditionally guaranteed by the United States of America; and
- (ii) non-callable, U. S. Treasury Securities - State and Local Government Series (“SLGS”).

SECTION 22. Miscellaneous. The County Council hereby authorizes the Administrator and the Clerk to County Council to execute such documents and instruments as may be necessary to effect the issuance of the Bonds. The County Council hereby retains Burr & Forman LLP (Burr Forman McNair), as Bond Counsel and Hilltop Securities as Financial Advisor, in connection with the issuance of the Bonds. The Administrator is authorized to execute such contracts, documents or engagement letters as may be necessary and appropriate to effectuate these engagements.

All rules, regulations, resolutions, and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Bonds are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its enactment.

Enacted this ____ day of _____, 2019.

BEAUFORT COUNTY, SOUTH CAROLINA

Chair, County Council

(SEAL)

ATTEST:

Clerk, County Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

FORM OF BOND

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
GENERAL OBLIGATION BOND, SERIES 2019C

No. R-

INTEREST	MATURITY	ORIGINAL	
<u>RATE</u>	<u>DATE</u>	<u>ISSUE DATE</u>	<u>CUSIP</u>

REGISTERED HOLDER:

PRINCIPAL AMOUNT: DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that Beaufort County, South Carolina (the "County"), is justly indebted and, for value received, hereby promises to pay to the registered holder specified above, or registered assigns, the principal amount specified above on the maturity date specified above, upon presentation and surrender of this Bond at the principal office of _____ in _____ (the "Paying Agent"), and to pay interest on such principal amount from the date hereof at the rate per annum specified above until this Bond matures. Interest on this Bond is payable _____ 1, 20__, and semiannually on _____ 1 and _____ 1 of each year thereafter, until this Bond matures, and shall be payable by check or draft mailed to the person in whose name this Bond is registered on the registration books of the County maintained by the registrar, presently _____ in _____ (the "Registrar"), at the close of business on the fifteenth (15th) day of the calendar month preceding each semiannual interest payment date. The principal of and interest on this Bond are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts; provided, however, that interest on this fully registered Bond shall be paid by check or draft as set forth above.

This Bond shall not be entitled to any benefit under the Ordinance (hereafter defined), nor become valid or obligatory for any purpose, until the certificate of authentication hereon shall have been duly executed by the Registrar.

For the payment hereof, both principal and interest, as they respectively mature and for the creation of such sinking fund as may be necessary therefor, the full faith, credit and taxing power of the County are irrevocably pledged and there shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as they respectively mature and to create such sinking fund as may be necessary therefor.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinance. One bond certificate with respect to each date on which the Bonds are stated to mature, registered in the name of the securities depository nominee, is being issued and required to be deposited with the securities depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the securities depository's participants, beneficial ownership of the Bonds in the principal amount of \$5,000 or any integral multiple thereof being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the securities depository and its participants pursuant to rules and procedures established by the securities depository and its participants. The County and the Registrar/Paying Agent will recognize the securities depository nominee, while the registered owner of this bond, as the owner of this bond for all purposes, including payments of principal of and redemption premium, if any, and interest on this bond, notices and voting. Transfer of principal and interest payments to participants of the securities depository will be the responsibility of the securities depository, and transfer of principal, redemption premium, if any, and interest payments to beneficial owners of the Bonds by participants of the securities depository will be the responsibility of such participants and other nominees of such beneficial owners. The County will not be responsible or liable for such transfers of payments or for maintaining, supervision or reviewing the records maintained by the securities depository, the securities depository nominee, its participants or persons acting through such participants. While the securities depository nominee is the owner of this bond, notwithstanding, the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this bond shall be made in accordance with existing arrangements between the Registrar/Paying Agent or its successors under the Ordinance and the securities depository.

This Bond is one of a series of Bonds of like date of original issue, tenor and effect, except as to number, denomination, date of maturity, redemption provisions, and rate of interest, aggregating _____ Dollars (\$ _____), issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including Article X of the Constitution of the State of South Carolina, 1895, as amended; Title 4, Chapter 15, Code of Laws of South Carolina 1976, as amended; Title 11, Chapter 27, Code of Laws of South Carolina 1976, as amended; and Ordinance No. _____ duly enacted by the County Council on _____, 2019.

[Redemption Provisions]

This Bond is transferable as provided in the Ordinance, only upon the books of the County kept for that purpose at the principal office of the Registrar by the registered holder in person or by his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered holder or her duly authorized attorney. Thereupon a new fully registered Bond or Bonds of the same aggregate principal amount, interest rate redemption provisions, if any, and maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance. The County, the Registrar and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

Under the laws of the State of South Carolina (the "State"), this Bond and the interest hereon are exempt from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State to exist, to happen and to be performed precedent to or in the issuance of this Bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the amount of this Bond, together with all other indebtedness of the County, does not exceed the applicable limitation of indebtedness under the laws of the State; and that provision has been made for the levy and collection of a tax, without limit, on all taxable property in the County sufficient to pay the principal of and interest on this Bond as the same shall respectively mature and to create such sinking fund as may be necessary therefor.

IN WITNESS WHEREOF, BEAUFORT COUNTY, SOUTH CAROLINA, has caused this Bond to be signed with the manual or facsimile signature of the Chairman of the County Council, attested by the manual or facsimile signature of the Clerk to the County Council and the seal of the County impressed, imprinted, or reproduced hereon.

BEAUFORT COUNTY, SOUTH CAROLINA

Chair of County Council

(SEAL)

ATTEST:

Clerk of County Council

[FORM OF REGISTRAR'S CERTIFICATE OF AUTHENTICATION]

Date of Authentication:

This bond is one of the Bonds described in the within mentioned Ordinance of Beaufort County, South Carolina.

_____ as Registrar

By: _____ Authorized Officer

The following abbreviations, when used in the inscription on the face of this Bond shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - As tenants in common

UNIF GIFT MIN. ACT

TEN ENT - As tenants by the entireties

_____ Custodian _____
(Cust.) (Minor)

JT TEN - As joint tenants with right of survivorship and not as tenants in common

under Uniform Gifts to Minors

(State)

Additional abbreviations may also be used though not in list above.

[FORM OF ASSIGNMENT]

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

_____ (Name and address of Transferee)
the within Bond and does hereby irrevocably constitute and appoint _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

Signature Guaranteed:

(Authorizing Officer)

Signature(s) must be guaranteed by an institution which is a participant in the Securities Transfer Agents Medallion Program ("STAMP") or similar program.

NOTICE: The signature to this agreement this agreement must correspond with the name of the registered holder as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

A copy of the final approving opinion to be rendered shall be attached to each Bond and preceding the same a certificate shall appear, which shall be signed on behalf of the County with a manual or facsimile signature of the Clerk to the County Council. The certificate shall be in substantially the following form:

[FORM OF CERTIFICATE]

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the complete final approving opinion (except for date and letterhead) of Burr & Forman LLP, Columbia, South Carolina, approving the issue of Bonds of which the within Bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for the Bonds and a copy of which is on file with the County Council of Beaufort County, South Carolina.

BEAUFORT COUNTY, SOUTH CAROLINA

By: _____
Clerk of County Council

FORM OF NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the County Council of Beaufort County, South Carolina (the "County"), County Administration Building, 100 Ribaut Road, Beaufort, South Carolina, at 6:30 p.m. on _____, 2019.

The purpose of the public hearing is to consider an Ordinance providing for the issuance and sale of General Obligation Bonds of Beaufort County, South Carolina, in the principal amount of not to exceed \$25,000,000 (the "Bonds"). The proceeds of the Bonds will be used for the following purposes: (i) funding projects approved in a referendum held in the County on November 6, 2018; (ii) paying costs of issuance of the Bonds; and (iii) such other lawful purposes as the County Council shall determine.

The full faith, credit, and taxing power of the County will be pledged for the payment of the principal of and interest on the Bonds and a tax, without limit, will be levied on and collected annually, in the same manner other County taxes are levied and collected, on all taxable property of the County sufficient to pay to principal of and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

At the public hearing all taxpayers and residents of the County and any other interested persons who appear will be given an opportunity to express their views for or against the Ordinance and the issuance of the Bonds.

COUNTY COUNCIL OF BEAUFORT COUNTY,
SOUTH CAROLINA

FORM OF NOTICE

NOTICE OF ADOPTION OF ORDINANCE

Notice is hereby given that on _____, 2019, the Beaufort County Council adopted an ordinance entitled: "ORDINANCE NO. _____ AUTHORIZING THE ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2019C, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, OF BEAUFORT COUNTY, SOUTH CAROLINA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$25,000,000; FIXING THE FORM AND DETAILS OF THE BONDS; AUTHORIZING THE COUNTY ADMINISTRATOR OR HER LAWFULLY-AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO." (the "Ordinance"). The Ordinance authorizes the issuance and sale of not to exceed \$25,000,000 General Obligation Bonds, Series 2019C (the "Bonds") of the County.

The proceeds of the Bonds will be used for the following purposes: (i) funding projects approved in a referendum held in the County on November 6, 2018; (ii) paying costs of issuance of the Bonds (hereinafter defined); and (iii) such other lawful purposes as the County Council shall determine.

Pursuant to Section 11-27-40(8) of the South Carolina Code of Laws, 1976, as amended, unless a notice, signed by not less than five (5) qualified electors of the County, of the intention to seek a referendum is filed both in the office of the Clerk of Court of the County and with the Clerk of the County Council, the initiative and referendum provisions of South Carolina law, Sections 4-9-1210 to 4-9-1230, South Carolina Code of Laws 1976, as amended, shall not be applicable to the Ordinance. The notice of intention to seek a referendum must be filed within twenty (20) days following the publication of this notice of the adoption of the aforesaid Ordinance in a newspaper of general circulation in Beaufort County.

COUNTY COUNCIL OF BEAUFORT COUNTY,
SOUTH CAROLINA

FORM OF NOTICE OF SALE

OFFICIAL NOTICE OF SALE

\$ _____ GENERAL OBLIGATION BONDS, SERIES 2019C,
OF BEAUFORT COUNTY, SOUTH CAROLINA

Time of Sale: NOTICE IS HEREBY GIVEN that bids will be received on behalf of Beaufort County, South Carolina (the “County”), until 11:00 a.m, South Carolina time, on _____, _____, 2019, at which time said proposals will be publicly opened for the purchase of \$ _____ General Obligation Bonds, Series 2019C, of the County (the “Bonds”).

Electronic Bids: Electronic proposals must be submitted through i-Deal’s Parity Electronic Bid Submission System (“Parity”). No electronic bids from any other providers of electronic bidding services will be accepted. Information about the electronic bidding services of Parity may be obtained from i-Deal, 1359 Broadway, 2nd Floor, New York, New York 10018, Customer Support, telephone (212) 849-5021.

Book-Entry-Only Bonds: The Bonds will be issued in fully-registered form. One Bond representing each maturity will be issued to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York (“DTC”), as registered owner of the Bonds and each such Bond will be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry form only, in the principal amount of \$5,000 or any integral multiple thereof not to exceed the principal amount of Bonds maturing each year; Purchasers will not receive physical delivery of certificates representing their interest in the Bonds purchased. The winning bidder, as a condition to delivery of the Bonds, will be required to deposit the Bond certificates representing each maturity with DTC.

The Bonds will be issued in fully-registered form registered as to principal and interest; will be dated _____, 2019; will be in denominations of \$5,000 or any integral multiple thereof not to exceed the principal amount of Bonds maturing in each year; and will mature serially in successive annual installments on _____ in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Principal Amount*</u>	<u>Year</u>	<u>Principal Amount*</u>
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*Preliminary, subject to adjustment.

Adjustment of Maturity Schedule. The County reserves the right, in its sole discretion, either to decrease or increase the principal amount of the Bonds maturing in any year (all calculations to be rounded to the near \$5,000), provided that any such decrease or increase shall not exceed 10% of the Bonds. Such adjustment(s), if any, shall be made within twenty-four (24) hours of the award of the Bonds. In order to calculate the yield on the Bonds for federal tax law purposes and as a condition precedent to the award of the Bonds, bidders must disclose to the County in connection with their respective bids the price (or yield to maturity) at which each maturity of the Bonds will be reoffered to the public.

In the event of any adjustment of the maturity schedule for the Bonds as described herein, no rebidding or recalculation of the proposals submitted will be required or permitted. Nevertheless, the award of the Bonds will be made to the bidder whose proposal produces the lowest true interest cost solely on the basis of the Bonds offered, without taking into account any adjustment in the amount of the Bonds pursuant to this paragraph.

[Redemption Provisions]

Registrar/Paying Agent: Regions Bank will serve as Registrar/Paying Agent for the Bonds.

Bid Requirements: Bidders shall specify the rate or rates of interest per annum which the Bonds are to bear, to be expressed in multiples of 1/20 or 1/8 of 1% and the interest rate specified for any maturity shall not be lower than the interest rate specified for any previous maturity. Bidders are not limited as to the number of rates of interest named, but the rate of interest on each separate maturity must be the same single rate for all Bonds of that maturity from their date to such maturity date. A bid for less than all the Bonds, a bid at a price less than par or a bid which includes a premium in excess of 10% of the par amount of the Bonds will not be considered. In addition to the bid price, the successful bidder must pay accrued interest from the date of the Bonds to the date of full payment of the purchase price.

Award of Bid. The Bonds will be awarded to the bidder or bidders offering to purchase the Bonds at the lowest true interest cost (TIC) to the County. The TIC will be the nominal interest rate which, when compounded semiannually and used to discount all debt service payments on the Bonds (computed at the interest rates specified in the bid and on the basis of a 360-day year of twelve 30-day months) to the dated date of the Bonds, results in an amount equal to the price bid for the Bonds. In the case of a tie bid, the winning bid will be awarded by lot. The County reserves the right to reject any and all bids or to waive irregularities in any bid. Bids will be accepted or rejected no later than 3:00 p.m., South Carolina time, on the date of the sale.

