Natural Resources Committee

Beaufort County, SC

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

AT THE CONCLUSION OF THE COMMUNITY SERVICES AND PUBLIC SAFETY COMMITTEE. NO SOONER THAN 3 PM

Monday, March 07, 2022
3:00 PM

AGENDA

COMMITTEE MEMBERS:

ALICE HOWARD, CHAIRMAN | **GERALD DAWSON, VICE-CHAIR**
LOGAN CUNNINGHAM | **LAWRENCE MCELYNN**
YORK GLOVER

1. CALL TO ORDER
2. PLEDGE OF ALLEGIANCE
3. PUBLIC NOTIFICATION OF THIS MEETING HAS BEEN PUBLISHED, POSTED, AND DISTRIBUTED IN COMPLIANCE WITH THE SOUTH CAROLINA FREEDOM OF INFORMATION ACT
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES - FEBRUARY 7, 2022
6. **CITIZEN COMMENTS - (ANYONE WHO WISHES TO SPEAK DURING THE CITIZEN COMMENT PORTION OF THE MEETING WILL LIMIT THEIR COMMENTS TO NO LONGER THAN THREE (3) MINUTES (A TOTAL OF 15 MINUTES) AND WILL ADDRESS COUNCIL IN A RESPECTFUL MANNER APPROPRIATE TO THE DECORUM OF THE MEETING, REFRAINING FROM THE USE OF PROFANE, ABUSIVE, OR OBSCENE LANGUAGE)**

AGENDA ITEMS

---

7. RURAL AND CRITICAL LANDS PRESERVATION PROGRAM 2021 ANNUAL REPORT
8. RECOMMEND APPROVAL OF FIRST READING OF AN ORDINANCE AUTHORIZING THE APPROVAL TO TERMINATE AN EASEMENT AND EXECUTE AN EASEMENT ENCUMBERING A PORTION OF PROPERTY OWNED BY BEAUFORT COUNTY AND KNOWN AS FORDS SHELL RING
9. RECOMMEND APPROVAL OF FIRST READING OF AN ORDINANCE REPEALING AN ORDINANCE CREATING THE SOUTHERN BEAUFORT COUNTY CORRIDOR BEAUTIFICATION BOARD

10. RECOMMEND APPROVAL OF FIRST READING OF AN ORDINANCE FOR APPROVAL OF AN AMENDMENT TO THE OSPREY POINT (MAILIND BLUFF) PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN TO CONVERT THE COMMERCIAL AREA TO MULTIFAMILY

11. DISCUSSION OF NEGOTIATIONS INCIDENT TO PROPOSED CONTRACTUAL ARRANGEMENTS AND PROPOSED SALE OR PURCHASE OF DEVELOPMENT RIGHTS ON REAL PROPERTY KNOWN AS BEACH CITY ROAD

12. RECOMMEND APPROVAL OF A RESOLUTION FOR A STORMWATER UTILITY INTERGOVERNMENTAL AGREEMENT (IGA) AMENDMENT WITH CITY OF BEAUFORT

13. RECOMMEND APPROVAL OF A RESOLUTION FOR A STORMWATER UTILITY INTERGOVERNMENTAL AGREEMENT (IGA) AMENDMENT WITH TOWN OF PORT ROYAL

14. RECOMMEND APPROVAL OF THE REAPPOINTMENT OF JOHN A CHEMSAK TO THE BEAUFORT COUNTY ZONING BOARD OF APPEALS FOR A SECOND TERM WITH AN EXPIRATION DATE OF 2025

15. RECOMMEND APPROVAL OF THE APPOINTMENT OF EVAN BROMLEY OR CHESTER WILLIAMS TO FILL THE SOUTHERN BEAUFORT COUNTY ATTORNEY OPENING ON THE ZONING BOARD OF APPEALS. THIS SEAT WILL HAVE AN EXPIRATION DATE OF 2026

16. RECOMMEND APPROVAL OF THE REAPPOINTMENTS OF JANET PORTER FOR A SECOND TERM EXPIRING IN 2026; JOSEPH BOGACZ FOR A THIRD TERM EXPIRING IN 2026; BERNARD COLE FOR A FOURTH TERM EXPIRING IN 2026; LYNNE MILLER FOR A FOURTH TERM EXPIRING IN 2026; BRENDA POWELL FOR A THIRD TERM EXPIRING IN 2026; ROSALIE RICHMAN FOR A THIRD TERM EXPIRING IN 2026; AND ANNA MARIA TABERNIK FOR A FOURTH TERM EXPIRING IN 2026 TO THE BEAUFORT COUNTY LIBRARY BOARD

EXECUTIVE SESSION

17. PURSUANT TO S.C. CODE SECTION 30-4-70(A)(2) DISCUSSION OF NEGOTIATIONS INCIDENT TO PROPOSED CONTRACTUAL ARRANGEMENTS AND PROPOSED PURCHASE OR SALE OF PROPERTY (NEW RIVERSIDE LIBRARY and PORT ROYAL BOAT LANDING)

18. MATTERS ARISING OUT OF EXECUTIVE SESSION

19. ADJOURNMENT

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

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

Natural Resources Committee
Beaufort County, SC

This meeting was held both in person at the County Council Chambers, 100 Ribaut Road, Beaufort, and also virtually through Zoom.

Monday, February 07, 2022
2:00 PM

MINUTES

1. **CALL TO ORDER**

Committee Chair Howard called the meeting to order at 2:00 PM

PRESENT
Committee Chair Alice Howard
Committee Vice-Chair Gerald Dawson
Council Member Joseph F. Passiment
Council Member D. Paul Sommerville
Council Member Brian Flewelling
Council Member Stu Rodman
Council Member York Glover
Council Member Chris Hervochon
Council Member Mark Lawson
Council Member Lawrence McElynn
Council Member Logan Cunningham

2. **PLEDGE OF ALLEGIANCE**

Committee Chair Howard led the Pledge of Allegiance.

3. **FOIA**

Committee Chair Howard stated public notice of this meeting had been published, posted, and distributed in compliance with the SC FOIA Act.

4. **APPROVAL OF AGENDA**

Motion to Amend: It was moved by Council Member Passiment seconded Council Member Flewelling to defer item number 11 (First Reading of an Ordinance for approval of an amendment to the Osprey Point Planned Unit Development (PUD) Master Plan to convert the commercial area to multifamily) to give staff a chance to meet with the developers regarding affordable housing issues, and to move item number 15 (a Resolution authorizing the County Administrator to provide funding not to exceed $25,000 for a design planning charrette to develop design criteria and drawings to enhance the implementation of the Lady's

Island Plan) to replace item number 7 (First Reading of a Zoning Map Amendment / Rezoning Request for nineteen (19) Rural and Critical Lands Preservation Program properties from various zoning districts to T1 Natural Preserve (T1NP)) and to be the first item under agenda items.

The Vote - The motion was approved without objection.

Main Motion: It was moved by Council Member Passiment, seconded by Council Member Flewelling to approve the agenda as amended.

The Vote - The motion was approved without objection.

5. **APPROVAL OF MINUTES - JANUARY 3, 2022**

Motion: It was moved by Council Member Passiment, seconded by Council Member Sommerville to approve the minutes from January 3, 2022.

The Vote - The motion was approved without objection.

6. CITIZEN COMMENTS

Mayor Steven Murray commented on the Transportation Improvement Study to request County Council to release funds for Lady's Island Improvement Plan. (Letter attached)

Chuck Newton commented on the Lady's Island Improvement Plan with the request to move forward with the improvements.

Micheal Tony commented on the current activities on the Lady's Island Improvement.

Jesse White commented on Item# 8 first reading of an ordinance for approval of a zoning map amendment request for 6.26 acres (R100 027 000 0387 0000) 186 Cherokee Farms Road from T2 Rural to T4 Hamlet Center Open and to show full support. Item# 13 first reading for an ordinance authorizing the county administrator to execute the necessary documents to convey a portion of property owned by Beaufort County with TMS No. R200 010 000 0170 0000 will not be supported by the Coastal Conservation League. First reading of an ordinance for approval of a zoning map amendment/rezoning request for nineteen (19) Rural and Critical Lands Preservation program properties from various zoning districts to T1 natural preserve (T1NP) item# 7 will have the Coastal Conservation League support.

AGENDA ITEMS

7. **RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR TO PROVIDE FUNDING NOT TO EXCEED $25,000 FOR A DESIGN PLANNING CHARRETTE TO DEVELOP DESIGN CRITERIA AND DRAWINGS TO ENHANCE THE IMPLEMENTATION OF THE LADY'S ISLAND PLAN**

Motion: It was moved by Council Member Rodman, seconded by Council Member Passiment to approve a Resolution authorizing the County Administrator to provide funding not to exceed $25,000 for a design planning charrette to develop design criteria and drawings to enhance the implementation of the Lady's Island Plan for discussion and move forward to County Council for approval.

Discussion: Administrator Greenway requests that the Natural Resources Committee and the County Council support a resolution that will send a clear message that no more than an additional 25K will be allocated by the County. The 25k will be applied to a multi-day planning charette to develop design drawings and standards for the development/redevelopment of Lady's Island.

Chuck Atkinson stated staff is recommending using the current improvement plan

Council Member Flewelling stated staff should concentrate on other items and would agree with advisory boards to continue with Lady's Island.

Council Member Sommerville stated staff should be included in the proposed plans without having a 3rd party now.

Council Member Glover stated staff needs to have discussions with the advisory groups and work together as a team.

The Vote - Voting Yea: Committee Chair Howard, Committee Vice-Chair Dawson, Council Member Passiment, Council Member Sommerville, Council Member Rodman, Council Member Lawson, Council Member McElynn, Council Member Cunningham. Voting Nay: Council Member Flewelling, Council Member Glover, Council Member Hervochon. The motion passed 8 yes and 3 no's.