Security: The full faith, credit, and taxing power of the County are hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as they respectively mature, and for the creation of such sinking fund as may be necessary therefor. There shall be levied annually by the Auditor of the County and collected by the Treasurer of the County, in the same manner as other county taxes are levied and collected, an ad valorem tax, without limit, on all taxable property in the County sufficient to pay the principal and interest of the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor.

Good Faith Deposit: No good faith deposit is required.

Official Statement: Upon the award of the Bonds, the County will prepare an official statement (the "Official Statement") in substantially the same form as the preliminary official statement subject to minor additions, deletions and revisions as required to complete the Official Statement. Within seven (7) business days after the award of the Bonds, the County will deliver the Official Statement to the successful bidder in sufficient quantity to comply with Rule G-32 of the Municipal Securities Rulemaking Board. The successful bidder agrees to supply to the County all necessary pricing information and any Underwriter identification necessary to complete the Official Statement within 24 hours after the award of the Bonds.

Continuing Disclosure: In order to assist the bidders in complying with Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission, the County will undertake, pursuant to an ordinance and a Continuing Disclosure Certificate to provide certain annual financial information and notices of the occurrence of certain events, if material. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement.

Legal Opinion: The County Council shall furnish upon delivery of the Bonds the final approving opinion of Burr & Forman LLP, Columbia, South Carolina, which opinion shall accompany each Bond, together with the usual closing documents, including a certificate of the County that no litigation is pending affecting the Bonds.

Issue Price Certificate: [TO BE PROVIDED]

Delivery: The Bonds will be delivered on or about _____, 2019, in New York, New York, at the expense of the County. The balance of the purchase price then due, including the amount of accrued interest, must be paid in federal funds or other immediately available funds.

CUSIP Numbers: It is anticipated that CUSIP identification numbers will be set forth on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of its proposal. The CUSIP Service Bureau charge for the assignment of such numbers shall be the responsibility of and shall be paid for by the successful bidder.

Additional Information: The Preliminary Official Statement of the County with respect to the Bonds will be furnished to any person interested in bidding for the Bonds upon request to Burr & Forman LLP, Attention: Francenia B. Heizer, telephone (803) 799-9800, e-mail: fheizer@burr.com. The Preliminary Official Statement shall be reviewed by bidders prior to submitting a bid. Bidders may not rely on this Notice of Sale as to the complete information concerning the Bonds. Persons seeking information should communicate with the County's Financial Advisor, Chad Cowan, Vice President, Hilltop Securities, 5925 Carnegie Boulevard, Suite 380, Charlotte, North Carolina 28209, telephone (704) 654-3451, e-mail: jeff.minch@hilltopsecurities.com.

BEAUFORT COUNTY, SOUTH CAROLINA

FORM OF CONTINUING DISCLOSURE CERTIFICATE

CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by Beaufort County, South Carolina (the “County”) in connection with the issuance of \$_____ General Obligation Bonds, Series 2019C, Beaufort County, South Carolina (the “Bonds”). The Bonds are being issued pursuant to an ordinance adopted by the County Council of the County (the “Ordinance”). The County covenants and agrees as follows:

SECTION 1. Purpose of the Disclosure Certificate. This Disclosure Certificate is being executed and delivered by the County for the benefit of the holders of the Bonds and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below).

SECTION 2. Definitions. The following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the County pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“Dissemination Agent” shall mean the County or any successor Dissemination Agent designated in writing by the County and which has filed with the County a written acceptance of such designation.

“Financial Obligation” is defined by the Rule as and for purposes of this Disclosure Certificate shall mean (1) a debt obligation, (2) a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation, or (3) a guarantee of either of the foregoing; provided, however, that a “Financial Obligation” shall not include municipal securities as to which a final official statement has been provided to the Municipal Securities Rulemaking Board consistent with the Rule.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

“National Repository” shall mean for purposes of the Rule, the Electronic Municipal Market Access (EMMA) system created by the Municipal Securities Rulemaking Board.

“Participating Underwriter” shall mean _____ and any other original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“Repository” shall mean each National Repository and each State Depository, if any.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State Depository” shall mean any public or private repository or entity designated by the State of South Carolina as a state depository for the purpose of the Rule. As of the date of this Certificate, there is no State Depository.

SECTION 3. Provision of Annual Reports.

(a) The County shall, or shall cause the Dissemination Agent to provide, not later than February 1 of each year, commencing in 2020, to the Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than fifteen (15) business days prior to such date the County shall provide the Annual Report to the Dissemination Agent, if other than the County; provided, that if the audited financial statements required pursuant to Section 4 hereof to be included in the Annual Report are not available for inclusion in the Annual Report as of such date, unaudited financial statements of the County may be included in such Annual Report in lieu thereof, and the County shall replace such unaudited financial statements with audited financial statements within fifteen (15) days after such audited financial statements become available for distribution. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the County may be submitted separately from the balance of the Annual Report.

(b) If the County is unable to provide to the Repository an Annual Report by the date required in subsection (a), the County shall send a notice to the Municipal Securities Rulemaking Board and State Depository, if any, in substantially the form attached hereto as Exhibit A.

(c) The Dissemination Agent shall:

(1) determine each year prior to the date for providing the Annual Report the name and address of the Repository; and

(2) if the Dissemination Agent is other than the County, file a report with the County and (if the Dissemination Agent is not the Registrar) the Registrar certifying whether the Annual Report has been provided pursuant to this Disclosure Certificate, and, if provided, stating the date it was provided, and listing the Repository to which it was provided.

SECTION 4. Content of Annual Reports. The County's Annual Report shall contain or incorporate by reference the most recent audited financial statements, which shall be prepared in conformity with generally accepted accounting principles (or, if not in such conformity, to be accompanied by a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information) applicable to governmental entities such as the County, and shall, in addition, contain or incorporate by reference the following information for the most recently completed fiscal year:

- (a) County population;
- (b) Total state appropriations subject to withholding under Article X, Sec. 15, South Carolina Constitution;
- (c) Outstanding Indebtedness of the County;
- (d) Annual and Estimated Market Value Summary of taxable property in County;
- (e) Tax rates for County;
- (f) Tax collections for County; and
- (g) Five largest taxpayers (including fee-in-lieu-of-tax) for County.

Any or all of the items listed above may be incorporated by reference from other documents, including official statements of debt issues with respect to which the County is an "obligated person" (as defined by the Rule), which have been filed with the Repository or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The County shall clearly identify each such other document so incorporated by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the County shall give, or cause to be given, notice of the occurrence of any of the following events (the “Listed Events”):

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders;
- (8) Bond calls;
- (9) Tender offers;
- (10) Defeasances;
- (11) Release, substitution, or sale of property securing repayment of the securities;
- (12) Rating changes;
- (13) Bankruptcy, insolvency, receivership or similar event of the County;
- (14) The consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (15) Appointment of a successor or additional trustee or the change of name of a trustee;
- (16) Incurrence of a Financial Obligation of the County; or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a Financial Obligation of the County, any of which affect security holders; and
- (17) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a Financial Obligation of the County, any of which reflect financial difficulties.

(b) Whenever the County obtains knowledge of the occurrence of a Listed Event described in subsections (a)(2), (7), (8), (11), (14), (15) or (16) above, the County shall as soon as possible determine if such event would be material under applicable federal securities laws. If the County determines that knowledge of the occurrence of such event would be material under applicable federal securities laws, the County shall promptly, and no later than ten business days after the occurrence of the event, file a notice of such occurrence with the Repository.

(c) Whenever the County obtains knowledge of the occurrence of a Listed Event described in subsections (a)(1), (3), (4), (5), (6), (9), (10), (12), (13) or (17) above, the County shall promptly, and no later than ten business days after the occurrence of the event, file a notice of such occurrence with the Repository.

(d) Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8), (9), and (10) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds. For the purposes of the event identified in (a)(13) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or

similar officer for the County in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the County, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the County.

SECTION 6. Termination of Reporting Obligation. The County's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of the Bonds.

SECTION 7. Dissemination Agent. The County may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be the County.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the County may amend this Disclosure Certificate and any provision of this Disclosure Certificate may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the County, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

SECTION 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the County chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Certificate, the County shall have no obligation under this Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the County or the Dissemination Agent to comply with any provision of this Disclosure Certificate, any beneficial owner may take such actions as may be necessary and appropriate, including seeking injunctive relief or specific performance by court order, to cause the County, or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Ordinance, and the sole remedy under this Disclosure Certificate in the event of any failure of the County or the Dissemination Agent to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of Dissemination Agent. The provisions of this Section 11 shall apply if the School Districts is not the Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and the County agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of their powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful

misconduct. The obligations of the County under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the County, the Dissemination Agent, the Participating Underwriters, and holders from time to time of the Bonds and shall create no rights in any other person or entity.

SECTION 13. Counterparts. This Disclosure Certificate may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

BEAUFORT COUNTY, SOUTH CAROLINA

By: _____
County Administrator

Dated: _____, 2019

NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of Issuer: Beaufort County, South Carolina
Name of Issue: \$_____ General Obligation Bonds, Series 2019C,
Beaufort County, South Carolina
Date of Issuance: _____, 2019

NOTICE IS HEREBY GIVEN that Beaufort County, South Carolina (the “County”) has not provided an Annual Report with respect to the above-named Bonds as required by Sections 3 and 4 of the Continuing Disclosure Certificate executed and delivered by the County as Dissemination Agent. The County has notified us in writing that the Annual Report will be filed by _____.

Dated: _____

BEAUFORT COUNTY, SOUTH CAROLINA

BEAUFORT COUNTY, SOUTH CAROLINA
Rural and Critical Lands Program \$25 million voter approved debt (November 2018)
Estimated/Projected Debt Service and Impact on Millage Rate

Fiscal Year Ending				Assumes 2.5% Interest Rate			Assumes 3% Interest Rate		
	Principal	Interest	Total Current Debt Service	Projected Principal	Projected Interest	Total Projected Debt Service	Projected Principal	Projected Interest	Total Projected Debt Service
6/30/2020	\$ 6,087,902	\$ 3,165,909	\$ 9,253,811	\$ 990,000	\$ 630,000	\$ 1,620,000	\$ 930,000	\$ 750,000	\$ 1,680,000
6/30/2021	\$ 7,196,961	\$ 2,913,084	\$ 10,110,045	\$ 1,010,000	\$ 600,000	\$ 1,610,000	\$ 960,000	\$ 720,000	\$ 1,680,000
6/30/2022	\$ 7,478,262	\$ 2,652,351	\$ 10,130,613	\$ 1,030,000	\$ 580,000	\$ 1,610,000	\$ 990,000	\$ 690,000	\$ 1,680,000
6/30/2023	\$ 7,766,809	\$ 2,374,475	\$ 10,141,284	\$ 1,050,000	\$ 550,000	\$ 1,600,000	\$ 1,010,000	\$ 660,000	\$ 1,670,000
6/30/2024	\$ 8,105,909	\$ 2,081,626	\$ 10,187,535	\$ 1,080,000	\$ 520,000	\$ 1,600,000	\$ 1,050,000	\$ 630,000	\$ 1,680,000
6/30/2025	\$ 6,739,647	\$ 1,758,984	\$ 8,498,631	\$ 1,110,000	\$ 500,000	\$ 1,610,000	\$ 1,080,000	\$ 600,000	\$ 1,680,000
6/30/2026	\$ 3,380,698	\$ 1,520,653	\$ 4,901,351	\$ 1,130,000	\$ 470,000	\$ 1,600,000	\$ 1,110,000	\$ 570,000	\$ 1,680,000
6/30/2027	\$ 4,894,759	\$ 1,385,807	\$ 6,280,566	\$ 1,160,000	\$ 440,000	\$ 1,600,000	\$ 1,140,000	\$ 540,000	\$ 1,680,000
6/30/2028	\$ 4,894,510	\$ 1,194,472	\$ 6,088,982	\$ 1,190,000	\$ 410,000	\$ 1,600,000	\$ 1,180,000	\$ 500,000	\$ 1,680,000
6/30/2029	\$ 5,061,962	\$ 1,001,783	\$ 6,063,745	\$ 1,220,000	\$ 380,000	\$ 1,600,000	\$ 1,210,000	\$ 470,000	\$ 1,680,000
6/30/2030	\$ 5,058,824	\$ 802,647	\$ 5,861,471	\$ 1,250,000	\$ 350,000	\$ 1,600,000	\$ 1,250,000	\$ 430,000	\$ 1,680,000
6/30/2031	\$ 5,234,608	\$ 625,269	\$ 5,859,877	\$ 1,280,000	\$ 320,000	\$ 1,600,000	\$ 1,290,000	\$ 390,000	\$ 1,680,000
6/30/2032	\$ 3,269,314	\$ 441,659	\$ 3,710,973	\$ 1,320,000	\$ 290,000	\$ 1,610,000	\$ 1,330,000	\$ 350,000	\$ 1,680,000
6/30/2033	\$ 3,387,942	\$ 341,598	\$ 3,729,540	\$ 1,350,000	\$ 250,000	\$ 1,600,000	\$ 1,370,000	\$ 310,000	\$ 1,680,000
6/30/2034	\$ 1,823,530	\$ 237,917	\$ 2,061,447	\$ 1,380,000	\$ 220,000	\$ 1,600,000	\$ 1,410,000	\$ 270,000	\$ 1,680,000
6/30/2035	\$ 1,896,079	\$ 183,211	\$ 2,079,290	\$ 1,420,000	\$ 190,000	\$ 1,610,000	\$ 1,450,000	\$ 230,000	\$ 1,680,000
6/30/2036	\$ 1,952,942	\$ 123,958	\$ 2,076,900	\$ 1,450,000	\$ 150,000	\$ 1,600,000	\$ 1,490,000	\$ 190,000	\$ 1,680,000
6/30/2037	\$ 2,013,726	\$ 62,929	\$ 2,076,655	\$ 1,490,000	\$ 110,000	\$ 1,600,000	\$ 1,540,000	\$ 140,000	\$ 1,680,000
6/30/2038	\$ -	\$ -	\$ -	\$ 1,530,000	\$ 80,000	\$ 1,610,000	\$ 1,580,000	\$ 100,000	\$ 1,680,000
6/30/2039	\$ -	\$ -	\$ -	\$ 1,560,000	\$ 40,000	\$ 1,600,000	\$ 1,630,000	\$ 50,000	\$ 1,680,000
	\$ 86,244,384	\$ 22,868,332	\$ 109,112,716	\$ 25,000,000	\$ 7,080,000	\$ 32,080,000	\$ 25,000,000	\$ 8,590,000	\$ 33,590,000

BEAUFORT COUNTY, SOUTH CAROLINA
Rural and Critical Lands Program \$25 million voter approved debt (November 2018)
Estimated/Projected Debt Service and Impact on Millage Rate

Fiscal Year Ending	Estimated Range of Combined (Current + Projected) Debt Service		<i>Assumes 1.8% annual growth</i>		
			Estimated Value of 1 Mill	Millage Rate Range	
6/30/2020	\$ 10,873,811	\$ 10,933,811	\$ 1,956,132	5.56	5.59
6/30/2021	\$ 11,720,045	\$ 11,790,045	\$ 1,991,342	5.89	5.92
6/30/2022	\$ 11,740,613	\$ 11,810,613	\$ 2,027,186	5.79	5.83
6/30/2023	\$ 11,741,284	\$ 11,811,284	\$ 2,063,675	5.69	5.72
6/30/2024	\$ 11,787,535	\$ 11,867,535	\$ 2,100,821	5.61	5.65
6/30/2025	\$ 10,108,631	\$ 10,178,631	\$ 2,138,636	4.73	4.76
6/30/2026	\$ 6,501,351	\$ 6,581,351	\$ 2,177,131	2.99	3.02
6/30/2027	\$ 7,880,566	\$ 7,960,566	\$ 2,216,319	3.56	3.59
6/30/2028	\$ 7,688,982	\$ 7,768,982	\$ 2,256,213	3.41	3.44
6/30/2029	\$ 7,663,745	\$ 7,743,745	\$ 2,296,825	3.34	3.37
6/30/2030	\$ 7,461,471	\$ 7,541,471	\$ 2,338,168	3.19	3.23
6/30/2031	\$ 7,459,877	\$ 7,539,877	\$ 2,380,255	3.13	3.17
6/30/2032	\$ 5,320,973	\$ 5,390,973	\$ 2,423,100	2.20	2.22
6/30/2033	\$ 5,329,540	\$ 5,409,540	\$ 2,466,716	2.16	2.19
6/30/2034	\$ 3,661,447	\$ 3,741,447	\$ 2,511,117	1.46	1.49
6/30/2035	\$ 3,689,290	\$ 3,759,290	\$ 2,556,317	1.44	1.47
6/30/2036	\$ 3,676,900	\$ 3,756,900	\$ 2,602,331	1.41	1.44
6/30/2037	\$ 3,676,655	\$ 3,756,655	\$ 2,649,173	1.39	1.42
6/30/2038	\$ 1,610,000	\$ 1,680,000	\$ 2,696,858	0.60	0.62
6/30/2039	\$ 1,600,000	\$ 1,680,000	\$ 2,745,401	0.58	0.61
	\$ 141,192,716	\$ 142,702,716			



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Council Committee:

Meeting Date:

Committee Presenter (Name and Title):

Issues for Consideration:

Points to Consider:

Funding & Liability Factors:

Council Options:

Recommendation:

ORDINANCE 2019/ __

AN ORDINANCE AUTHORIZING THE TERMINATION OF A LEASE OF COUNTY OWNED REAL PROPERTY TO GENE BARDO

WHEREAS, The Trust for Public Land (“TPL”) acquired from John Lucky approximately 70.69 acres of real property (“Property”) as described in Exhibit A in the amount of \$750,000 by Deed dated December 5, 2005, which deed is recorded in Deed Book 2282 at Page 1080 in the ROD Office for Beaufort County, South Carolina; and

WHEREAS, at the time of acquisition, TPL conveyed the Property to Beaufort County (“County”) for conservation, open space, public access, passive recreation, education and other similar uses; and

WHEREAS, at the time of acquisition the Former Abutters and Owners agreed to amend the Private Restrictions to be effective at the time the United States Marine Corps Air Station (MCAS) Restrictive Easement was imposed on the Property by conveyance from the County to the MCAS; and

WHEREAS, the County conveyed a Restrictive Easement on April 28, 2006 on the Property to the MCAS to prevent the Property from being developed and allowing the Property to be used for conservation, parks, open space and other similar uses, which easement is recorded in Deed Book 2364 at Page 1060 in the ROD Office for Beaufort County, South Carolina; and

WHEREAS, the County entered into a month to month with 30 days notification of vacancy Lease Agreement for the Property with Gene Bardo dated December 1, 2005, which was approved by Beaufort County Council by ordinance on January 9, 2006; and

WHEREAS, the MCAS conducts routine easement inspections of the Property and has filed reports with the County indicating repeated “Failing” grades concerning the residence, trash and garbage on the Property by the Lessee; and

WHEREAS, the County no longer finds that a Lease Agreement of the Property with the Lessee is in the best interests of Beaufort County and the public in general and wishes to terminate the Lease Agreement dated December 1, 2005 as provided in Section 18 of the Lease Agreement; and

WHEREAS, the County wishes to include the residence and any other structures on the Property in a razing plan to be developed by the County Passive Parks Manager.

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

1. The County Administrator to provide a 30 day termination notice to the Property Lessee for the dissolution of the Property Lease Agreement dated December 1, 2005.
2. The County Passive Parks Manager to include the structures on the Property in the County Passive Parks Razing Plan.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah Brock, Clerk to Council

3rd Reading: _____

2nd Reading: _____

Public Hearing: _____

1st Reading: _____

Public Facilities Committee: June 3, 2019

Exhibit A

Property Description

All that certain piece, parcel or lot of land, with improvements thereon, situate, lying and being in the Grays Hill Section of Beaufort County, South Carolina consisting of 70.69 acres, more or less and having such metes, bounds, courses and distances as will more fully appear on that certain plat prepared by Robert D. Trogdon, IV RLS dated June 4, 1999 and recorded in the Office of the Register of Deeds for Beaufort County in Plat Book 77 at Page 21. For a more completed description as to metes, bounds, courses and distances, reference is made to a plat prepared by David S. Youmans, RLS dated October 3, 2005, revised November 22, 2005, which is recorded in the Office of the Register of Deeds for Beaufort County in Plat Book 110 at Page 84.

TMP: R100-016-000-0238-0000

LEASE AGREEMENT

IN CONSIDERATION of the mutual promises, obligations and agreements herein set forth, this LEASE AGREEMENT is entered into as of this 1st day of December, 2005 by and between Gene Bardo, with a mailing address of 5 Winn Farm Road., Beaufort, SC 29906 ("LESSEE") and the County of Beaufort, South Carolina, having a mailing address of County of Beaufort, Administrator, P.O. Drawer 1228, Beaufort, South Carolina 29901-1228 ("LESSOR"). LESSOR is the owner of Real Property to the Leased Premises (as herein defined) hereby consents to this lease by LESSOR to LESSEE.

1. Description of Premises. LESSOR hereby agrees to lease to LESSEE, and LESSEE hereby agrees to accept, subject to the terms and conditions set forth below, the land consisting of approximately 71 acres and a single family residence thereon currently occupied by LESSEE, located at 5 Winn Farm Road, Beaufort, South Carolina 29906 (the "Leased Premises").

2. Term. The term of this Lease shall commence on December 30, 2004 and shall terminate on an undetermined time (the "Term") unless sooner terminated pursuant to the provisions of this Lease.

3. Base Rent. The monthly rent for the Term of this Lease is Six Hundred Fifty Dollars (\$650.00), which LESSEE covenants to pay to LESSOR on the first day of each month. A check for the Base Rent will be payable to Beaufort County Treasurer, with a mailing address of County of Beaufort, Attn: Controller, P.O. Drawer 1228, Beaufort, SC 29901-1228.

4. Heat, Water, Utility Charges. LESSEE shall pay all utility charges for electricity, gas, and other utility services used on the Leased Premises (including telephone).

5. Compliance with Laws. LESSEE shall not make or permit any use of the Leased Premises which will be unlawful, improper, or contrary to any applicable law or municipal ordinance (including without limitation all zoning, building or sanitary statutes, codes, rules, regulations, or ordinances), or which will make voidable or increase the cost of any insurance maintained on the Leased Premises by LESSOR.

6. Condition of the Leased Premises. LESSEE is fully familiar with the physical condition of the Leased Premises. LESSOR has made no representation in connection with the condition of the Leased Premises and shall not be liable for any latent defects therein; provided however, that if such latent defects render the Leased Premises untenantable for the purposes of this Lease, LESSEE may, at its option, upon prior written notice to LESSOR, terminate this Lease.

7. Furnishing of the Leased Premises. LESSEE shall, at its sole cost

and expense, provide any furnishings for the Leased Premises.

8. Repairs. Subject to applicable law, LESSEE shall keep and maintain the Leased Premises and all equipment and fixtures thereon or used therewith repaired, whole and of the same kind, quality and description and in such good repair, order and condition as the same are at the beginning of the Term of this Lease or may be put in thereafter, reasonable and ordinary wear and tear and damage by fire and other unavoidable casualty (not due to LESSEE's negligence) only excepted. If LESSEE fails within a reasonable time to make such repairs, or makes them improperly, then and in any such event or events, LESSOR may (but shall not be obligated to) make such repairs and LESSEE shall reimburse LESSOR for the reasonable cost of such repairs in full, as additional rent, upon demand.

9. Fixtures. The improvement or fixtures installed by LESSEE which are located on or are affixed to the real estate must be removed upon the termination of this Lease, and all damage or defacement of the Leased Premises caused by such removal must be repaired by LESSEE to the satisfaction of LESSOR. Any improvements or fixtures which are not removed prior to the termination of this Lease shall become the property of LESSOR.

10. Alterations and Improvements. LESSEE shall have the option and the right, at its expense, to improve the decor and appearance of the exterior or interior of the single family residence located on the Leased Premises, but shall not construct any other structures on the Leased Premises. Any work done by LESSEE shall be done in accordance with all applicable laws and regulations, with a proper permit, using first-class materials and in a workmanlike manner. LESSEE shall pay when due all claims for labor or materials furnished or alleged to have been furnished to or for LESSEE at or for use in the Leased Premises, which claims are or any be secured by any mechanics' liens or materialmens' liens against the Leased Premises.

11. Fire, Other Casualty. Should a substantial portion of the Leased Premises be damaged by fire or other casualty, LESSOR shall terminate this Lease. When such fire, casualty, or taking renders the Leased Premises or any part thereof unfit for use and occupancy, a just and proportionate abatement of rent shall be made.

12. Condemnation. If the Leased Premises are partially or wholly taken for any public use, LESSOR or LESSEE may terminate this Lease by giving written notice to the other party within five (5) days after the taking becomes final.

13. Insurance. LESSEE understands and agrees that LESSEE bears full responsibility for insuring LESSEE's personal property. LESSEE shall also carry comprehensive general liability insurance insuring LESSOR and its agents and LESSEE. LESSOR shall obtain and keep in force during the Term of this Lease public liability insurance insuring LESSOR against liability arising out of ownership, use, occupancy or maintenance of the Leased Premises or the building of which it is a part.

At his election, LESSOR may also obtain and keep in force during the Term of this Lease casualty insurance insuring the value of the structures on the Leased Premises.

14. Subletting and Assignment. LESSEE shall not assign this Lease nor sublet the Leased Premises in whole or in part, nor mortgage or otherwise transfer or encumber all or any part of LESSEE's interest in the Lease or the Leased Premises.

15. Entry, Inspection and Maintenance. LESSEE shall allow LESSOR or its agents during the Term, at any time to enter and view the Leased Premises and to make repairs and alterations if they should elect to do so.

16. Quiet Possession. LESSOR covenants and warrants that LESSOR has full right and lawful authority to enter into this Lease for the full Term hereof. LESSOR further covenants and warrants that if LESSEE shall discharge the obligations herein set forth to be performed by LESSEE, then LESSEE shall have and enjoy the quiet and undisturbed possession of the Leased Premises for the uses herein described, together with all appurtenances thereto.

17. Default and Remedies. In the event that: (a) LESSEE shall default in the payment of any installment of rent or other sum herein specified and such default shall continue for ten (10) days after written notice thereof; or (b) LESSEE shall default in the observance or performance of any other of LESSEE's covenants, agreements or obligations hereunder and such default shall not be corrected within thirty (30) days after written notice thereof; or (c) LESSEE shall be declared insolvent, or shall be adjudicated or bankrupt, or shall assign its assets for the benefit of creditors, or (d) the Leased Premises shall be taken on execution, LESSOR may immediately, or at any time thereafter, (1) make demand to LESSEE to quit, or (2) elect to enter upon said Leased Premises and to take possession thereupon, whereupon, after either (1) or (2), this Lease shall absolutely terminate and it shall be no defense to LESSEE that previous violations of any covenants have been waived by LESSOR either expressly or by implication. Any such election by LESSOR shall not discharge LESSEE's obligations under this Lease and LESSEE shall indemnify LESSOR against all loss or damages suffered by reason of such termination.