8. **ZONING MAP AMENDMENT/REZONING REQUEST FOR NINETEEN (19) RURAL AND CRITICAL LANDS PRESERVATION PROGRAM PROPERTIES FROM VARIOUS ZONING DISTRICTS TO T1 NATURAL PRESERVE (T1NP)**

Motion: It was moved by Council Member Passiment, seconded by Council Member Sommerville to recommend the first reading of an ordinance for a Zoning Map Amendment/Rezoning Request for nineteen (19) Rural and Critical Lands Preservation Program properties from various zoning districts to T1 Natural Preserve (T1NP) and move forward to County Council for approval.

The Vote - The motion was approved without objection.

9. **RECOMMEND FIRST READING OF AN ORDINANCE FOR APPROVAL OF A ZONING MAP AMENDMENT REQUEST FOR 6.26 ACRES (R100 027 000 0387 0000) 186 CHEROKEE FARMS ROAD FROM T2 RURAL TO T4 HAMLET CENTER OPEN.**

Motion: It was moved by Council Member Passiment, seconded by Council Member Dawson to recommend first reading of an Ordinance for approval of a Zoning Map Amendment Request for 6.26 Acres (R100 027 000 0387 0000) 186 Cherokee Farms Road from T2 Rural to T4 Hamlet Center Open and move forward to County Council.

The Vote - The motion was approved without objection.

10. **TEXT AMENDMENT TO THE COMMUNITY DEVELOPMENT CODE (CDC): SECTIONS A.2.40 (PERMITTED ACTIVITIES), A.4.40 (PERMITTED ACTIVITIES), AND A.5.40 (PERMITTED ACTIVITIES) TO REVISE THE LADY'S ISLAND COMMUNITY PRESERVATION, LADY'S ISLAND NEIGHBORHOOD ACTIVITY CENTER, AND LADY'S ISLAND PROFESSIONAL OFFICE DISTRICTS TO INCLUDE SHORT-TERM RENTALS AS A SPECIAL USE.**

Motion: It was moved by Council Member Passiment, seconded by Council Member Sommerville to recommend the first reading of an ordinance for a Text Amendment to the Community Development Code (CDC): Sections A.2.40 (Permitted Activities), A.4.40 (Permitted Activities), and A.5.40 (Permitted Activities) to revise the Lady's Island Community Preservation, Lady's Island Neighborhood Activity Center, and Lady's Island Professional Office districts to include short-term rentals as a special use and move forward to County Council for approval.

The Vote - the motion was approved without objection.

11. **RECOMMEND FIRST READING OF AN ORDINANCE FOR APPROVAL OF A ZONING MAP AMENDMENT/REZONING REQUEST FOR 6.55 ACRES (R600 041 000 0172 0000) AT 28 BUCKINGHAM PLANTATION DRIVE FROM T4 HAMLET CENTER OPEN TO T4 NEIGHBORHOOD CENTER**

Motion: It was moved by Council Member Passiment, seconded by Council Member Rodman to Recommend the first reading of an Ordinance for approval of a Zoning Map Amendment/Rezoning Request for 6.55 acres (R600 041 000 0172 0000) at 28 Buckingham Plantation Drive from T4 Hamlet Center Open to T4 Neighborhood Center and move forward to County Council for approval.

The Vote - Voting Yea: Committee Chair Howard, Committee Vice-Chair Dawson, Council Member Passiment, Council Member Sommerville, Council Member Rodman, Council Member Glover, Council Member Hervochon, Council Member McElynn. Voting Nay: Council Member Cunningham. The motion passed 8 yes and 1 no.

12. **RECOMMEND FIRST READING OF AN ORDINANCE FOR APPROVAL OF AN AMENDMENT TO THE OSPREY POINT (MAILIND BLUFF) PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN TO CONVERT THE COMMERCIAL AREA TO MULTIFAMILY**

Defer item number 11 (First Reading of an Ordinance for approval of an amendment to the Osprey Point Planned Unit Development (PUD) Master Plan to convert the commercial area to multifamily) to give staff a chance to meet with the developers regarding affordable housing issues.

13. **RECOMMEND FIRST READING OF AN ORDINANCE FOR APPROVAL OF A ZONING MAP AMENDMENT/REZONING REQUEST FOR 11.66 ACRES (R600 009 000 0030 0000) AT 100 RAWSTROM DRIVE FROM T2 RURAL TO T2 RURAL NEIGHBORHOOD**

Motion: It was moved by Council Member Sommerville, seconded by Council Member Rodman to postpone this item until the next Natural Resources meeting on March 7, 2021.

The Vote - The motion was approved without objection.

14. **RECOMMENDATION OF FIRST READING FOR AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS TO CONVEY A PORTION OF PROPERTY OWNED BY BEAUFORT COUNTY WITH TMS NO. R200 010 000 0170 0000**

Motion: It was moved by Council Member Sommerville, seconded by Council Member Rodman to recommend FIRST READING of AN ORDINANCE AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE NECESSARY DOCUMENTS TO CONVEY A PORTION OF PROPERTY OWNED BY BEAUFORT COUNTY WITH TMS NO. R200 010 000 0170 0000 and move forward to County Council for approval.

The Vote - the motion was approved without objection.

15. **DISCUSSION OF STORMWATER UTILITY FEES AND INTERGOVERNMENTAL AGREEMENTS**

Status: For Informational Purposes Only

16. **REAPPOINTMENT OF ED PAPAS TO THE BEAUFORT COUNTY PLANNING COMMISSION FOR A THREE-YEAR TERM WITH AN EXPIRATION DATE OF 2025**

17. **APPOINTMENT OF DANIEL RIEDEL TO THE BEAUFORT COUNTY PLANNING COMMISSION FOR A PARTIAL TERM WITH AN EXPIRATION DATE OF 2023**

18. **REAPPOINTMENT OF JAMES ATKINS AND JOHN MICHAEL BROCK TO THE BEAUFORT COUNTY DESIGN REVIEW BOARD EACH FOR A THIRD TERM WITH AN EXPIRATION DATE OF 2026**

19. **REAPPOINTMENT OF CHERYL STEELE TO THE BEAUFORT COUNTY HISTORIC PRESERVATION REVIEW BOARD FOR A SECOND TERM WITH AN EXPIRATION DATE OF 2026**

20. **APPOINTMENT OF AILEEN LeBLANC TO THE BEAUFORT COUNTY DESIGN REVIEW BOARD FOR A FIRST TERM WITH AN EXPIRATION DATE OF 2026**

Motion: It was moved by Council Member Sommerville, seconded by Council Member Passiment to approve the reappointment of Ed Pappas, the appointment of Daniel Riedel, the reappointment of James Atkins, the reappointment of Cheryl Steele, and the appointment of Aileen LeBlanc and move forward to County Council for approval.

The Vote -The motion was approved without objection

EXECUTIVE SESSION

21. **Executive session pursuant to SC Code Section 30-4-70(A)(2) for the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, (Rural Lands)**

Motion: It was moved by Council Member Passiment, seconded by Council Member Glover to go into Executive Session at 4:00PM.

The Vote - The motion was approved without objection.

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

No matters out of Executive Session

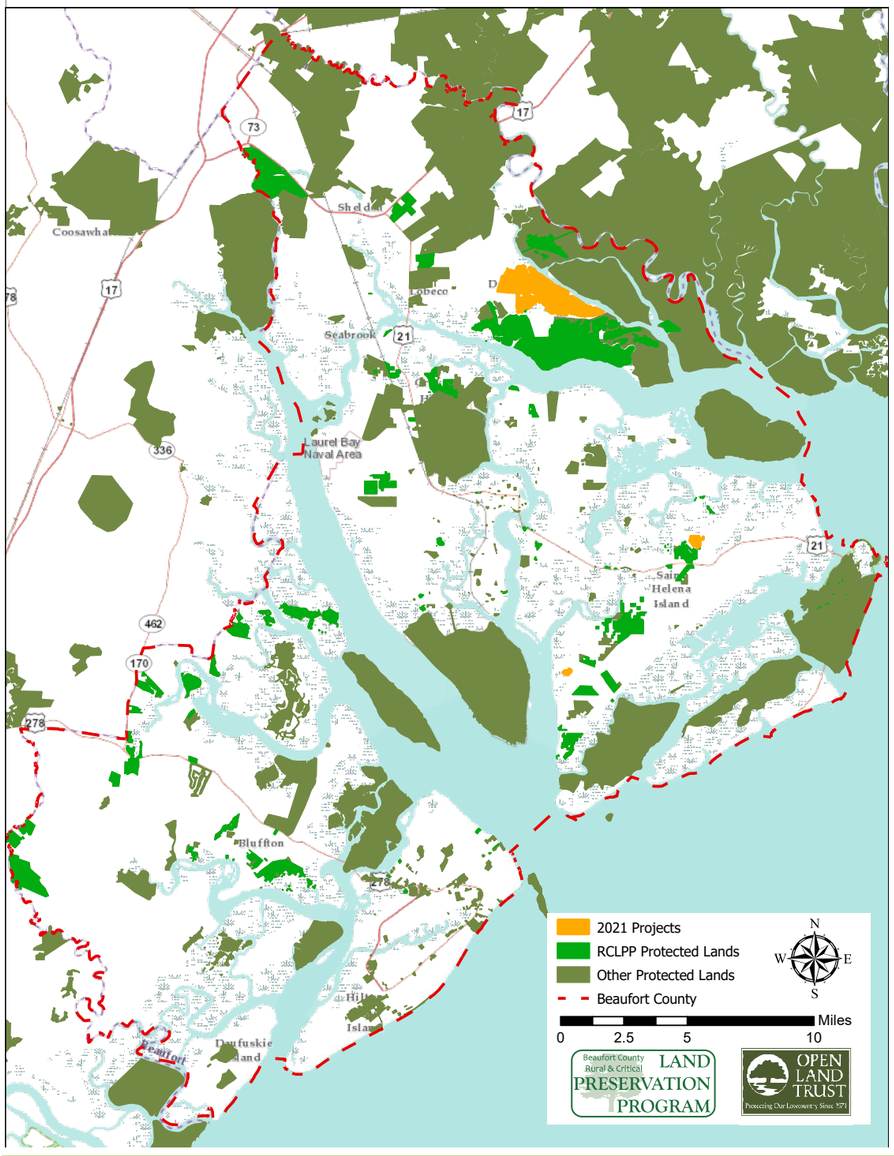
23. **ADJOURNMENT**

The meeting adjourned at 4:32 PM.