18. Termination. LESSEE agrees to quit and deliver up the Leased Premises peaceably and quietly to LESSOR, or its attorney, or other duly authorized agent, at the expiration or other termination of this Lease. This Lease may be terminated upon thirty days (30) notice from Lessor to Lessee or upon the occurrence of any of the events set forth in Paragraph 17.

19. Waiver. LESSEE agrees that the failure of LESSOR to insist upon strict performance of any of the covenants or conditions herein contained, shall not constitute or be construed as a waiver or relinquishment of LESSOR's right thereafter to enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.

20. Notices. All notices hereunder by LESSOR to LESSEE shall be given in hand or by registered or certified mail, return receipt requested, addressed to LESSEE at the Leased Premises, or to such other address as LESSEE may from time to time give to LESSOR for this purpose, and all notices by LESSEE to LESSOR shall be given in hand or by registered or certified mail, return receipt requested, addressed to LESSOR's address shown in the initial paragraph of this Lease, or to such other address as LESSOR may from time to time give in writing to LESSEE for this purpose. Such notice shall be deemed delivered, if by hand when hand delivered or if by mail when deposited with the US Postal Service.

21. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction or by any future legislative action, such holding or such action shall not invalidate or render unenforceable any other provisions hereof.

22. Miscellaneous. This Lease is to be construed as a South Carolina lease; is to take effect as a sealed instrument; sets forth the entire agreement between the parties; is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns; and may be cancelled, modified or amended only by written instrument signed by both LESSOR and LESSEE.

24. Non-Recourse. No shareholder, officer, director, trustee or employee of LESSOR shall be personally liable for the performance or observance of any obligation expressed or implied hereunder.

25. Security Deposit. LESSOR acknowledges receipt from LESSEE of Six Hundred Fifty Dollars as the Security Deposit to be held by LESSOR, as security, without interest, for and during the Term, which deposit shall be returned to LESSEE at the termination of this Lease, provided there exists no breach of any undertaking of LESSEE. If all or any part of the Security Deposit is applied to an obligation of LESSEE hereunder, LESSEE shall immediately upon request by LESSOR restore the Security Deposit to its original amount. LESSOR may apply the Security Deposit to repair any damage to the Leased Premises caused by LESSEE. The balance of the Security Deposit, if any, will be returned to LESSEE when he vacates the Leased Premises at the end of the Term.

IN WITNESS WHEREOF, the parties hereto have executed this Lease all as of the date first-above written.

Atacy W. Bradshaw
Witness
Cheryl Harris
Witness

LESSOR:
Beaufort County
By: Gary T. Kubic
Gary T. Kubic, County Administrator

Approved as to form:
[Signature]
Beaufort County Attorney

LESSEE:

Gene Bardo
Gene Bardo

[Signature]
Witness

[Signature]
Witness



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Resolution approving an impact fee reduction for Beaufort Memorial Hospital

Council Committee:

Public Facilities

Meeting Date:

September 3, 2019

Committee Presenter (Name and Title):

Thomas J. Keaveny, II, County Attorney

Issues for Consideration:

Reduction of road impact fee by 20% based on internal capture and refund of escrowed funds.

Points to Consider:

This matter came before the committee during the recent joint meeting of finance and public facilities. The written resolution is being brought before the committee on September 3, 2019 simply so the committee sees the language of the resolution before it appears on Council's September 9, 2019 agenda.

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve

RESOLUTION 2019/ ____

**A RESOLUTION APPROVING AN IMPACT FEE REDUCTION FOR
BEAUFORT MEMORIAL HOSPITAL**

WHEREAS, Beaufort County Ordinance Section 82-86 imposes certain impact fees for the service areas identified therein unless an Individual Assessment of Development Impact is accepted pursuant to Section 82-87; and

WHEREAS, Beaufort County Ordinance Section 82-87(a), provides that in lieu of calculating the road facilities development impact fees as set forth in Beaufort County Code Section 82-86, a payor may request that the amount of the required road facilities development impact fees be determined by reference to an Individual Assessment of Development Impact performed specifically for the proposed development; and

WHEREAS, Beaufort Memorial Hospital submitted an application for a reduction in impact fee based on an Independent Assessment of Development Impact Fees in the form of a Traffic Impact Analysis and Study performed by Kimley Horn which demonstrates a twenty (20%) percent internal capture for Beaufort County staff's consideration; and

WHEREAS, based on the results provided by the traffic analysis, Beaufort County staff recommends Council endorse a reduction of the traffic impact fees by twenty (20%) percent; and

WHEREAS, the Hospital previously escrowed \$75,000 for system improvements at the time of purchase in 2011 for partial funding of a then proposed traffic signal along SC Highway 170 which is no longer viable; and

WHEREAS, the Public Facilities Committee met on August 12, 2019, and voted unanimously to endorse the impact fee reduction and the return of escrowed funds as set forth above.

NOW, THEREFORE, BE IT RESOLVED, by Beaufort County Council, duly assembled, does hereby endorse staff's recommendation that Beaufort Memorial Hospital receive an impact fee reduction in the amount of \$161,319 for internal capture and \$75,000 as return of escrow, for a total reduction in the amount of \$236,319.00.

Adopted this ____ day of September, 2019.

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:

Lease for Agnes Major Community Center to Boys and Girls Club of the LowCountry

Council Committee:

Governmental

Meeting Date:

June 24, 2019

Committee Presenter (Name and Title):

Philip Foot Assistant County Administrator Public Safety

Issues for Consideration:

None

Points to Consider:

Approval of leasing the Agnes Major Community Center to the Boys and Girls Club of the LowCountry for youth programming.

Funding & Liability Factors:

None

Council Options:

Approve or disapprove

Recommendation:

Staff recommend approval

ORDINANCE 2019 / __

AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE A LEASE AGREEMENT WITH BOYS AND GIRLS CLUB OF THE LOWCOUNTRY FOR THE AGNES MAJOR COMMUNITY CENTER.

WHEREAS, Beaufort County is the owner of Parcel Number R700 019 000 0132 0000 with a street address of 21 Agnes Major Road, Beaufort, SC 29901; and generally known as the Agnes Major Community Center (the “Center”); and

WHEREAS, Beaufort County operates the Center through the Beaufort County Parks and Recreation Services Department, and

WHEREAS, Boys and Girls Club of the LowCountry (the “Club”), a duly authorized South Carolina non-profit youth organization that provides youth programs for the community; and

WHEREAS, the Club desires to lease the Agnes Major Community Center for purposes of establishing youth programs in the community; and

WHEREAS, the County Administrator has negotiated a lease with the Club for the use of the agreed upon portions of the Center; and

WHEREAS, in accordance with Beaufort County Code of Ordinances Section 2-514, it is necessary for County Council to provide prior approval to the County Administrator to lease property owned by the County; and

WHEREAS, Beaufort County Council finds it is in the best interests of the community and Beaufort County to lease the Property to Boys and Girls Club of the LowCountry.

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that the County Administrator is hereby authorized to negotiate and enter into a lease agreement with the Boys and Girls Club of the LowCountry for use of the Agnes Major Community Center Building.

Adopted this ___ day of ___, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stu Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

COUNTY OF BEAUFORT)
)
STATE OF SOUTH CAROLINA)

LEASE AGREEMENT

IN CONSIDERATION of the mutual promises, obligations and agreements herein set forth, this Lease Agreement (referred to as the "Lease") is made and entered into on this ____ day of _____, 2019, between **Beaufort County**, a political subdivision of the State of South Carolina, hereinafter referred to as "Landlord" and having a mailing address of County of Beaufort, Attention Beaufort County Staff Attorney, P.O. Drawer 1228, Beaufort, South Carolina 29901-1228, and **Boys and Girls of the LowCountry, Inc** a mailing address of **17B Marshellen Drive, Beaufort, SC** with, hereinafter referred to as "Tenant".

1. DESCRIPTION OF LEASED PREMISES. Whereas Landlord leases to Tenant the following described premises (the "Premises"):

All that certain, piece, parcel or tracts of land, with improvements known as Agnes Major Activity Center, located in the Sheldon Township, County of Beaufort, State of South Carolina consisting of all that certain piece, parcel or tract of land, situate, lying and containing 4.16 acres, as shown on that certain plat prepared for the Heirs of B. Douglas Gatch by Rod C. Spann, R.L.S., dated May 2, 1978 and recorded in the Office of the Clerk of Court for Beaufort County, South Carolina in Plat Book 25 at Page 133; and the one story building of approximately sixteen hundred thirty-two (1632) square feet, more or less, and property improvements consisting of playground equipment, all of which has a street address of 21 Agnes Major Road, Beaufort, South Carolina.

DMP: R700 019 000 0132 0000

2. TERM. The initial term of this Lease shall covered a period of twelve (12) months, commencing on the 1st day of _____, 2019, and terminating on the last day of _____ 2020, unless terminated sooner pursuant to the provisions of this Lease (the "Lease Term").

Upon the written approval of both the Landlord and Tenant the initial Lease Term may be extended for three (3) additional twelve (12) month periods thereby extending the possible termination date until _____, 2024.

3. RENT. Tenant agrees to pay, without demand, to Landlord as rent for the demised premises, the sum of ONE AND NO/100 DOLLARS (\$1.00) per month, in exchange for considerations and obligations as outlined heretofore.

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

5. COMPLIANCE WITH LAWS. Tenant shall not make or permit any use of the Premises which will be unlawful, improper, or contrary to any applicable law or ordinance, including

without limitation all zoning, building, or sanitary statutes, codes, rules, regulations or ordinances, or which will make voidable or increase the cost of any insurance maintained on the Premises by Landlord.

6. CONDITION OF THE LEASED PREMISES. Tenant is fully familiar with the physical condition of the Premises. Landlord has made no representation in connection with the Premises and shall not be liable for any latent defects therein; provided, however, that if such latent defects render the Premises uninhabitable for the purposes of this Lease, Tenant may at its option, and upon written notice to Landlord, terminate this Lease.

Tenant stipulates that he or she has examined the demised premises, including the grounds and all buildings and improvements, and that they are, at the time of this Agreement, in good order, repair, and in a safe, clean and tenantable condition.

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

8. HOURS OF OPERATION. Tenant shall be allowed the use of the demised Premises during the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday for the term of this Lease. The general public, through the Beaufort County Parks and Recreation Services Program, shall have access and use of the facility for all other times not identified above, and for such other times that the Boys and Girls Club may not be in session.

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

that may be necessary during those dates and times that Tenant shall enjoy possession and use of the Premises.

10. QUIET ENJOYMENT / PERMITTED OCCUPANTS. Landlord covenants that upon Tenant's performance of the covenants and obligations herein contained, Tenant shall peacefully and quietly have, hold, and enjoy the demised Premises for the agreed term. Tenant shall not allow or permit the Premises to be occupied for purposes that may injure the reputation, safety, or welfare of the property. Landlord shall have the right to terminate this Lease should Tenant fail to comply with the terms of this provision.

11. MAINTENANCE AND REPAIRS. Tenant will, at his sole expense, keep and maintain the Premises and appurtenances in good and sanitary condition during the Lease Term and any renewal thereof. Subject to applicable law, the Tenant shall keep and maintain the Premises and all equipment and fixtures thereon or used therewith, whole and of the same kind, quality and description and in such good repair, order and condition as the same are at the beginning of the Lease Term or may be put in thereafter, reasonable and ordinary wear and tear and damage by fire and other unavoidable casualty (not due to Tenant's negligence) only excepted. Examples of maintenance for equipment and fixtures which shall be the responsibility of the Tenant include, but are not limited to, light bulbs, floor mats, and other items that would be considered minor in nature. If Tenant fails within a reasonable time to make such repairs, or makes them improperly, then and in any such events, Landlord may (but not shall be obligated to) make such repairs and Tenant shall reimburse Landlord for the reasonable costs of such repairs in full, and upon demand. It shall be the responsibility of the Landlord to repair and/or replace the structural components of the building, its plumbing, HVAC systems, pest control, electrical systems, and any and all other structural aspects of the facility that are not specifically identified as being the responsibility of the Tenant. Landlord shall have the sole authority on any decision to repair or replace such items. If, in the opinion of the Landlord, such repair or replacement is due to the negligence of the Tenant, or if damage falls outside the scope of the normal wear and tear exception identified in paragraph 11, Tenant shall be responsible for the costs of such repairs and/or replacements.

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

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

13. LOCKS. Tenant agrees not to change any locks on any door, mailbox gate, or otherwise without first obtaining the Landlord's written consent. Having obtained written consent, Tenant

agrees to pay for changing the locks and to provide Landlord with one duplicate per lock within 24 hours of same. Should it become necessary, from time to time, for the Landlord to change out any locks on the Premises, Landlord will likewise provide notice to Tenant and ensure that Tenant continues to have uninterrupted access for the remainder of the Lease Term.

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

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

16. RIGHT OF INSPECTION. Landlord and his or her agents shall have the unfettered right at all reasonable times during the Lease Term and any renewal thereof to enter the demised Premises for any reason whatsoever. Landlord agrees, when able, to provide Tenant with reasonable notice of said entry upon the single family residence located on the Premises. No notice will be required in emergent situations or for access or entry upon the Premises.

17. INSURANCE. Landlord has obtained insurance to cover fire damage to the building itself and liability insurance which does not cover Tenant's possessions or Tenant's negligence. Tenant must obtain a renter's insurance policy, in an amount of no less than \$1,000,000 in general tort liability, or other appropriate policy to cover damage or loss resulting from Lessee's negligence.

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

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

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

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

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

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

24. TERMINATION. Tenant agrees to quit and deliver up the Premises peaceably and quietly to Landlord, or its attorney, or other duly authorized agent, at the expiration or other termination of this Lease. This Lease may be terminated prior to the date identified in section 2 above, upon thirty (30) days notice from Landlord to Tenant or upon the occurrence of any default event as set forth in Paragraph 22.

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

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

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

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

LANDLORD:
Beaufort County

Witness

By: _____
Ashley M. Jacobs, County Administrator

Witness

TENANT:
Boys and Girls Club of the LowCountry

Witness

By: _____
Name: _____
Its: _____

Witness

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



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF AN UTILITY EASEMENT ENCUMBERING THE WRIGHT FAMILY PARK

Council Committee:

PUBLIC FACILITIES

Meeting Date:

AUGUST 12, 2019

Committee Presenter (Name and Title):

Thomas J. Keaveny, County Attorney

Issues for Consideration:

N/A

Points to Consider:

Beaufort County and Town of Bluffton jointly own the Wright Family Park. This property contains a historic building which the Town of Bluffton plans to restore, the remainder of the property is to be used as a passive park. This easement is needed to run underground conduit to provide lights in the park.

Funding & Liability Factors:

None

Council Options:

Approve, modify, or reject

Recommendation:

Approve

ORDINANCE 2019 / __

AN ORDINANCE AUTHORIZING THE EXECUTION AND DELIVERY OF A UTILITY EASEMENT ENCUMBERING PROPERTY OWNED BY BEAUFORT COUNTY, SOUTH CAROLINA, IDENTIFIED AS TMS NO. R610 039 00A 0111 0000 AND ALSO KNOWN AS THE WRIGHT FAMILY PARK.

WHEREAS, Beaufort County jointly owns with the Town of Bluffton, Parcel Number R610 039 00A 0111 0000 with a street address of 111 Calhoun Street, Bluffton, SC 29910 and also known as the Wright Family Park (the “Property”); and

WHEREAS, Beaufort County and the Town of Bluffton desire to further development the Property for the purposes of a passive park and restoration of the historic structures on the Property; and

WHEREAS, in order to develop the Property as described above, it is necessary for Dominion Energy South Carolina, Inc., a South Carolina Corporation (“Dominion”) to locate overhead and/or underground electric systems to serve the Property; and

WHEREAS, Dominion has requested that Beaufort County and the Town of Bluffton grant a utility easement for the nonexclusive right to enter the Property for the purposes of constructing, maintaining, and operating overhead and/or underground electric lines across portions of the Property; and

WHEREAS, County staff has worked diligently with Dominion to locate an appropriate easement path across the Property that ensures a minimal impact to the Property itself; and

WHEREAS, Beaufort County Council has determined that it is in the best interests to authorize the execution and delivery of the requested Easement attached hereto and incorporated by reference and show on the attached “Exhibit A”; and

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

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL AS FOLLOWS:

- (1) The County Administrator is hereby authorized to execute the Easement referenced herein and which is shown on “Exhibit A”; and
- (2) The County Administrator is hereby authorized to take all necessary actions as may be necessary to complete the conveyance of the Easement and ensure the construction and installation of the new power line to occur as agreed upon by the County and Dominion.

Adopted this ____ day of ____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Stewart H. Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

Easement # 899172

INDENTURE, made this _____ day of _____, 2019 by and between **The Town of Bluffton, a South Carolina Municipal Corporation and Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina**, hereinafter called "Grantor" (whether singular or plural), and **DOMINION ENERGY SOUTH CAROLINA, INC.**, a South Carolina corporation, having its principal office in Cayce, South Carolina, hereinafter called "Grantee".

WITNESSETH:

That, in consideration of the sum of One Dollar (\$1.00) received from Grantee, Grantor, being the owner of land situate in the County of **Beaufort**, State of South Carolina, hereby grants and conveys to Grantee, its successors and assigns, the right to construct, extend, replace, relocate, perpetually maintain and operate an underground electric line or lines consisting of any or all of the following: poles, conductors, lightning protective wires, municipal, public or private communication lines, cables, conduits, pad mounted transformers and other accessory apparatus and equipment deemed by Grantee to be necessary or desirable, upon, over, across, through and under land described as follows: a portion of a lot of land containing **1.27 acres**, more or less, and being the same lands conveyed to Grantor by deed of **Augustine T.S. Wright, Jr.**, dated or recorded **5/9/2017**, and filed in the Register of Deeds office for **Beaufort** County in **Deed Book 3573 at Page 1701**.

This property is identified as 111 Calhoun Street, being situate at the southeast corner of the intersection of Water St. and Calhoun St. The easement will be as the facilities are actually installed and are more fully shown on Dominion Energy South Carolina, Inc., drawing #83410 and any revisions made thereof, being attached hereto, as "Exhibit A" and made a part hereof as reference only. A signed Dominion Energy South Carolina, Inc., drawing, by the Grantor, its successors or assigns will be authorization for the location and installation of future facilities.

TMS: R610 039 00A 0111 0000

Together with the right from time to time to install on said line such additional lines, apparatus and equipment as Grantee may deem necessary or desirable and the right to remove said line or any part thereof.

Together also with the right (but not the obligation) from time to time to trim, cut or remove trees, underbrush and other obstructions that are within, over, under or through a strip of land ("Easement Space") extending Five (5) feet on each side of any underground wires and within, over, under or through a section of land extending Twelve (12) feet from the door side(s) of any pad mounted transformers, elbow cabinets, switchgears or other devices as they are installed; provided, however, any damage to the property of Grantor (other than that caused by trimming, cutting or removing) caused by Grantee in maintaining or repairing said lines, shall be borne by Grantee; provided further, however, that Grantors agree for themselves, their successors and assigns, not to build or allow any structure to be placed on the premises in such a manner that any part thereof will exist within the applicable above specified Easement Space, and in case such structure is built, then Grantor, or such successors and assigns as may be in possession and control of the premises at the time, will promptly remove the same upon demand of Grantee herein. Grantor further agrees to maintain minimum ground coverage of thirty six (36) inches and maximum ground coverage of fifty four (54) inches over all underground primary electric lines. Together also with the right of entry upon said lands of Grantor for all of the purposes aforesaid.

The words "Grantor" and "Grantee" shall include their heirs, executors, administrators, successors and assigns, as the case may be.

IN WITNESS WHEREOF, Grantor has caused this indenture to be duly executed the day and year first above written.

WITNESS:

SIGNATURE PAGE FOLLOWING

Easement # 899172

The Town of Bluffton, a South Carolina municipal corporation

1st Witness

By: _____ (SEAL)
Marc Orlando

2nd Witness

Title: Town Manager

ACKNOWLEDGMENT

STATE OF SOUTH CAROLINA)
)
COUNTY OF **Beaufort**)

The foregoing instrument was acknowledged before me, the undersigned Notary, and I do hereby certify that the within named **Marc Orlando**, as **Manager of The Town of Bluffton, a South Carolina Municipal Corporation**, personally appeared before me this day and that the above named acknowledged the due execution of the foregoing instrument.

Sworn to before me this _____ day of _____, 2019

Signature of Notary Public State of SC

My commission expires: _____

Print Notary Public Name

**RIGHT OF WAY GRANT TO
DOMINION ENERGY SOUTH CAROLINA, INC.**

Line: **Wright Family Park- Lighting**
County: **Beaufort**
R/W File Number: **23261**
Grantor(s): **The Town of Bluffton, a South Carolina Municipal Corporation and Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina**

Return to: DESC, C/O Right of Way Dept., 81 May River Road, Bluffton, SC 29910

Easement # 899172

Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina

1st Witness

By: _____ (SEAL)

Print Name: _____

2nd Witness

Title: _____

ACKNOWLEDGMENT

STATE OF SOUTH CAROLINA)
))
COUNTY OF **Beaufort**)

The foregoing instrument was acknowledged before me, the undersigned Notary, and I do hereby certify that the within named _____, as _____ of **Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina**, personally appeared before me this day and that the above named acknowledged the due execution of the foregoing instrument.

Sworn to before me this _____ day of _____, 2019

Signature of Notary Public State of SC

My commission expires: _____

Print Notary Public Name

**RIGHT OF WAY GRANT TO
DOMINION ENERGY SOUTH CAROLINA, INC.**

Line: **Wright Family Park- Lighting**

County: **Beaufort**

R/W File Number: **23261**

Grantor(s): **The Town of Bluffton, a South Carolina Municipal Corporation and Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina**

Return to: DESC, C/O Right of Way Dept., 81 May River Road, Bluffton, SC 29910

Easement # 899172

Dominion Energy South Carolina, Inc., a South Carolina corporation

1st Witness

By: _____ (SEAL)

Print Name: _____

2nd Witness

Title: _____

ACKNOWLEDGMENT

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me, the undersigned Notary, and I do hereby certify that the within named _____, as _____ of **Dominion Energy South Carolina, Inc., a South Carolina corporation**, personally appeared before me this day and that the above named acknowledged the due execution of the foregoing instrument.

Sworn to before me this _____ day of _____, 2019

Signature of Notary Public State of SC

My commission expires: _____

Print Notary Public Name

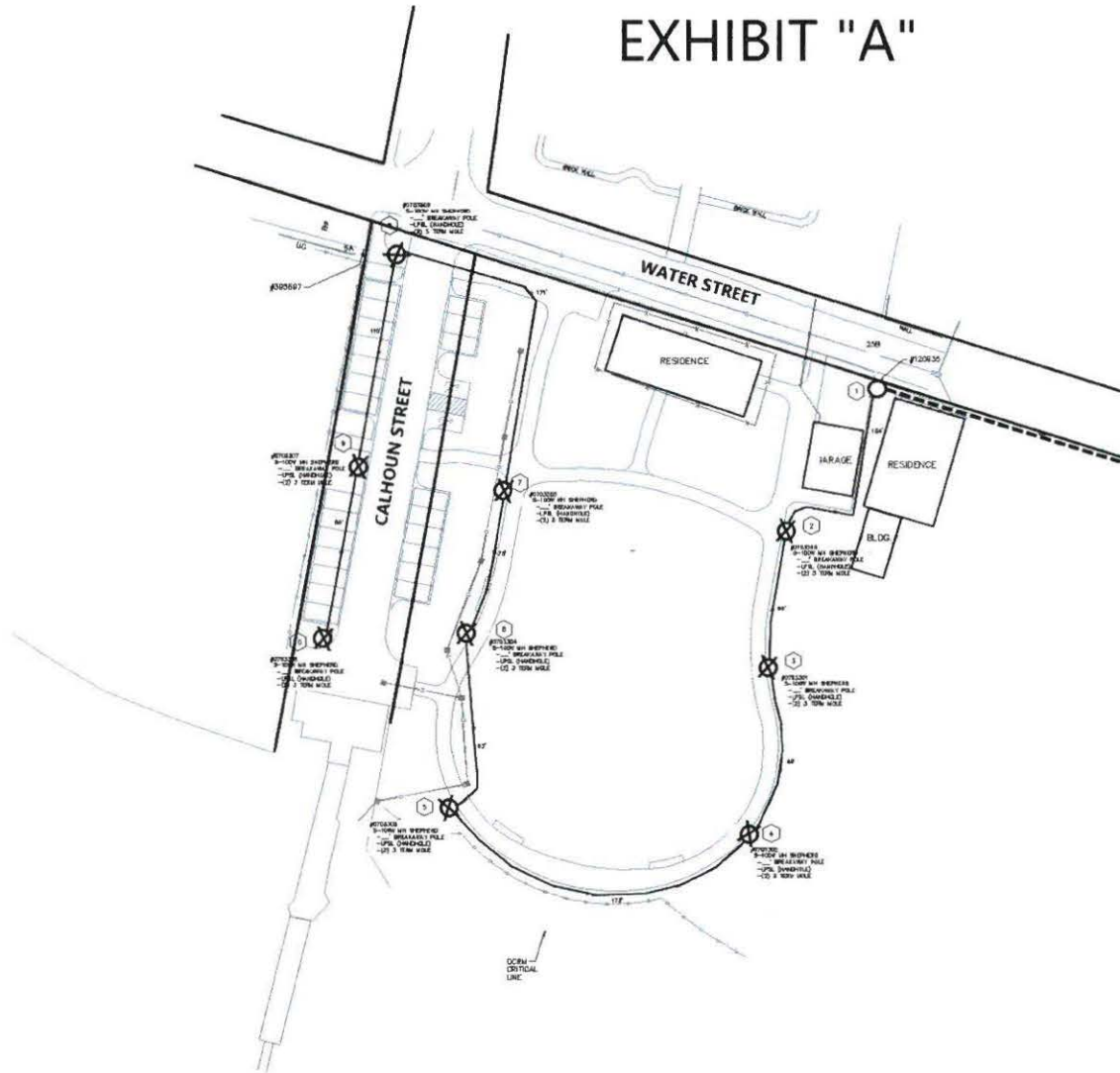
**RIGHT OF WAY GRANT TO
DOMINION ENERGY SOUTH CAROLINA, INC.**

Line: **Wright Family Park- Lighting**
County: **Beaufort**
R/W File Number: **23261**

Grantor(s): **The Town of Bluffton, a South Carolina Municipal Corporation and Beaufort County, South Carolina, a Political Subdivision of the State of South Carolina**

Return to: DESC, C/O Right of Way Dept., 81 May River Road, Bluffton, SC 29910

EXHIBIT "A"



ELECTRIC DISTRIBUTION SYMBOLS	
POLES	OVERHEAD SYMBOLS
TRANSFORMER POLE	TRIPLE POLE TRANSFORMER
FEEDER 1/2" P Pole	TRIP POLE TRANSFORMER
ARMOR & NEW SW	
PRIMARY CONDUCTOR	TRIP POLE TRANSFORMER
TRIP POLE TRANSFORMER	TRIP POLE TRANSFORMER
TRIP POLE TRANSFORMER	TRIP POLE TRANSFORMER
TRIP POLE TRANSFORMER	TRIP POLE TRANSFORMER
SECONDARY CONDUCTOR	UNDERGROUND SYMBOLS
UNDERGROUND SYMBOLS	UNDERGROUND SYMBOLS
UNDERGROUND SYMBOLS	UNDERGROUND SYMBOLS
UNDERGROUND SYMBOLS	UNDERGROUND SYMBOLS
ELECTRICAL FIXTURES & SWITCHES	UNDERGROUND SYMBOLS
UNDERGROUND SYMBOLS	UNDERGROUND SYMBOLS
UNDERGROUND SYMBOLS	UNDERGROUND SYMBOLS
UNDERGROUND SYMBOLS	UNDERGROUND SYMBOLS
STREET LIGHT	STREET LIGHT
STREET LIGHT	STREET LIGHT
STREET LIGHT	STREET LIGHT
STREET LIGHT	STREET LIGHT

THIS LOG IS FOR GENERAL REFERENCE ONLY. FOR MORE DETAILED INFORMATION, REFER TO THE DISTRIBUTION RECORD SHEET OR THE DRAWING OF THIS PROJECT TO THE DOMINION ENERGY SOUTH CAROLINA, INC. DISTRIBUTION CONSTRUCTION DIVISION OFFICE.