BEAUFORT COUNTY COUNCIL
AGENDA ITEM SUMMARY

ITEM TITLE:
Rural and Critical Lands Preservation Program 2021 Annual Report
MEETING NAME AND DATE:
Natural Resources Committee, Monday, March 7 2022
PRESENTER INFORMATION:
Kate Schaefer, RCLP Program 5-10 minutes
ITEM BACKGROUND:
Rural and Critical Land Preservation Board reviewed annual report on January 13, 2022
PROJECT / ITEM NARRATIVE:
The 2021 Annual Report highlights three land protection projects from 2021, passive park openings and other program operations.
FISCAL IMPACT:
N/A
STAFF RECOMMENDATIONS TO COUNCIL:
N/A For information purposes only
OPTIONS FOR COUNCIL MOTION:
N/A For information purposes only

RURAL AND CRITICAL LANDS PRESERVATION PROGRAM



Henry Farm North (PDR)

DISTRICT: 3, St Helena

SIZE: 88 acres

PDR/CE COST: $325,000

PARTNERS: SC Conservation Bank, Open Land Trust

KEY ATTRIBUTES: Prime soils, connectivity, public access

Bermuda Bluff (Fee)

DISTRICT: 3, St Helena

SIZE: 24 acres

FEE COST: $860,000

KEY ATTRIBUTES: Water access, connectivity to existing public facilities

Oak Point / Dale (PDR)

DISTRICT: 1, Dale

SIZE: 2067.77

PDR/CE COST: $2,900,000

PARTNERS: Department of Defense - Readiness and Environmental Protection Integration (REPI) on behalf of MCAS-Beaufort

KEY ATTRIBUTES: Water quality, critical habitat, connectivity to ACE Basin

More information: www.ruralandcritical.org

FACTS AND FIGURES

2021 LAND PROTECTION: **2,180.39 ACRES.** 1 Fee Simple purchase (24.68 acres), 2 purchase of development rights / conservation easements (87.85 and 2067.77 acres)

DOLLARS SPENT: **$4,085,000**

PARTNER DOLLARS INVESTED: **$3,555,000** (Partners include MCAS Beaufort, Open Land Trust, State Conservation Bank)

LAND PROTECTION TO DATE: **28,537.24 ACRES**

Fee Simple: 13,169.66 acres, PDR/CE: 15,367.58 acres

DOLLARS SPENT TO DATE: **$141,726,456.00**

PARTNER DOLLARS INVESTED: **$45,577,211.00**

A full financial report is available by contacting Beaufort County Finance Department. For each project, itemized costs include land acquisition or purchase of development rights, due diligence (appraisal, survey and phase one environmental analysis) and closing costs. Depending on the partner, costs of acquisition and/or due diligence may be shared among multiple parties. Funds for professional services paid to the Beaufort Open Land Trust for contract services are also extracted from this fund.



PROGRESS CONTINUES ON PASSIVE PARKS

Openings: Widgeon Point Preserve (1/15/2021), Fort Frederick Heritage Preserve (2/12/2021), Fort Fremont History Center* (11/9/2021) *pictured.

Conceptual Plans Completed: Whitehall Park (Lady's Island), Pineview Preserve (Lady's Island), Bailey Memorial Park (Bluffton), Okatie River Park (Okatie/Bluffton Area), Ford Shell Ring (Hilton Head Island)

Properties purchased by Beaufort County may become passive parks and open according to Passive Park Master Plan.

Interested in protecting your land? Apply online. Applications reviewed quarterly.

GREENPRINT MASTER PLAN ENDORSED

The Rural and Critical Lands Preservation Board endorsed the Beaufort County "Greenprint" Plan in February 2021. The Board and staff rely on the Greenprint's qualitative data to guide land protection decisions. The Greenprint is available in text and as an interactive map online at www.beaufortcountysc.gov/planning



Bond Referendum Language: 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?

Henry Farm North PDR



In October 88 acres of prime agricultural land on St. Helena were protected with $325,000 toward the development rights. The Open Land Trust contributed $50,000 in funding and will hold the conservation easement; SC Conservation Bank also contributed $325,000.

This land protection effort is a result of a partnership to buy and protect property in a competitive real estate market before it was lost to a non-conservation use. The Center for Heirs' Property Preservation™ will actively manage the property as a demonstration site with educational offerings for landowners, youth and the public.

The conservation easement permanently restricts residential development and protects agricultural soils and frontage along Eddings Creek. This protection adds to over 1,700 acres of protected land on St Helena, including the nearby Henry Farms.

"St. Helena Island is such a unique and historic part of South Carolina, and the Conservation Bank is proud to partner with Beaufort County, the Open Land Trust and The Center for Heirs' Property Preservation™ to protect important farms and other family-owned land there," Raleigh West, Executive Director, South Carolina Conservation Bank.

Bermuda Bluff Fee - Future Passive Park

Twenty-four acres of waterfront property on St. Helena Island was protected on December 22, 2021 when Beaufort County purchased the property for $860,000. Complete with water access, maritime forest and property around an existing county facility, it will be added to the inventory of lands available to county residents as passive parks.

"The protection of this property will ensure all residents have safe and available access to the water – for fishing or a water view – and that all can enjoy our salt marshes." said York Glover, District 3 Council Member.

The property is 19.97 acres of maritime forest and upland hammock, the remainder 4 acres as high salt marsh surrounding the island. The property is bordered by tidal creeks, agricultural fields, and the Bermuda Bluff gated community, and access is off Bermuda Bluff road. The property meets the goals of the Rural and Critical Land Preservation Program to provide public access to the water and to connect protected landscapes. The nearby protected property includes Scott Hill Farms, The Dukes Tract, Bay Point Vistas, Lands End Plantation, and Fort Fremont.



To participate in the planning for the passive park in 2022, contact Stefanie Nagid at snagid@bcgov.net

Oak Point PDR/Conservation Easement



The Department of Defense (DoD) and Beaufort County Council announced the permanent protection of 2067.77 acres, known as "Oak Point" on the Wimbee River in the St Helena Sound in December 2021.

The conservation easement was funded by the DoD and Beaufort County Rural and Critical Land Preservation Program and is held in partnership between DoD and Beaufort County Open Land Trust. Partners each contributed $2,900,000 for a total land purchase of $5,800,000

"This is truly a "Team Beaufort" victory, and we thank all the parties involved in making this a success," said Colonel Karl R. Arbogast, Commanding Officer, Marine Corps Air Station Beaufort, SC. *"We are pleased to add this property to over 13,000 acres of protected land around the Air Station. Preserving Oak Point protects the Air Station's military mission by ensuring unobstructed training for our pilots and aircrew. More importantly, it provides mutual, multiple benefits by protecting not just our military mission but the wonderful community we call home. Thanks again for the outstanding support to the sound of freedom."*

This property has been a long-sought-after priority for protection by Marine Corps Air Station (MCAS) Beaufort. It is located off the north end of MCAS-Beaufort Runway 05/23 and within the Air Installations Compatible Use Zones (AICUZ) noise footprint.

Funding came from the Rural and Critical Land Preservation Program and the Department's Readiness and Environmental Protection Initiative (REPI) program in a competitive grant program. REPI funds have helped protect several other properties in Beaufort County, including Clarendon Farms (2009-10: 1,203 acres) and are frequently leveraged with Rural and Critical Preservation Program funds; joint projects include Mcleod Farms (2007: 375 acres) and nearby Chisolm Property (2008: 4,717 acres), Coosaw Plantation (2011: 1,529 acres) and Dopson Tract (2014: 291 acres) to the south. MCAS Beaufort and Beaufort County have been partners on these types of projects for over 20 years.

In the 2020 Beaufort County "Greenprint," Oak Point also emerged as the top-tier priority for protection due to its large size and ability to provide critical habitat and stabilize water quality in the St Helena Sound. Oak Point is bound by Barnwell and Wimbee Creeks on the north and by South Wimbee Creek on the south, all of which drain into St. Helena Sound, providing approximately 18 miles of river and tidal creek frontage. Oak Point is located between SCDNR-owned South Williman Island and RCLPP/SCDNR-protected North Williman Island (8,000 acres) and Buzzard Island (120 acres) on the north and surrounded by other protected properties. It represents the last unprotected property immediately adjacent to the St Helena Sound.

"The conservation of Oak Point is an outstanding accomplishment of the Beaufort County Rural and Critical Lands program in a 50% partnership with one of our counties' major employers and economic drivers – the United States Marine Corps. It is the third-largest property preserved in Beaufort County by BCRCL to date. If left unprotected, the current zoning could have allowed at least 600 houses and subsequent docks threatening the waters of the ACE basin and air space for MCAS Beaufort. The preservation of Oak Point is recognized as a major local and state-wide accomplishment," said Council Member Alice Howard, chairwoman of the Natural Resources Committee.

BEAUFORT COUNTY COUNCIL
AGENDA ITEM SUMMARY

ITEM TITLE:
AN ORDINANCE AUTHORIZING THE APPROVAL TO TERMINATE AN EASEMENT AND EXECUTE AN EASEMENT ENCUMBERING A PORTION OF PROPERTY OWNED BY BEAUFORT COUNTY AND KNOWN AS FORDS SHELL RING
MEETING NAME AND DATE:
Natural Resources Committee, March 7, 2022
PRESENTER INFORMATION:
Stefanie M. Nagid, Passive Parks Manager; Brittany Ward, Deputy County Attorney 10 minutes
ITEM BACKGROUND:
New item for Committee recommendation to Council for approval
PROJECT / ITEM NARRATIVE:
During the Fords Shell Ring passive park planning process, it became known that a 1991 easement agreement between the prior landowner and the adjacent landowner was encumbering the property. The terms of that easement were not conducive to the property now that it will be open to the public. The County, Town of Hilton Head Island (as co-owner of the property) and the adjacent landowner wish to terminate the 1991 easement agreement and enter into a new easement agreement.
FISCAL IMPACT:
None
STAFF RECOMMENDATIONS TO COUNCIL:
Approve as written
OPTIONS FOR COUNCIL MOTION:
Motion to approve recommendation of the ordinance as written to County Council on March 14th for 1st reading. Motion to amend the ordinance. Motion to deny the ordinance.

ORDINANCE 2022/_____

AN ORDINANCE AUTHORIZING THE APPROVAL TO TERMINATE AN EASEMENT AND EXECUTE AN EASEMENT ENCUMBERING A PORTION OF PROPERTY OWNED BY BEAUFORT COUNTY AND KNOWN AS FORDS SHELL RING

WHEREAS, Beaufort County ("County") co-owns with the Town of Hilton Head Island 6.909 acres of real property known as the Fords Shell Ring and located at 273 Squire Pope Road, Hilton Head Island, SC 29928 with TMS No. R511 003 000 0222 0000; hereinafter the "Property"; and

WHEREAS, the Susan Carter Barnwell Revocable Trust ("Barnwell") is the owner of 0.33 acres of real property identified as TMS No. R511 003 000 0049 0000 located along Skull Creek adjacent to the Property (hereinafter the "Adjacent Property"), where said Adjacent Property includes the Easement shown and described on the Plat recorded in Plat Book 89 at Page 134, and further described in Deed Book 592 at Page 1022 ; and

WHEREAS, a Plat recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 89 at Page 134, shows a "Proposed Septic Tank & Drainfield Area" on the Property, and a "15' Access Easement" running from Squire Pope Road to the southern boundary of the Adjacent Property; and

WHEREAS, an easement dated November 26, 1991, recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Deed Book 592 at page 1022 granted an easement encumbering the Property and benefitting the Adjacent Property with uses that are no longer desired by the parties, and as further described in Exhibit A attached hereto and incorporated herein by reference, collectively hereinafter referred to as "1991 Easement"; and

WHEREAS, the County and Barnwell mutually desire to terminate the 1991 Easement and enter into a new perpetual Access and Utility Easement for pedestrian and vehicular ingress and egress to and from the Adjacent Property, and for installation of underground utilities at the sole cost of the Grantee and only serving the Adjacent Property, and as further described in Exhibit B attached hereto and incorporated herein by reference, collectively hereinafter referred to as "2022 Easement"; and

WHEREAS, Beaufort County Council has determined that it is in its best interests to authorize the termination of the 1991 Easement, as well as, the execution and delivery of the requested 2022 Easement.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL duly assembled, does hereby authorize the termination of the 1991 Easement shown in Exhibit A, and the execution of the 2022 Easement shown in Exhibit B over a portion of the property known as Fords Shell Ring.

Adopted this _____ day of _____, 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____
Joseph Passiment, Chairman

ATTEST:

_____
Sarah Brock, Clerk to Council

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

TERMINATION OF EASEMENT

THIS TERMINATION OF EASEMENT ("Termination") is made this _____ day of _____, 2022, by and between Beaufort County, South Carolina, a political subdivision of the State of South Carolina, and the Town of Hilton Head Island, South Carolina, a political subdivision of the State of South Carolina (collectively hereinafter referred to as "Property Owners") and SUSAN CARTER BARNWELL, Trustee of the Susan Carter Barnwell Revocable Trust (hereinafter, "Barnwell"), a private landowner (hereinafter collectively referred to as the "Parties").

WITNESSETH:

WHEREAS, Property Owners own 6.909 acres of real property known as the Fords Shell Ring, TMS No. R511 003 000 0222 0000 located at 273 Squire Pope Road, Hilton Head Island, SC 29928; hereinafter the "Property"; and

WHEREAS, Barnwell is now the owner of 0.33 acres of real property identified as TMS No. R511 003 000 0049 0000 located along Skull Creek adjacent to the Property (hereinafter the "Adjacent Property"), where said Adjacent Property includes the Easement shown and described on the Plat recorded in Plat Book 89 at Page 134, and further described in Deed Book 592 at Page 1022 ; and

WHEREAS, a Plat recorded in the Office of The Register of Deeds for Beaufort County, South Carolina, in Plat Book 89 at Page 134, shows a "Proposed Septic Tank & Drainfield Area" on the Property, and a "15' Access Easement" running from Squire Pope Road to the southern boundary of the Adjacent Property; and

WHEREAS, an Easement dated November 26, 1991, recorded in the Office of The Register of Deeds for Beaufort County, South Carolina, in Deed Book 592 at page 1022, Thomas C. Barnwell was granted an Easement encumbering the Property and benefitting the Adjacent Property; and

WHEREAS, the Parties mutually desire to terminate the Easement.

NOW THEREFORE, for and in consideration of the sum of ONE AND NO/100 DOLLARS ($1.00), and the mutual performance of the covenants and conditions hereinafter contained, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Termination of Easement. The Parties hereby terminate, release and relinquish all rights in the Easement. The Parties acknowledge that by executing and delivering this Termination of Easement, all rights granted by the Easement are relinquished and are unenforceable by Property Owners and Barnwell and its successors in trust, heirs or assigns.

2. Successors and Assigns. This Termination of Easement shall run with the title and land of both the Property Owners and Barnwell and shall be binding upon, inure to the benefit of and be enforceable by the Parties hereto and their successors, successors in trust, heirs and assigns.

3. Miscellaneous.

a. *Incorporation of Recitals*. The recitals to this Termination are incorporated as if fully set forth herein.

b. *Remedies.* In the event either party fails to perform any of the covenants and agreements set forth in this Termination, the offended party shall be entitled to enforce its rights hereunder by any remedy available at law or in equity.

c. *Governing Law; Venue*. This Termination shall be governed by and construed in accordance with the laws of the State of South Carolina without regard to principles of conflicts of laws. Venue for any action under this Termination shall be in Beaufort County, South Carolina.

d. *Binding Effect.* This Termination shall run with the land and shall be binding upon and inure to the benefit of Property Owner, its successors and assigns, and Barnwell, its successors and assigns.

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

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

WITNESSES:

BEAUFORT COUNTY,
SOUTH CAROLINA

_____

_____
Eric L. Greenway, County Administrator

_____

STATE OF SOUTH CAROLINA)
) **ACKNOWLEDGMENT**
COUNTY OF BEAUFORT)

The foregoing instrument was acknowledged this _____ day of _____, 2022, before me the undersigned Notary, and I do hereby certify that Beaufort County, South Carolina, by and through Eric L. Greenway, County Administrator, personally appeared before me and acknowledged the due execution of the foregoing instrument.

_____
(Signature of Notary)
Notary Public for the State of South Carolina
My commission expires: _____

WITNESSES:

TOWN OF HILTON HEAD ISLAND,
SOUTH CAROLINA

_____

_____
Marc A. Orlando, Town Manager

_____

STATE OF SOUTH CAROLINA)
) **ACKNOWLEDGMENT**
COUNTY OF BEAUFORT)

The foregoing instrument was acknowledged this _____ day of _____, 2022, before me the undersigned Notary, and I do hereby certify that The Town of Hilton Head Island, South Carolina, by and through Marc A. Orlando, Town Manager, personally appeared before me and acknowledged the due execution of the foregoing instrument.

_____
(Signature of Notary)
Notary Public for the State of South Carolina
My commission expires: _____

WITNESSES:

SUSAN CARTER BARNWELL REVOCABLE TRUST

_____

_____
Susan Carter Barnwell, Trustee

_____

STATE OF SOUTH CAROLINA)
) **ACKNOWLEDGMENT**
COUNTY OF BEAUFORT)

The foregoing instrument was acknowledged this _____ day of _____, 2022, before me the undersigned Notary, and I do hereby certify that Susan Carter Barnwell, Trustee of the Susan Carter Barnwell Revocable Trust personally appeared before me and acknowledged the due execution of the foregoing instrument.

_____
(Signature of Notary)
Notary Public for the State of South Carolina
My commission expires: _____

STATE OF SOUTH CAROLINA	**)**	
	)	**ACCESS AND UTILITY**
COUNTY OF BEAUFORT	**)**	**EASEMENT**

THIS ACCESS AND UTILITY EASEMENT (hereinafter, the "Easement") is made effective this _____ day of _____, 2022, by and between **BEAUFORT COUNTY**, a political subdivision of the State of South Carolina, and the **TOWN OF HILTON HEAD ISLAND**, a political subdivision of the State of South Carolina (collectively hereinafter referred to as the "Grantors") and **SUSAN CARTER BARNWELL**, Trustee of the Susan Carter Barnwell Revocable Trust (hereinafter, the "Grantee"), a private landowner (hereinafter collectively referred to as the "Parties").

WITNESSETH:

WHEREAS, Grantors jointly own 6.909 acres of real property known as the Fords Shell Ring property with TMS No. R511 003 000 0222 0000 located at 273 Squire Pope Road, Hilton Head Island, SC 29928 (hereinafter the "Property"); and

WHEREAS, Grantee is the owner of 0.33 acres of real property with TMS No. R511 003 000 0049 0000 located along Skull Creek adjacent to the Property and accessed through the Property, (hereinafter the "Adjacent Property"); and

WHEREAS, the Grantors have agreed to grant the Easement in favor of the Grantee for ingress, egress and utilities benefiting the Adjacent Property; and

WHEREAS, the Parties desire to set forth in this Easement the terms and conditions governing the Easement.