W.D.# _____ W.R.# _____

STARTED BY _____

COMPLETED BY _____

CLOSED OUT BY _____

COORDINATOR TERRANCE HARRIS

ELECTRIC ENG. TECH. TERRANCE HARRIS

GAS ENG. TECH. _____

RIGHT OF WAY INFORMATION:

RAW AGENT EFF. HENDERSON

FILE NUMBER _____

EASEMENT NO. _____

STANDARD EASEMENT DEED BY SOUTH CAROLINA, INC. DISTRIBUTION RIGHT OF WAY. STANDARD ELECTRIC IS TO EACH SIDE OF THE POLE. STANDARD ELECTRIC IS TO EACH SIDE OF THE CABLE. THE WORKS EQUIPMENT IS TO AVOID THE PERIMETER OF THE EQUIPMENT.

3 DAYS BEFORE DIGGING IN SOUTH CAROLINA

CALL 811
IF THE JOB
PALMETTO UTILITY PROTECTION SERVICE

ALL DOMINION ENERGY SOUTH CAROLINA, INC. FACILITY LOCATIONS ZONES OR THIS DRAWING ARE APPROVED. FINAL LOCATIONS ARE TO BE VERIFIED AT THE JOB SITE BY A DOMINION ENERGY SOUTH CAROLINA, INC. REPRESENTATIVE.

DEVELOPER HEREBY APPROVES THIS LAYOUT FOR CONSTRUCTION AND CERTIFIED THAT HE/SHE HAS THE AUTHORITY TO DO SO. ANY CHANGE AFFECTING THIS LAYOUT MUST BE REPORTED IMMEDIATELY TO DOMINION ENERGY SOUTH CAROLINA, INC. ALL COST ASSOCIATED WITH ANY REVISIONS OR MODIFICATIONS SHALL BE BORNE BY THE DEVELOPER. DOMINION ENERGY SOUTH CAROLINA, INC. SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE ELECTRICAL SYSTEM. THE DESIGNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE ELECTRICAL SYSTEM. THE DESIGNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE ELECTRICAL SYSTEM. THE DESIGNER SHALL BE RESPONSIBLE FOR THE DESIGN AND CONSTRUCTION OF THE ELECTRICAL SYSTEM.

APPROVED BY: _____ (SIGNATURE)

TITLE: _____ (PRINT NAME)

COMPANY: _____ DATE: _____

PRELIMINARY

NO.	DATE	BY	REVISION	CHK

DOMINION ENERGY SOUTH CAROLINA, INC.

TITLE WRIGHT FAMILY PARK - BLUFFTON, SC

DETAIL LIGHTING LAYOUT (DATE 8/29/22)

SUB BLUFFTON SUB. (486) 23KV (REVISED 8/29/22)

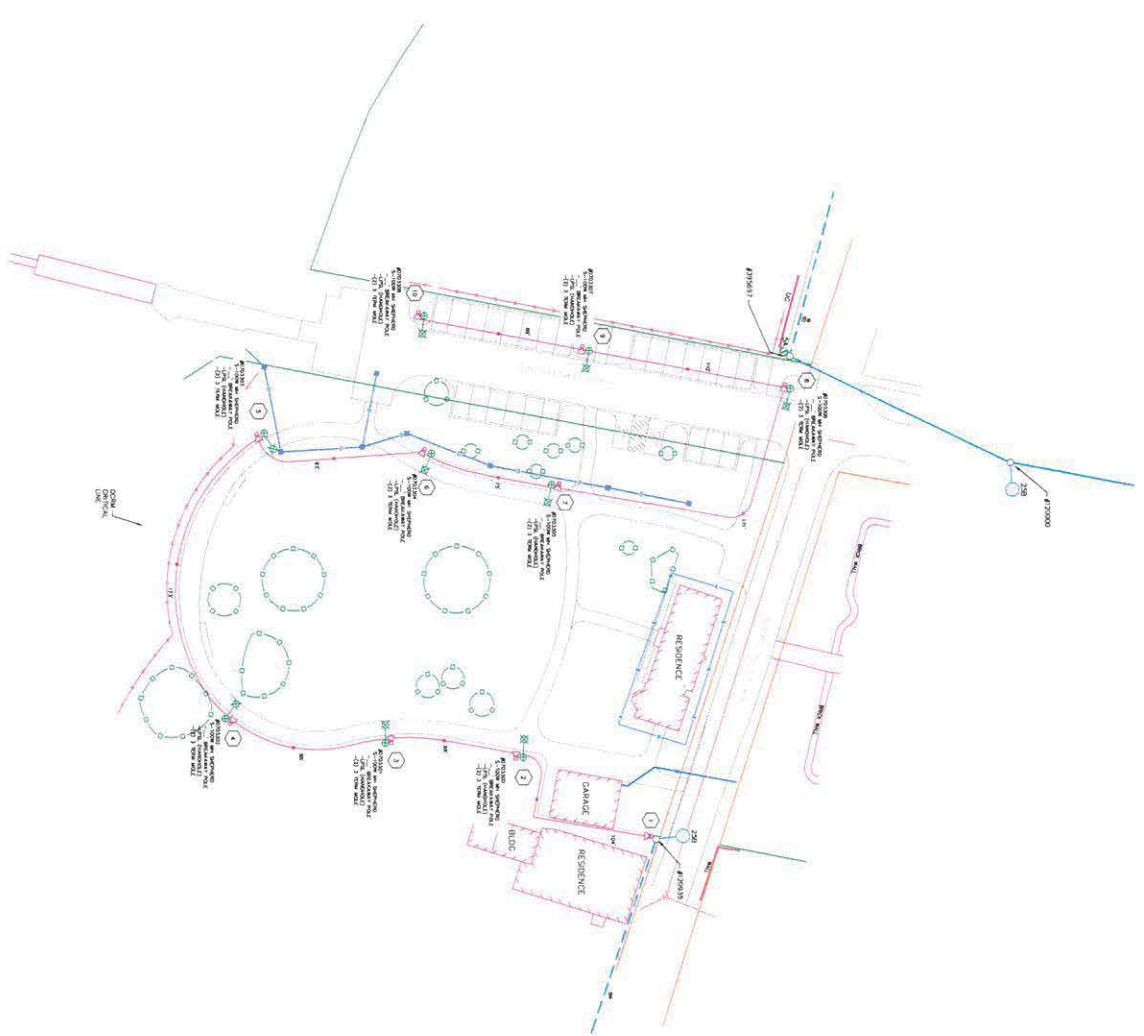
SCALE 1" = 30'

PROJECT NO. C-83410 DATE PLOTTED 06/06/19

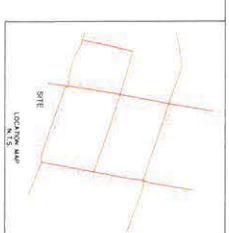
DRAWN BY 063410-01.DWG SHEET 1 OF 1

PLAN "SAFETY" INTO EVERY JOB

ELECTRONIC DRAWING-DO NOT REVISE MANUALLY



PLAN "SAFETY" INTO EVERY JOB



PRELIMINARY

NO.	DATE	BY	REVISION
1			
2			
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DOMINION ENERGY SOUTH CAROLINA INC.
 10000 WOODBRIDGE DRIVE, SUITE 100, CHARLOTTE, NC 28226
 TEL: 704.386.4000 FAX: 704.386.4001
 WWW.DESI.COM

3 DAYS SERVICE RESPONSE
 IN SOUTH CAROLINA
 CALL 811

RIGHT OF WAY INFORMATION
 BY: JEFF HANDELBERG
 DATE: 06/06/16

W.O.B.
 STARTED BY: _____
 COMPLETED BY: _____
 CLOSED OUT BY: _____
 COORDINATOR: TERRANCE JARRIS
 ELECTRIC EMP. TECH: TERRANCE JARRIS
 GAS EMP. TECH: _____

LEGEND
 SYMBOLS FOR ELECTRICAL EQUIPMENT AND UTILITIES.
 TRANSFORMER: [Symbol] 250KVA
 METER: [Symbol]
 CONDUIT: [Symbol] 4" PVC
 CABLE TRAY: [Symbol]
 WIRE: [Symbol] 4/0 ALU
 LIGHTNING ROD: [Symbol]

NOTES
 1. ALL WORK SHALL BE IN ACCORDANCE WITH THE NATIONAL ELECTRICAL CODE (NEC) AND ALL LOCAL ORDINANCES.
 2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND RIGHT-OF-WAY INFORMATION.
 3. ALL UTILITIES SHALL BE LOCATED AND MARKED PRIOR TO THE START OF WORK.
 4. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

APPROVED BY: _____
 TITLE: _____
 DATE: _____

ELECTRONIC DRAWING - DO NOT REVISE MANUALLY



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Ordinance Waterfront Structures

Council Committee:

Public Facilities Committee

Meeting Date:

August 5, 2019

Committee Presenter (Name and Title):

Robert McFee, PE, Division Director Construction, Engineering and Facilities

Issues for Consideration:

County Council is authorized to utilize Local Hospitality Tax Funds for certain limited purposes including tourism related cultural, recreational and historical programs and facilities. The appropriation of funds for the inspections of Waterfront Structures ensures the safety for tourism and recreational activities.

Points to Consider:

Structures to be inspected include 5 water crossings on Spanish Moss Trail and Wimbee Creek Fishing pier. The water crossings on SMT include timber and concrete bridges and RCP culverts all installed at different times and all in various stages of aging. These inspections will be a base line to determine if repairs are needed and then establish a periodic inspection plan. An inspection on Wimbee Creek fishing pier was completed in February 2018, with evaluation noting the structure in fair to poor condition. This is a follow-up inspection to evaluate current conditions and determine if repairs should be implemented.

Funding & Liability Factors:

To appropriate \$21,677 from the Local Hospitality Tax for Waterfront Structure Inspections of portions of the Spanish Moss Trail and Wimbee Creek Fishing Pier.

Council Options:

Approve or disapprove appropriation of funds

Recommendation:

Approve appropriation of funds

PLEASE MAKE SURE YOU ARE USING INTERNET EXPLORER AS YOUR BROWSER



OFFICE OF THE COUNTY ATTORNEY

Post Office Drawer 1228 ž Beaufort, SC 29901
102 Industrial Village Road, Building #1
843.255.2055 (O) ž 843.255.9414 (F)

LEGAL REVIEW REQUEST FORM

Form Number: 2019 - 0003

Originally submitted on: 2019-06-11T15:11:58

Select One:

- Ordinance / Resolution
- MOA / MOU / IGA
- Other _____
- Lease (Real Property)
- Easement / Right Of Way

Document Title: Ordinance Waterfront Structure Inspection

Requester's Department: Engineering

Requester's Name: Brittanee Fields

Ph: 843-255-2692

Em: brittanee.fields@bcgov.net

Date needed by: 7/1/2019

Description/Concern:

AN ORDINANCE TO APPROPRIATE \$21,677 FROM THE LOCAL HOSPITALITY TAX FOR WATERFRONT STRUCTURE INSPECTIONS OF SPANISH MOSS TRAIL AND WIMBEE CREEK FISHING PIER

If applicable, please provide the total value amount of the contract:

- Amount BELOW \$50,000.00
- Amount \$50,000 to \$99,999
- Amount \$100,000 and above

Has the item been approved by a Council Committee? Yes No N/A

Has the item been approved by full Council? Yes No N/A

Attachments: _____

 No file attached



Ordinance Waterfront Structure
Inspection.docx
16.76 KB



2019 Beaufort County Waterfront
Structures.pdf
232.13 KB

LEGAL DEPARTMENT USE ONLY

Attachments:



Ordinance Waterfront Structure
Inspection with csi edits
6.27.2019.docx
17.04 KB



No file attached



No file attached

Approved

On Hold

Send Request to County Admin

Disapproved

Comments:

Please use the uploaded edited version from legal. Should be presented to Public Facilities committee at next opportunity.

cinglese

Legal Department Staff

6/27/2019

8:44:45 AM

Date/Time

Click the SAVE and CLOSE buttons on the top ribbon to commit changes

ORDINANCE NO. 2019 / _____

AN ORDINANCE TO APPROPRIATE \$21,677 FROM THE LOCAL HOSPITALITY TAX FOR WATERFRONT STRUCTURE INSPECTIONS OF PORTIONS OF THE SPANISH MOSS TRAIL AND WIMBEE CREEK FISHING PIER

WHEREAS, County Council is authorized to utilize Local Hospitality Tax Funds for certain limited purposes including tourism related cultural, recreational and historical programs and facilities; and

WHEREAS, County Council is authorized to utilize Local Hospitality Tax Funds for highways, roads, streets, bridges and boat ramps providing access to tourist destinations; and

WHEREAS, County Council is authorized to utilize Local Hospitality Tax Funds for river access; and

WHEREAS, the proposal for conducting structural inspections along the Spanish Moss Trail and the Wimbee Creek Fishing Pier qualify for Hospitality Tax Fund expenditures; and

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

WHEREAS, Beaufort County deems it appropriate and in the best interest of its citizens to provide funding for inspection services associated with the Spanish Moss Trail and Wimbee Creek Fishing Pier from Hospitality Tax Funds; and

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that an appropriation of \$21,677 be made from the Local Hospitality Tax Fund to pay for the Waterfront Structure Inspections of Spanish Moss Trail and Wimbee Creek Fishing Pier.