NOW THEREFORE, for and in consideration of the sum of ONE AND NO/100 DOLLARS ($1.00), the performance of the mutual covenants and conditions hereinafter contained, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto convent and agree as follows:

1. Grant and Use of Easement. Subject to the terms and conditions of this Easement, Grantors do hereby grant, transfer, sell and convey to Grantee, its successors in trust and assigns, a perpetual, appurtenant, non-exclusive easement for pedestrian and vehicular ingress and egress to and from the Adjacent Property, and for installation of underground utilities, at the sole cost of the Grantee, serving the Adjacent Property, only. The Grantee's use of the Easement shall be limited to pedestrian and vehicular ingress and egress to and from the Adjacent Property, and installation of underground utilities to serve only the Adjacent Property. The area of this Easement is shown and described as "Proposed Permanent Access Easement" on the Plat that is attached hereto and incorporated herein by reference as Exhibit A. Grantee shall provide Grantor with a thirty (30) day written notice prior to any construction, installation, maintenance or repair of utilities in the Easement, and shall obtain written approval from the Grantor prior to initiating any construction, installation, maintenance or repair of utilities in the Easement.

2. Reservation of Grantors' Rights. The Grantors reserve the right to utilize the area of the Easement for any and all purposes that are not inconsistent with and do not permanently interfere with the Grantee's use of the Easement. Grantee acknowledges that use of the Easement for pedestrian and vehicular access to the Property by the general public and Grantors' employees, agents and contractors is not a violation of Grantee's rights under this Easement.

3. No Obligation to Pay Rent, Occupancy Changes or Taxes. No party hereto shall be obligated to pay any rent, taxes, operating expenses or other occupancy or use charges for the rights created by this Easement.

4. Grantors' Property. The Grantee acknowledges the Property is open to the general public, and this Easement does not create any obligation on the Grantors to restrict public access to the Grantee's Adjacent Property, and the Grantors shall never be obligated to install or construct a fence or fence-like structure between all or any part of the Adjacent Property and the Property.

5. Miscellaneous.

   a. *Incorporation of Recitals*. The recitals to this Easement are incorporated as if fully set forth herein.

   b. *Remedies.* In the event either Party fails to perform any of the covenants and agreements set forth in this Easement on its part to be performed within the time or times specified herein, the other Party shall be entitled to enforce its rights hereunder by any remedy available at law or in equity.

   c. *Governing Law; Venue.* This Easement shall be governed by and construed in accordance with the laws of the State of South Carolina without regard to principles of conflicts of laws. Venue for any action under this Easement shall be in Beaufort County, South Carolina.

   d. *Amendments.* This Easement may not be amended, modified, altered or terminated except by written agreement signed by both Grantors and the Grantee.

   e. *Binding Effect.* This Easement shall run with the land and shall be binding upon and inure to the benefit of Grantors and their successors and assigns, and Grantee and its successors in trust and assigns.

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

   g. *Termination.* Not withstanding any other remedy provided by law or otherwise provided for in this Easement, this Easement may only be terminated by written agreement signed by all of the Parties.

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

WITNESSES:

GRANTOR:
BEAUFORT COUNTY, SOUTH CAROLINA

_____

_____
Eric L. Greenway, County Administrator

_____

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged this _____ day of _____, 2022, before me the undersigned Notary, and I do hereby certify that Beaufort County, South Carolina, by and through Eric L. Greenway, County Administrator, personally appeared before me and acknowledged the due execution of the foregoing instrument.

_____
(Signature of Notary)
Notary Public for the State of South Carolina
My commission expires: _____

WITNESSES:

GRANTOR:
TOWN OF HILTON HEAD ISLAND,
SOUTH CAROLINA

_____

_____
Marc A. Orlando, Town Manager

_____

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGMENT

The foregoing instrument was acknowledged this _____ day of _____, 2022, before me the undersigned Notary, and I do hereby certify that The Town of Hilton Head Island, South Carolina, by and through Marc A. Orlando, Town Manager, personally appeared before me and acknowledged the due execution of the foregoing instrument.

_____
(Signature of Notary)
Notary Public for the State of South Carolina
My commission expires: _____

WITNESSES:

GRANTEE:
SUSAN CARTER BARNWELL REVOCABLE TRUST

_____

_____
Susan Carter Barnwell, Trustee

_____

STATE OF SOUTH CAROLINA)
) **ACKNOWLEDGMENT**
COUNTY OF BEAUFORT)

The foregoing instrument was acknowledged this _____ day of _____, 2022, before me the undersigned Notary, and I do hereby certify that **Susan Carter Barnwell, Trustee of the Susan Carter Barnwell Revocable Trust** personally appeared before me and acknowledged the due execution of the foregoing instrument.

_____
(Signature of Notary)
Notary Public for the State of South Carolina
My commission expires: _____

L-6.001

1022

STATE OF SOUTH CAROLINA)
) **EASEMENT**
COUNTY OF)

3977

KNOW ALL MEN BY THESE PRESENTS that the undersigned,

Thomas C Barnwell Jr and Henry Ford,

hereinafter referred to as Grantors, for true and valuable consideration, receipt of which is hereby acknowledged, grant, bargain, sell, convey, release and deliver to Thomas C Barnwell Jr P.O. Box 21057 Hilton Head, SC 29925 **and** _____,

hereinafter referred to as the Grantee, an easement and right-of-way extending to all parts of the property described herein. Such easement being for the purpose of constructing and maintaining a septic tank, sewer lines, and the necessary drain field lines, and any and all incidental requirements of Beaufort **County, and of the laws and regulations of the State of South Carolina, regarding such septic tank, sewer lines and necessary drain field lines.**

Said easement being more particularly described as follows: (state specifics of lot, block, property, plat reference, width and depth of easement, etc.)

500-000-003-000-009-000

It being the intention of the Grantor to grant unto the Grantee the use of any and all of the aforesaid property for the purpose named herein, and further, the Grantor agrees to avoid using, or granting for use, the property granted herein in any manner which contravenes in any way the requirements of the State and County laws and regulations concerning individual waste disposal systems or their construction, use, operation or any combination thereof.

L-6.0

1023

INSTRUCTIONS FOR COMPLETING EASEMENT AGREEMENT

Instructions for Easement Agreement to ensure utilization of property for on-site sewage treatment and disposal.

Please refer to the attached Easement Agreement Form. This form, or a similar one, must be properly executed before a "Permit to Construct" can be issued. The following procedure is provided to assist you in executing the form:

1. If using a form different than the attached one, please submit the proposed agreement to the Division of On-Site Wastewater Management in Columbia. After a legal review, the agreement will be returned to the District Environmental Health Director.

2. The Owners (Grantors) must review and sign the agreement in the presence of two (2) witnesses.

3. The document must be probated (see third page).

4. The agreement must be recorded at the county office where deeds and related documents are on record.

5. A copy of the recorded document must be provided to the District Environmental Health Director.

After the District Environmental Health Director receives written proof that the Easement Agreement has been properly recorded, he will authorize issuance of the "Permit to Construct".

DHEC/BEH/OWM
7-91

1024 L-6.002

TO HAVE AND TO HOLD the interests, rights and privileges unto Thomas C Barnwell JV P.O. Box 21057 Hilton Head
Name Address
his/her heirs and assigns, forever. The Grantor agrees not to place, maintain or permit the placing of any structure within the right-of-way granted herein, or use the property within the right-of-way granted herein in any way which is contrary to the laws and regulations of Beaufort **County, or of the State of South Carolina. The Grantor reserves the right to use the area within the limits of said right-of-way and surrounding areas, provided that such use shall not interfere with or obstruct the rights herein granted.**

Grantors do hereby covenant that they are lawfully seized and possessed of the lands herein described, and have good and marketable title thereto with the lawful right to convey said lands or any interest herein; and that said lands are free of all encumbrances, and that they will forever warrant and defend the title thereto against the lawful claims of all persons.

This agreement shall become null and void in the event that some means of sewage treatment and disposal, approved under the laws of South Carolina, is utilized by the Grantee and thereby renders unnecessary the sewage treatment and disposal system which shall be installed in the parcel easement created by this document.

WITNESS _____ **hand and seal this the** 26 **day of** NOV**, 19**91

WITNESS: _____
Witness A **Grantor**

_____
Witness B **Grantor**

L-6.003

1025

STATE OF SOUTH CAROLINA)
)
COUNTY OF)

PERSONALLY appeared before me Thomas C. Barnwell, Jr. and made oath that ____ he saw the within-named X Henry Ford sign, seal and, as _____ act and deed, deliver the within-written Easement for the uses and purposes therein mentioned and that ____ he, with S. Shuman Wynn witnessed the execution thereof.

Witness A

Grantor

Witness B

SWORN to before me this

26 day of 11, 1991

Thomas C. Barnwell, Jr.
Witness A

S. Shuman Wynn
Witness B

Genevieve L Winn
NOTARY PUBLIC FOR SOUTH CAROLINA

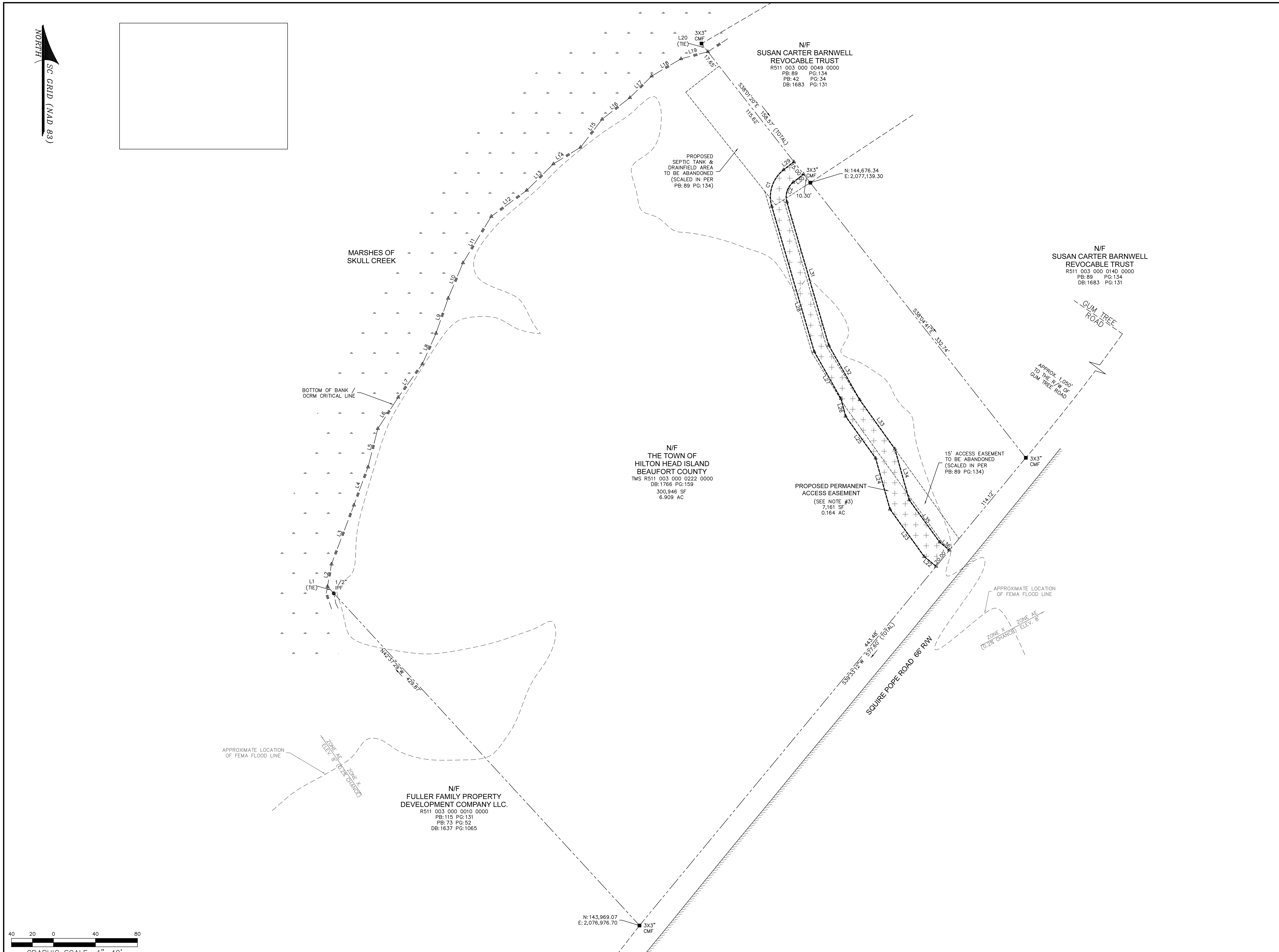
My Commission Expires: _____

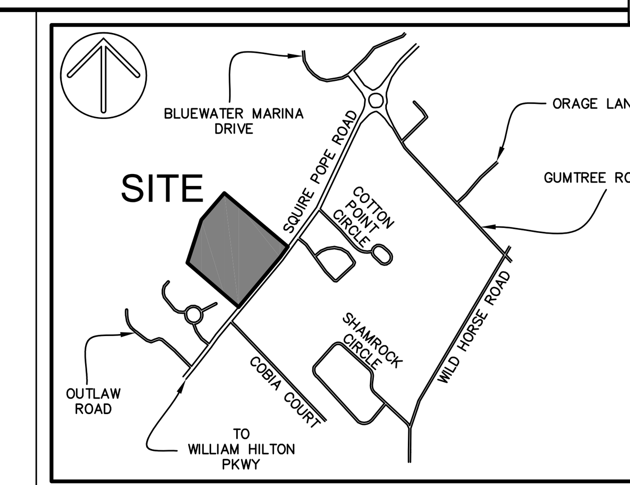
DHEC/BEH/OWM
7-91

Thomas C. Barnwell, Jr.

FILED AT	BEAUFORT COUNTY S.C.	RECORDED IN BOOK
1:15		592
O'CLOCK	FEB 11 1992	PAGE
P		1022

HH





VICINITY MAP *NOT TO SCALE*

LEGEND

△	CALC POINT – CORNER NOT SET
CMF ■	CONC. MONUMENT FOUND
IPF ●	IRON PIPE FOUND
	MARSHGRASS
OCRM	OCEAN & COASTAL RESOURCE MANAGEMENT
	BOTTOM OF BANK
	PROPOSED PERMANENT ACCESS EASEMENT
	EDGE OF PAVEMENT

NOTES

1. THIS PARCEL APPEARS TO LIE IN DUAL FLOOD ZONES, X (0.2% CHANCE) AND AE (ELEVATION 8'), COMMUNITY 450250, MAP NUMBERS 45013C0432G AND 45013C0451G.
2. HORIZONTAL DATUM IS SOUTH CAROLINA STATE PLANE GRID (NAD 83).
3. PROPOSED PERMANENT ACCESS EASEMENT TO BE GRANTED TO "BARNWELL SUSAN CARTER TRUSTEE, SUSAN CARTER BARNWELL REVOCABLE TRUST" TO GAIN ACCESS TO TMS# R511 003 000 0049 0000.

PREPARED FOR:
THE TOWN OF HILTON HEAD

A PROPOSED PERMANENT ACCESS EASEMENT PLAT OF

#273 SQUIRE POPE ROAD FORD SHELL RING PARK

TAX PARCEL No. R511 003 000 0222 0000

HILTON HEAD ISLAND
BEAUFORT COUNTY, SOUTH CAROLINA

FIELD WORK: LKW
FIELD CHECK: JWR
DRAWN BY: KWF
DATE: 12-09-2021
SCALE: 1"=40'
PROJECT No.: BFT-21209
FILE: BFT-21209 EASE1.DWG

ATLAS SURVEYING, INC.
49 BROWN'S COVE ROAD, SUITE #5
RIDGELAND, SC 29936
PHONE: (843) 645-9277
WEBSITE: WWW.ATLASSURVEYING.COM

SOUTH CAROLINA ATLAS SURVEYING BFT LLC No. C05928 CERTIFICATE OF AUTHORIZATION

SOUTH CAROLINA PROFESSIONAL LAND SURVEYOR No. 28139 JEREMY W. REEDER

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREIN WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "A" SURVEY AS SPECIFIED THEREIN.

JEREMY W. REEDER
S.C.P.L.S. No. 28139
NOT VALID UNLESS CRIMPED WITH SEAL

BEAUFORT COUNTY COUNCIL
AGENDA ITEM SUMMARY

ITEM TITLE:
Ordinance Repealing an Ordinance Creating the Southern Beaufort County Corridor Beautification Board
MEETING NAME AND DATE:
Natural Resources March 7, 2022
PRESENTER INFORMATION:
Eric Greenway 10 minutes
ITEM BACKGROUND:
County Council created the Southern Beaufort County Corridor Beautification Board in 2013. For reasons set forth in the attached Ordinance administration believes it is time to repeal the Ordinance, dissolve the board, bring the work of the board in-house, to thank the board members for their years or service and to ask them to volunteer on other board and commissions. (Council Vote History, etc.)
PROJECT / ITEM NARRATIVE:
See above
FISCAL IMPACT:
None
STAFF RECOMMENDATIONS TO COUNCIL:
Set forth in Item Background above
OPTIONS FOR COUNCIL MOTION:
Dissolve the board or not This item would appear on Council's Agenda for March 14, 2022

ORDINANCE NO. 2013 / 12

AN ORDINANCE TO CREATE THE SOUTHERN BEAUFORT COUNTY CORRIDOR BEAUTIFICATION BOARD TO ASSIST AND ADVISE BEAUFORT COUNTY COUNCIL IN DESIGN, IMPLEMENTATION, FUNDRAISING AND PROMOTION OF CORRIDOR BEAUTIFICATION ALONG HIGH VOLUME TRAFFIC CORRIDORS IN THE SOUTHERN AREAS OF BEAUFORT COUNTY

WHEREAS, Beaufort County desires to promote and enhance the aesthetic values of high volume traffic corridors in southern Beaufort County by the creation of the Southern Beaufort County Corridor Beautification Board (the "Board"); and

WHEREAS, the Board will advise and make recommendations to the Beaufort County Council in the planning, design, implementation, fundraising and promotion of corridor beautification, to include, but not be limited to, vegetative planting, elements of landscape architecture, and lighting along certain county and state roads located in southern Beaufort county; and

WHEREAS, the Board shall create such technical sub-committees as may be necessary to adequately assist the Board in carrying out its functions; and

WHEREAS, County Council shall have the authority to exercise ultimate control over any County provided funds and any work that is to be performed on County controlled, owned, or maintained property; and

WHEREAS, the provisions contained in this Ordinance shall replace Beaufort County Resolution 2012/24 and to the extent necessary, Beaufort County Resolution 2012/24 is hereby revoked.

NOW, THEREFORE BE IT ORDAINED, by Beaufort County Council that there is hereby created a Southern Beaufort County Corridor Beautification Board that shall be organized and operated according to the following Charter Provisions:

Section1. The name of the organization shall be known as the Southern Beaufort County Corridor Beautification Board.

Section 2. The Board shall be comprised of the following membership:

a) One member from County Council District 5
b) One member from County Council District 6
c) One member from County Council District 7
d) One member from County Council District 8
e) One member from County Council District 9
f) One member from County Council District 10
g) One member from County Council District 11

TO BE REPEALED

h) One member nominated by the Town of Bluffton for appointment by County Council
i) One member nominated by the Town of Hilton Head Island for appointment by County Council

Section 3. Any vacancy on the board will be filled in the same manner as provided for under Section 2-191 through 2-198 of the Beaufort County Code of Ordinances upon nomination of the respective member of County Council, the Town of Bluffton, or Town of Hilton Head Island depending upon the seat that is vacated.

Section 4. The members shall elect a Chairperson from its membership.

Section 5. The Board shall meet at the call of the Chairperson, at least quarterly, and shall be conducted in compliance with the South Carolina Freedom of Information Act. Minutes shall be kept of any meetings and the Board shall forward a copy of said minutes to the Beaufort County Council within thirty (30) days of their completion and adoption by the Board. A majority of the number of members on the board shall constitute a quorum for transaction of business at any meeting. A majority of those present and voting shall be required to decide any issue after a quorum has been established.