DONE this _____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stu Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

McSweeney Engineering
Waterfront Inspection Proposal

<u>Structure</u>	<u>Inspection Man Hours</u>	<u>Report Hours</u>	<u>Drawing Hours</u>	<u>Report QC</u>	<u>Cost Per Project</u>
Laurel Bay Bridge	6	4	4	1.5	\$2,055.00
Albergotti Bridge	12	4	4	1.5	\$2,925.00
Battery Creek Bridge	12	4	4	1.5	\$2,925.00
Battery Creek #2 Bridge	6	4	4	1.5	\$2,055.00
Culvery at Marshes of Battery Creek	3	4	4	1.5	\$1,620.00
Wimbee Creek Fishing Pier	36	4	4	1.5	\$6,405.00
Total Hours	75	24	24	9	
Average Rate	\$145.00	\$120.00	\$120.00	\$150.00	
Totals	\$10,875.00	\$2,880.00	\$2,880.00	\$1,350.00	
Total Inspection/Report	<u>\$17,985.00</u>				

Office Prep (Field Books/Planning)	\$750.00
Project Management	\$1,196.00
Total Office Fee	<u>\$1,946.00</u>
Directs Costs (equipment/Dive Pay)	<u>\$1,746.00</u>

Total Project Cost	<u>\$21,677.00</u>
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BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Ordinance Broad River Fishing Pier Inspections

Council Committee:

Public Facilities

Meeting Date:

August 8, 2019

Committee Presenter (Name and Title):

Robert McFee, PE, Division Director Construction, Engineering and Facilities

Issues for Consideration:

County Council is authorized to utilize the 3% Local Accommodation Tax Funds for certain limited purposes to include tourism, cultural, recreational or historical facilities and highways, roads, streets, bridges and boat ramps. The appropriation of funds for Broad River Fishing Pier Inspections ensures the safety for tourism and recreational activities.

Points to Consider:

The structure is in good condition and deterioration of the concrete beams and pile foundations was addressed last year in the preservation program. It is recommended to continue to monitor the structure with comprehensive above and underwater inspections at yearly intervals to record and track condition of the pier.

Funding & Liability Factors:

To appropriate \$27,000 each year for up to five (5) years from the 3% Local Accommodation Tax Funds for the inspections of Broad River Fishing Pier.

Council Options:

Approve or disapprove appropriation of funds

Recommendation:

Approve appropriation of funds

ORDINANCE NO. 2019 / _____

AN ORDINANCE TO APPROPRIATE \$27,000 EACH YEAR FOR UP TO FIVE (5) YEARS FROM THE 3% LOCAL ACCOMMODATION TAX FUNDS FOR THE INSPECTIONS OF BROAD RIVER FISHING PIER

WHEREAS, County Council is authorized to utilize the 3% Local Accommodation Tax Funds for certain limited purposes including tourism, cultural, recreational or historical facilities and highways, roads, streets, bridges and boat ramps providing access to tourist destinations; and

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

WHEREAS, Beaufort County deems it appropriate and in the best interest of its citizens to provide funding for inspection services associated with Broad River Fishing Pier; and

WHEREAS, ensuring the safety for tourism and recreational activities at Broad River Fishing Pier; and

NOW, THEREFORE, BE IT ORDAINED by Beaufort County Council that an appropriation of \$27,000 each year for up to five (5) years be made from the 3% Local Accommodations Tax Fund to pay for the Inspection of Broad River Fishing Pier as needed.

DONE this _____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stu Rodman, Chairman

ATTEST:

Sarah W. Brock, Clerk to Council

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

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OFFICE OF THE COUNTY ATTORNEY

Post Office Drawer 1228 ž Beaufort, SC 29901
102 Industrial Village Road, Building #1
843.255.2055 (O) ž 843.255.9414 (F)

LEGAL REVIEW REQUEST FORM

Form Number: 2019 - 0004

Originally submitted on: 2019-06-11T15:11:58

Select One:

Ordinance / Resolution

Lease (Real Property)

MOA / MOU / IGA

Easement / Right Of Way

Other _____

Document Title: Ordinance Broad River Fishing Pier Inspection

Requester's Department: Engineering

Requester's Name: Brittanee Fields

Ph: 843 255 2692

Em: brittanee.fields@bcgov.net

Date needed by: 7/1/2019

Description/Concern:

Ordinance to appropriate \$27,000 from the 3% Local Accommodation Tax Funds to the inspections of Broad River Fishing Pier

If applicable, please provide the total value amount of the contract:

Amount BELOW \$50,000.00

Amount \$50,000 to \$99,9999

Amount \$100,000 and above

Has the item been approved by a Council Committee? Yes No N/A

Has the item been approved by full Council? Yes No N/A

Attachments: _____



Ordinance Broad River Fishing Pier Inspection.docx
16.89 KB



_042619E RFP Broad River Fishing Pier Inspection.pdf
339.88 KB



BID McSweeney Engineers.pdf
3.56 MB



BID 2nd doc McSweeney Engineers.pdf
155.67 KB



Award Recommendation_Broad River Pier Inspection - Signed by McFee.pdf
279.25 KB

No file attached

LEGAL DEPARTMENT USE ONLY

Attachments:

No file attached

No file attached

No file attached

Approved

On Hold

Send Request to County Admin

Disapproved

Comments:

Good job Brittanee. The "Approved as to Form" signature line for the County Attorney can be removed, but otherwise looks good to me. The next step is to get this on a Public Facilities or Finance Committee agenda.

cinglese

Legal Department Staff

7/1/2019

8:30:22 AM

Date/Time

Click the SAVE and CLOSE buttons on the top ribbon to commit changes

\$600,000.00) (the “Purchase Price”), subject to certain clawback rights if the Company does not satisfy certain performance thresholds and criteria; and

WHEREAS, this Ordinance authorizes the conveyance of the Property following the holding of a public hearing in accordance with the requirements of Section 4-9-130 of the Code of Laws of South Carolina, 1976, as amended; and

WHEREAS, it appears that the Incentive Agreement, which is now before this meeting, is in appropriate form and is an appropriate instrument to be executed and delivered by the County for the purposes intended.

NOW, THEREFORE, BE IT ORDAINED by the County Council in a meeting duly assembled as follows:

Section 1. In order to promote industry, develop trade, and utilize and employ the manpower, products, and natural resources of the State of South Carolina by assisting the Company to expand or locate the Project in the County, the Incentive Agreement is hereby authorized, ratified, and approved.

Section 2. Upon satisfaction of the terms and conditions set forth in the Incentive Agreement relating to the conveyance of the Property, such satisfaction of the terms and conditions to be determined by the County Administrator upon the advice of Counsel to the County, and upon payment of the Purchase Price by the Company to the County, the Chairman of County Council and/or the County Administrator are authorized, empowered, and directed to execute a limited warranty deed conveying title to the Property to the Company.

Section 3. It is hereby found, determined, and declared by the County Council, as follows:

- (a) The Project is beneficial to the County, and the County has evaluated the Project based upon all criteria prescribed by law, including the anticipated dollar amount and nature of the investment to be made and the anticipated costs and benefits to the County.
- (b) The Project is anticipated to benefit the general public welfare of the County by providing services, employment, recreation, or other public benefits not otherwise adequately provided locally.
- (c) The purposes to be accomplished by the Project, i.e., economic development, creation of jobs, and addition to the tax base of the County, are proper governmental and public purposes.
- (d) The inducement of the location or expansion of the Project within the County and State is of paramount importance.
- (e) The benefits of the Project to the public will be greater than the costs.

Section 4. The form, terms, and provisions of the Incentive Agreement presented to this meeting are hereby approved, and all of the terms, provisions, and conditions thereof are incorporated herein by reference as if the Incentive Agreement were set out in this Ordinance in its entirety. The Chairman of the County Council and/or the County Administrator are authorized, empowered, and directed to execute, acknowledge, and deliver the Incentive Agreement in the name of and on behalf of the County, and thereupon to cause the Incentive Agreement to be delivered to the Company. The Incentive Agreement is to be in substantially the form now before this meeting and hereby approved, with such changes therein as shall not be materially adverse to the County and as shall be approved by the officials of the County executing the same, upon the advice of Counsel to the County, such official's execution thereof to constitute conclusive evidence of such official's approval of any and all changes or revisions therein from the form of the Incentive Agreement now before this meeting.

Section 5. The Chairman of the County Council and/or the County Administrator, for and on behalf of the County, are hereby authorized and directed to do any and all things necessary to effect the execution and delivery of the Incentive Agreement and the performance of all obligations of the County under and pursuant to the Incentive Agreement.

Section 6. The provisions of this Ordinance are hereby declared to be separable, and if any section, phrase, or provision shall for any reason be declared by a court of competent jurisdiction to be invalid or unenforceable, such declaration shall not affect the validity of the remainder of the sections, phrases, and provisions hereunder.

Section 7. All orders, resolutions, ordinances, and parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed, and this Ordinance shall take effect and be in full force from and after its passage and approval.

(SIGNATURE PAGE TO FOLLOW)

Exhibit A
Incentive Agreement

TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, S.C. 29928

(843) 341-4600 Fax (843) 842-7728

www.hiltonheadislandsc.gov

John J. McCann
Mayor

August 27, 2019

William D. Harkins
Mayor ProTem

Council Members

David Ames
Tamara Becker
Marc A. Grant
Thomas W. Lennox
Glenn Stanford

Stewart Rodman, Chairman & County Council Members
Beaufort County Council
100 Ribaut Road
Beaufort, S.C. 29902

Stephen G. Riley
Town Manager


Dear Mr. Rodman and Council Members,

On August 20, 2019, the Hilton Head Island Town Council endorsed the attached *Guiding Principles for the U.S. 278 Gateway Corridor Project*, which was developed by the Council-appointed U.S. 278 Gateway Corridor Committee.

The Town will submit the *Guiding Principles* to the S.C. Department of Transportation during the 30-day public comment period following the release of the reasonable alternatives from the Environmental Assessment (EA) on September 19.

I am forwarding the document for your consideration. I hope that we can include the County's endorsement of the *Guiding Principles* to SCDOT.

Sincerely,


John J. McCann
Mayor

cc: David Johnson, U.S. 278 Gateway Corridor Committee, Town of Hilton Head Island



TOWN OF HILTON HEAD ISLAND

TO: Town Council
FROM: David Johnson, *Chairman, US 278 Gateway Corridor Committee*
DATE: August 6, 2019
SUBJECT: Recommended Guiding Principles For Evaluating Corridor Alternatives

Recommendation: The US 278 Gateway Corridor Committee recommends that Town Council endorse the attached “Guiding Principles for US 278 Gateway Corridor Project” and forward to Beaufort County and the Town of Bluffton for consideration.

Summary: Town Council appointed a US 278 Gateway Corridor Committee to assist the Town Council in developing corridor improvement recommendations for the SCDOT as it progresses through their Environmental Assessment (EA) process. On September 19, 2019, SCDOT will release the “reasonable alternatives” they will evaluate over the next year as part of the EA process. A 30 day public comment period where any comment received by SCDOT will become part of the record begins following this release. The committee believes it is important for the Town to provide SCDOT with comments during this 30 day window. While a thorough evaluation by the committee of each reasonable alternative is not possible within this 30 day window the Committee developed a set of Guiding Principles that it hopes Town Council will endorse and provide to SCDOT during the public comment period. If endorsed by the Town Council, the Committee will use these broad principles as a framework for engaging the public and evaluating the reasonable alternatives over the next several months. Additionally, the Committee would like for the Town Council to forward the Guiding Principles to the Town of Bluffton and Beaufort County for their consideration.

Background: Hilton Head Island Town Council set up the US 278 Gateway Corridor Committee (Committee) “...to work cooperatively with the South Carolina Department of Transportation to gather information, obtain and provide citizen input in the Environmental Assessment Process and make recommendations to Town Council regarding the US 278 Environmental Assessment and Design Alternatives”. The Committee is comprised of 15 citizens from Beaufort County including Hilton Head and Bluffton with liaison members from the town councils of Hilton Head Island and Bluffton and the Beaufort County Council.