Section 6. The purpose of the Board will be to advise and make recommendation to the Beaufort County Council on the design, enhancement, implementation, maintenance and funding of aesthetic corridor spaces along certain roadways located in Southern Beaufort County.

Section 7. The Board shall submit a recommended annual budget to Beaufort County Council for review and adoption indicating all anticipated sources of revenue, all anticipated expenditures, and any remaining funds that have been carried over from previous years. Additionally, the Board shall advise and make recommendations to County Council on the expenditure of any and all County funds that may be appropriate to it as well as the design and implementation of any improvement projects that will occur on land owned, maintained, or subject to the control of Beaufort County Council.

Section 8. The Board may appoint such other standing, special, or advisory committees from time to time as it deems appropriate. Members of such committees may include Board members, as well as individuals representing specialized interests in areas that would be beneficial to the Board carrying out its purpose.

Section 9. The Board shall adhere to all conflict of interest prohibitions and disclosure requirements provided in South Carolina Code of Laws § 8-13-

TO BE REPEALED

700 *et seq.*, as well as any applicable provisions of the Beaufort County Purchasing Ordinance.

Adopted this 11th day of March, 2013.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: _____
D. Paul Sommerville, Chairman

APPROVED AS TO FORM:

_____
Joshua A. Gruber, Staff Attorney

ATTEST:

_____
Suzanne M. Rainey, Clerk to Council

First Reading: February 11, 2013
Second Reading: February 25, 2013
Public Hearing: March 13, 2013
Third and Final Reading: March 13, 2013

TO BE REPEALED

ORDINANCE 2022/ _____

An Ordinance Repealing Ordinance 2013/12 Creating the Southern Beaufort County Corridor Beautification Board

WHEREAS, on March 11, 2013 this body recognized the need to promote and to enhance the appearance of the main traffic corridors of southern Beaufort County and made the beautification of these areas a goal; and

WHEREAS, the Planning Department at the time lacked the staff and expertise to help the County realize this goal; therefore, this body created the Southern Beaufort County Corridor Beautification Board to draw upon the expertise of its citizens and whose purpose it was, and has been, to advise and to make recommendations in the planning, design, implementation, fundraising and promotion of corridor beautification to include, among other things, foliage, landscape architecture and lighting; and

WHEREAS, the work of the board has been exemplary particularly along Highway 278 where medians which were once long stretches of grass, weeds and litter are now beautifully landscaped with complex seasonal combinations of lush and colorful ornamental grasses, shrubs, trees, and bushes which are welcoming and pleasing to visitors and residents, alike; and

WHEREAS, much work remains to be done beautifying the main traffic corridors of southern Beaufort County, but a combination of factors have coalesced which have mitigated the need for the board. Among these factors are the fact that the Planning Department now has on board, the staff and expertise to perform the planning and design work of the board; SCDOT has limited severely the variety of planting which it allows in its rights-of-way; SCDOT abandons maintenance of medians which the County beautified and, in doing so, shifts to the County all costs of future maintenance of the undisturbed grassy medians in perpetuity; and finally, the work of the board has not resulted in the anticipated financial support of the communities and businesses which are located along the corridor and who benefit by the work of the board.

For these reasons Council believes it is best to dissolve this board, to thank the members of the board, some whom have been on the board since its creation, for their years of hard work which is much appreciated and which will be enjoyed by visitors and residents for years to come, to ask board members to channel their time and talents to one of the County's many other boards and to bring in-house planning, design and implementation of future beautification efforts along southern Beaufort County's traffic corridors.

NOW, THEREFORE, BE IT ORDAINED BY BEAUFORT COUNTY COUNCIL THAT Ordinance 2013/12 which appears in Beaufort County Code of Ordinances at Chapter 2 Administration, Article V Boards and Commissions, Division 3 Southern Beaufort County Corridor Beautification Board, Sections 2-251 through 2-270 are hereby repealed.

Adopted this _____ day of _____, 2022___.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: _____

Joseph Passiment, Chairman

ATTEST:

_____

Sarah w. Brock, JD, Clerk to Council

First Reading:
Second Reading:
Third reading:

BEAUFORT COUNTY COUNCIL
AGENDA ITEM SUMMARY

ITEM TITLE:

Osprey Point (Mailind Bluff) Planned Unit Development (PUD) Master Plan Amendment

MEETING NAME AND DATE:

Natural Resources Committee Meeting, February 7, 2022

PRESENTER INFORMATION:

Robert Merchant, AICP, Director, Beaufort County Planning and Zoning

(10 minutes needed for item discussion)

ITEM BACKGROUND:

This rezoning application went before the Beaufort County Planning Commission at their January 3, 2022 meeting. At that time the Commission voted six (6) to one (1) to recommend denial of the proposed amendment to County Council.

PROJECT / ITEM NARRATIVE:

The applicant is requesting that a portion of the Osprey Point PUD master plan be amended. The current PUD as amended in 2019 consists of 345 single-family residential units and 207,700 square feet of commercial development.

FISCAL IMPACT:

Not applicable

STAFF RECOMMENDATIONS TO COUNCIL:

Staff recommends approval with the following conditions:

- *The master plan should be revised to meet the Multi-Family Oriented Community standards in Article 2, Division 2.4 of the Community Development Code.*
- *The Osprey Point PUD document should be revised to require that all multi-family dwelling units are affordable to individuals and families earning 80% or less of county median income. The affordable housing units should be required to meet the Affordable Housing requirements found in Article 4, Section 4.1.350.G of the Community Development Code.*
- *The existing Osprey Point PUD required the developer to dedicate a 0.5 acre parcel for public safety (Sheriff, Fire, EMS). The amended master plan does not show any land dedicated for this use.*
- *The development agreement that accompanies the Osprey Point PUD needs to address the proposed changes to the master plan. The development agreement also needs to address any agreed upon affordable housing requirements.*

OPTIONS FOR COUNCIL MOTION:

To approve or deny the Osprey Point (Mailind Bluff) Planned Unit Development (PUD) Master Plan Amendment.

ORDINANCE 2022/_____

AN ORDINANCE TO AMEND THE OSPREY POINT (MAILIND BLUFF) PLANNED UNIT DEVELOPMENT (PUD) MASTER PLAN TO REPLACE 207,700 SQUARE FEET OF COMMERCIAL WITH 204 MULTI-FAMILY DWELLING UNITS.

WHEREAS, the Osprey Point Planned Unit Development was approved by County Council on October 27, 2008, and amended in 2014 and 2019; and

WHEREAS, the owner of the parcel has requested to amend the PUD to replace 207,700 square feet of commercial with 204 multi-family dwelling units on a parcel (R600 013 000 0006 0000) within the PUD; and

WHEREAS, the Beaufort County Planning Commission considered the request on January 3, 2022, and recommend denial of the rezoning; and

WHEREAS, County Council now wishes to amend the PUD;

NOW, THEREFORE be it ordained by County Council in meeting duly assembled as follows:

1. The Osprey Point (Mailind Bluff) Planned Unit Development is amended to replace 207,700 square feet of commercial with 204 multi-family dwelling units on a parcel (R600 013 000 0006 0000) within the PUD; and
2. Staff is directed to make the changes to the zoning map and to report to all persons necessary or helpful that the zoning has so changed.

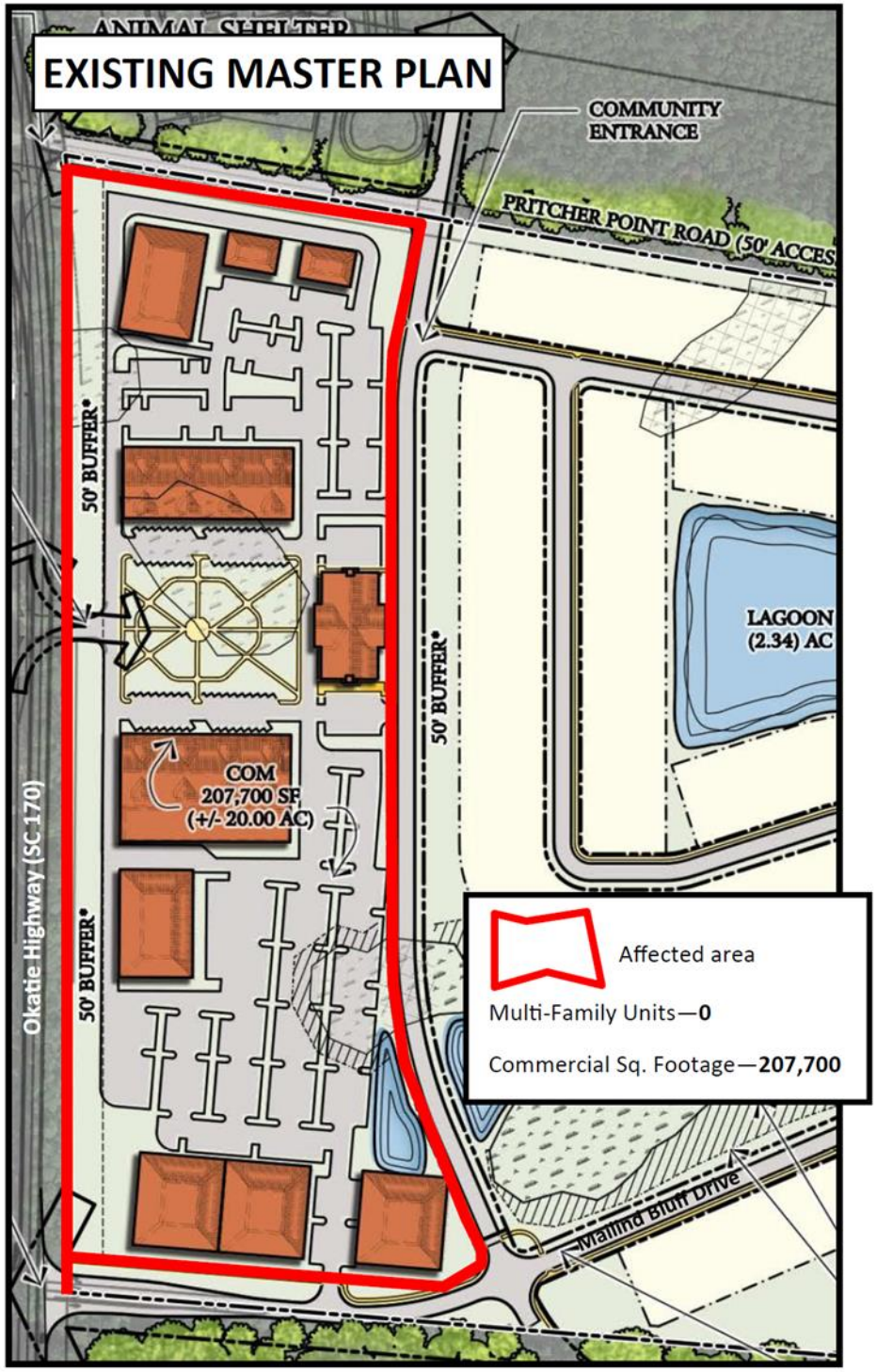
Ordained this ___ day of _____, 2022

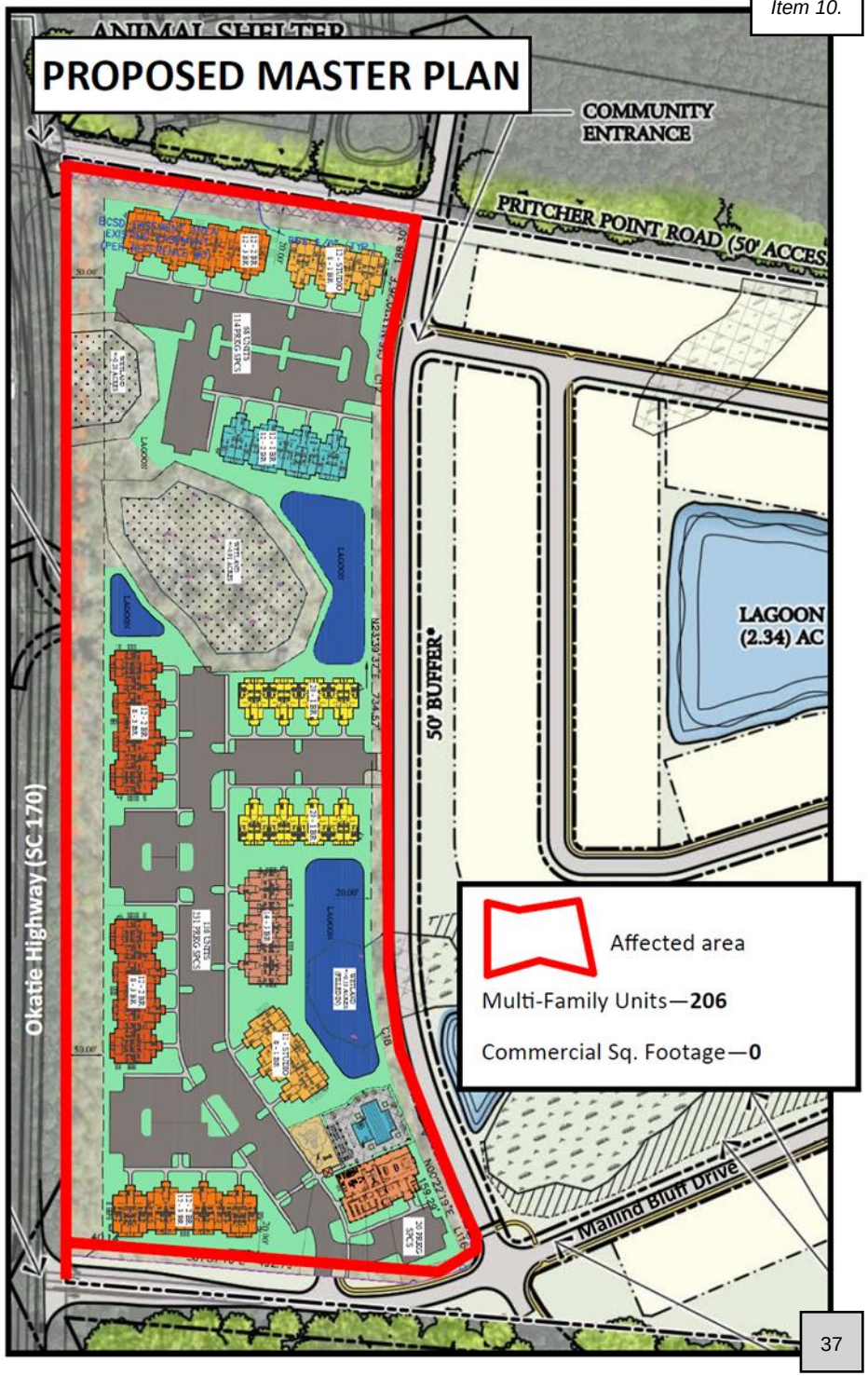
_____

Joseph Passiment, Chairman

_____

Sarah Brock, Clerk to Council


EXISTING MASTER PLAN
COMMUNITY ENTRANCE
PRITCHER POINT ROAD (50' ACCES
50' BUFFER*
50' BUFFER*
50' BUFFER*
LAGOON (2.34) AC
COM 207,700 SF (+/- 20.00 AC)
Okatie Highway (SC 170)
Malind Bluff Drive
Affected area
Multi-Family Units—0
Commercial Sq. Footage—207,700


PROPOSED MASTER PLAN
COMMUNITY ENTRANCE
PRITCHER POINT ROAD (50' ACCES
50' BUFFER*
LAGOON (2.34) AC
Okatie Highway (SC 170)
Malind Bluff Drive
Affected area
Multi-Family Units—206
Commercial Sq. Footage—0

COUNTY COUNCIL OF BEAUFORT COUNTY
Community Development Department
Beaufort County Government Robert Smalls Complex
Administration Building, 100 Ribaut Road
Post Office Drawer 1228, Beaufort, South Carolina 29901-1228

TO: Natural Resources Committee of County Council

FROM: Robert Merchant, Beaufort County Planning and Zoning Director

DATE: March 2, 2022

SUBJECT: **Osprey Point (Malind Bluff) Planned Unit Development (PUD) Master Plan Amendment**

A. BACKGROUND:

Owner:	LCP III, LLC (J. Nathan Duggins, III)
Applicant:	Joshua Tiller, J.K. Tiller and Associates
Property Location:	On the east side of Okatie Highway (SC 170) at the intersection of Pritcher Point Road.
District/Map/Parcel:	R600-013-000-0006-0000
Property Size:	17.2 acres

B. SUMMARY OF REQUEST: The applicant is requesting that a portion of the Osprey Point PUD master plan be amended. The current PUD as amended in 2019 consists of 345 single-family residential units and 207,700 square feet of commercial development. The residential portion of the Osprey Point PUD is a Pulte Homes development called Malind Bluff which is currently being developed. The applicant is proposing to amend the PUD master plan to replace most of the 207,000 square feet of commercial development proposed for the front 17.2 acres with approximately 204 multi-family units. The applicant is proposing to keep approximately 7,150 square feet of commercial space.

C. ACCESS AND TRANSPORTATION:

- **Access:** The site is accessed off of SC 170 by Pritcher Point Road located off of Highway 170 across from Shortcut Road; and by Malind Bluff Drive located across from Red Oaks Lane. A new road is proposed that runs parallel to SC 170 approximately 400 feet from the highway. That road is proposed to connect to Okatie Elementary located south of the site. The existing master plan shows a right-in/right-out intersection halfway between Pritcher Point and Malind Bluff Roads. The revised master plan eliminates this access point.
- **Traffic Impacts:** As a part of this master plan amendment, the need for a Traffic Impact Analysis is not triggered. The revised site plan would result in a reduction of estimated peak hour trips. A commercial development of 207,000 square feet would generate approximately 791 peak hour trips compared to 90 peak hour trips from 204 multi-family units. However, it is important to note removing the potential for commercial

development would greatly reduce any internal trip capture for the 600+ homes in Malind Bluff and River Oaks.

D. SCHOOL IMPACTS: The School District has been given a copy of this proposed master plan amendment. The School District does not have excess capacity to address the potential increase in the number of students in southern Beaufort County. In this immediate area, the District is already facing the need to absorb the students that will result from the 711 dwelling units in River Oaks and Malind Bluff. However, because the proposal consists of Low Income Tax Credit housing, the Superintendent and the Vice-Chair of the School Board have indicated support for the project.

E. ZONING MAP AMENDMENT REVIEW STANDARDS: In determining whether to adopt or deny a proposed Zoning Map Amendment, the County Council shall weigh the relevance of and consider whether and the extent to which the proposed amendment:

1. **Is consistent with and furthers the goals, and policies of the Comprehensive Plan and the purposes of this Development Code:** This proposed master plan change would potentially result in the provision of 204 affordable housing units, which meets the Comprehensive Plan strategy to "aggressively pursue the development of affordable housing." At minimum, staff recommends that the Osprey Point PUD and accompanying development agreement require multi-family units to be affordable to individuals or families earning 80% or less of county median income.
2. **Is not in conflict with any provision of this Development Code, or the Code of Ordinances;** The revised conceptual master plan is working toward compliance with the Multi-Family Oriented Community standards found in Division 2.4 of the Community Development Code. These standards require multi-family developments to be oriented around a system of streets and blocks with parking located at the side or rear of buildings. While the Osprey Point PUD is currently not required to follow the development standards of Community Development Code, staff believes that any master plan amendment occurring after the adoption of the CDC should adhere to the standards of that ordinance to the greatest extent possible.
3. **Addresses a demonstrated community need:** The applicant proposes to develop affordable housing on the site, which has been documented in