A formal process known as the Environmental Assessment (EA) is required for any project that will use Federal funding. The EA normally takes around two years. The South Carolina Department of Transportation (SCDOT) began the US 278 EA in the fall of 2018. The scope of the EA covers the US 278 Corridor between Moss Creek Road and Spanish Wells Road incorporating four bridge spans, Pinckney Island, Hog and Jenkins Islands. The SCDOT has stated that no project can go forward unless it meets the “purpose and need” of the project which they have given as follows:

1. Replace the deficient MacKay Creek Bridge Span
2. Reduce traffic congestion
3. Increase the capacity of the corridor

The EA is about a year into the process and the SCDOT will announce its first set of preliminary alternatives (known in the EA process as “reasonable alternatives”) for the corridor on September 19th, 2019 at a public meeting on Hilton Head Island. The SCDOT will take public comments to be incorporated into the formal EA document for 30 days after that. While it will still take public comments throughout its process going forward these comments are not required to be included in the formal EA document.

During the next year the SCDOT will refine its preliminary alternatives with the goal of announcing a single Preferred Alternative in the Fall of 2020. In all likelihood the SCDOT will have decided internally on this Preferred Alternative by early spring of 2020. After the SCDOT unveils its set of reasonable alternatives in September the Committee, in coordination with the SCDOT, will work to help citizens evaluate the different alternatives, gather information about preferences and issues in order to work toward a recommendation to the HHI Town Council. Specific evaluation criteria will include private property impacts and neighborhood displacement, retention of heritage and culture, the extent to which it shows good stewardship of the tax money raised for the project through the County’s one percent transportation tax, environmental impact, and the consideration of many other issues.

The public consideration and evaluation process for the alternatives will take place over the 4-6 months after the September 19th unveiling of reasonable alternatives by the SCDOT. However, the Committee believes it is important for the Town to provide some initial input to SCDOT during the 30 day public comment period. Therefore the Committee has developed a set of Guiding Principles (attached) it believes should be the broad basis for evaluating SCDOT’s reasonable alternatives. These Guiding Principles, if endorsed by the Town Council, will be provided to SCDOT during the 30 day comment period. Additionally, the Committee is asking Town Council to forward the Guiding Principles to the Beaufort County and the Town of Bluffton in hopes they will also endorse the Guiding Principles.

The US 278 Gateway Corridor Project

Guiding Principles

1. Fix the transportation issues in the corridor in a way that improves the safety and quality of life for all residents, workers and visitors to Hilton Head Island:

- Address transportation needs for natural disasters and resiliency of island access
- Consider future transportation alternatives

2. Improve the safety and quality of life for the residents of the neighborhoods and businesses directly impacted by the US 278 corridor:

- Stoney
- Neighborhoods on Jenkins and Hog Islands (including but not limited to Windmill Harbor)

3. Have a gateway to and from Hilton Head Island that the region will be proud of:

- Aesthetically pleasing and reflecting the Hilton Head Island/Low Country values
- Safe and functional pathways for pedestrians and cyclists
- Minimizes environmental impacts and enhances the national asset of Pinckney Island

Background and Timeline

The Gateway Corridor Committee

Hilton Head Island Town Council set up the US 278 Gateway Corridor Committee (Committee) “...to work cooperatively with the South Carolina Department of Transportation to gather information, obtain and provide citizen input in the Environmental Assessment Process and make recommendations to Town Council regarding the US 278 Environmental Assessment and Design Alternatives”. The Committee is comprised of 15 citizens from Beaufort County including Hilton Head and Bluffton with liaison members from the town councils of Hilton Head Island and Bluffton and the Beaufort County Council.

South Carolina’s Environmental Assessment Process

A formal process known as the Environmental Assessment (EA) is required for any project that will use Federal funding. The EA normally takes around two years. The South Carolina Department of Transportation (SCDOT) began the US 278 EA in the fall of 2018. The scope of the EA covers the US 278 Corridor between Moss Creek Road and Spanish Wells Road incorporating four bridge spans, Pinckney Island, Hog and Jenkins Islands. The SCDOT has stated that no project can go forward unless it meets the “purpose and need” of the project which they have given as follows:

1. Replace the deficient MacKay Creek Bridge Span
2. Reduce traffic congestion
3. Increase the capacity of the corridor

Timeline: From Reasonable Alternatives to a Preferred Alternative

The EA is about a year into the process and the SCDOT will announce its first set of preliminary alternatives (known in the EA process as “reasonable alternatives”) for the corridor on September 19th, 2019 at a public meeting on Hilton Head Island. The SCDOT will take public comments to be incorporated into the formal EA document for one month after that. While it will still take public comments throughout its process going forward these comments are not required to be included in the formal EA document. During the next year the SCDOT will refine its preliminary alternatives with the goal of announcing a single Preferred Alternative in the Fall of 2020. In all likelihood the SCDOT will have decided internally on this Preferred Alternative by early spring of 2020.

What Defines Success?

After the SCDOT unveils its set of reasonable alternatives in September the Committee, in coordination with the SCDOT, will work to help citizens evaluate the different alternatives, gathering information about preferences and issues in order to work toward a recommendation to the HHI Town Council. The Committee will consider and evaluate the alternatives presented by the SCDOT using the guiding principles presented here. Related specific evaluation criteria include such important issues as property/neighborhood displacement, retention of heritage and culture, the extent to which it shows good stewardship of the tax money raised for the project through the County’s one percent transportation tax, among other issues. An outcome that satisfies the guiding principles will greatly benefit everyone who lives, works or visits Hilton Head Island.



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

Housing Trust Fund Resolution Consideration

Council Committee:

Natural Resources

Meeting Date:

August 19, 2019

Committee Presenter (Name and Title):

Eric Greenway, Community Development Director

Issues for Consideration:

The SoLoCo Sub-committee on Housing Trust Funds has recommended a process for implementing a Regional Housing Trust Fund (see attached) which lays out a proposed amount for each jurisdiction to contribute toward the hiring and payment of a consultant who will work with an appointed Steering Committee to implement an HTF framework in order to establish the fund. Since Beaufort County has taken the lead on the Attainable Housing issue, our procurement and contract process will be used to authorize and hire the consultant.

Points to Consider:

Consider adopting the SoLoCo resolution to commit Beaufort County's share of the funding for the consultant.

Funding & Liability Factors:

Beaufort County's share is proposed to be an amount not to exceed \$65,000.

Council Options:

1. Adopt the resolution to commit the funding.
2. Reject the resolution.

Recommendation:

Staff recommends that the resolution be adopted to commit the funding for the HTF.

Process for Establishing the SoLoCo Regional Housing Trust Fund

1. Secure funding from each jurisdiction through IGAs for the consultant based on the following population based formula:

A. Beaufort County:	50%	65K*
B. Hilton Head Island:	20%	25K
C. Bluffton	12%	15K
D. Jasper County	08%	10K
E. Hardeeville	04%	5K
F. Beaufort City	04%	5K
G. Port Royal	04%	5K

*based on Greenville's 130K costs

2. Develop and distribute a Request for Qualifications using the Beaufort County Procurement process to hire a consultant to set-up and organize the HTF.
 - A. SoLoCo HTF sub-committee will obtain the blessing of the SoLoCo Board once the RFQ scope draft is completed.
 - B. Beaufort County Purchasing will coordinate the distribution and collection of submittals.
 - C. The SoLoCo HTF sub-committee will serve as the RFQ review team
 - D. Each jurisdiction's HTF Sub-committee representative will update their respective Administrators and Council on progress.
 - E. SoLoCo HTF sub-committee will obtain the blessing of the SoLoCo Board for the HTF Consultant selection recommendation.
3. The respective jurisdictions will begin their internal process for appointing the Steering Committee representatives while the HTF Sub-committee works with the NGOs to select their representative:
 - A. 2 Representatives from each jurisdiction
 - B. 1 Representative from each: Home Builders Association, Realtors Association, Habitat for Humanity, Jasper Neighbors United, Housing Authority, & Financial Industry.
 - C. HTF Sub-committee members serve as Advisory Committee to HTF Consultant and Steering Committee.
4. Consultant contract in place through Beaufort County and Steering Committee work will commence.

RESOLUTION No.

A RESOLUTION OF BEAUFORT COUNTY, SOUTH CAROLINA, COUNTY COUNCIL AUTHORIZING THE COUNTY ADMINISTRATOR TO EXPEND FUNDS FOR THE PURPOSES OF COST SHARING FOR CONTRACTING FOR CONSULTING SERVICES TO DEVELOP A REGIONAL AFFORDABLE HOUSING TRUST FUND.

WHEREAS, Beaufort County, SC is currently involved with and is a part of the Southern Lowcountry Regional Board (SOLOCO); and

WHEREAS, SOLOCO has recognized the need for housing that is attainable for all and particularly for those in the service industries and entry-level professional occupations; and

WHEREAS, SOLOCO has prioritized the need for a regional approach for attainable housing; and

WHEREAS, the SOLOCO members designated staff from each jurisdiction involved to serve on a Affording Housing Trust Fund Sub-committee to research and evaluate the feasibility of a regional affordable housing trust fund; and

WHEREAS, the Affordable Housing Trust Fund Sub-committee met on multiple occasions and determined that an outside independent contractor with specific expertise was needed to design the framework of such an organization and determine funding requirements and coordinate with the individual jurisdictions involved; and

WHEREAS, the Affordable Housing Trust Fund Sub-committee has drafted an RFP for consultant services; and

WHEREAS, the Affordable Housing Trust Fund Sub-committee will review responses to the RFP and provide a recommendation to SOLOCO; and

WHEREAS, the Affordable Housing Trust Fund Sub-committee developed a structure for cost sharing for each jurisdiction based on population.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Beaufort County, SC:

The County Administrator is authorized to expend funds in an amount not to exceed \$65,000 as the County's portion of the contract.

PASSED AND ADOPTED by the County Council of Beaufort County, SC this ____ day of _____ 2019.

BEAUFORT COUNTY COUNCIL, SC

By: STEWART H. RODMAN, CHAIRMAN

ATTEST:

**APPROVED AS TO FORM
AND CORRECTNESS:**

CLERK TO COUNCIL

COUNTY ATTORNEY



BEAUFORT COUNTY COUNCIL

Agenda Item Summary

Item Title:

An Ordinance to suspend the millage limitation imposed by SC Code section 6-1-320 and increase the millage rate by a surcharge of an additional 3.3 mill based on a request from the Beaufort County School Board

Council Committee:

Finance Committee

Meeting Date:

September 3, 2019

Committee Presenter (Name and Title):

Alicia Holland, Assistant County Administrator, Finance & Tonya Crosby, Beaufort County School District, CFO

Issues for Consideration:

Points to Consider:

Funding & Liability Factors:

None.

Council Options:

Approve, Modify or Reject

Recommendation:

Approve

ORDINANCE NO. ____
FY 2019-2020 Beaufort County School District Millage Surcharge

AN ORDINANCE BASED ON THE REQUEST FROM THE BEAUFORT COUNTY BOARD OF EDUCATION TO SUSPEND THE MILLAGE LIMITATION IMPOSED BY SC CODE SECTION 6-1-320 AND INCREASE THE MILLAGE RATE BY A SURCHARGE OF AN ADDITIONAL 3.3 MILLS BECAUSE OF THE DEFICIENCY OF THE PRECEDING YEAR, AND DECLARE INTENTION TO LEVY AN ADDITIONAL SURCHARGE IN 2020-2021 TO CURE THE BALANCE OF THE DEFICIENCY.

BE IT ORDAINED BY COUNTY COUNCIL OF BEAUFORT COUNTY:

WHEREAS, the 2018-2019 fiscal year was a year of reassessment and the property tax millage rate for school operations was rolled back from 113.5 mills in the prior year of 2017-2018 to 104.6 mills for 2018-2019;

WHEREAS, the County Council of Beaufort County appropriated property tax funds for school operations for the 2018-2019 fiscal year in the amount of \$143,707,242;

WHEREAS, it is now understood that the rollback millage levied of 104.6 mills was too low to generate the funds appropriated and resulted in property tax collections of approximately \$134,937,820, resulting in a deficiency of property tax revenue for school operations for the 2018-2019 fiscal year in the approximate amount of \$8,769,422;

WHEREAS, the Beaufort County Board of Education has requested in its budget for 2019-2020 that the County Council increase the property tax millage rate by a surcharge for one year, 2019-2020, to provide the funds to cure the deficiency from 2018-2019;

WHEREAS, this request is being made in accordance with Section 6-1-320(B)(1) of the Code of Laws of South Carolina whereby the millage rate limitation may be suspended for the purpose of curing a deficiency of the preceding year;

WHEREAS, the County Council of Beaufort County intends to cure the deficiency over two (2) fiscal years rather than one (1) as requested by the Beaufort County Board of Education, as authorized by Section 6-1-320(B) of the Code of Laws of South Carolina, providing “[t]he surcharge must be continued only for the years necessary to pay for the deficiency”;

WHEREAS, the levy of the surcharge and the amount for each taxpayer shall be listed on the tax statement as a separate surcharge and shall not be included with a general millage increase. The surcharge shall have an explanation of the reason which shall state: “surcharge to cure the deficiency from fiscal year 2018-2019.”

NOW, THEREFORE, the County Council of Beaufort County agrees to establish and hereby levies 3.3 mills as a surcharge for the 2019-2020 fiscal year to fund part of the deficiency from the 2018-2019 fiscal year and appropriates all funds from the millage surcharge to fund

school operations, and declares its intention to cure the balance of the deficiency by levying an additional surcharge for the 2020-2021 fiscal year.

Adopted this ____ day of _____, 2019.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
Stewart H. Rodman, Chairman

ATTEST:

_____, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading: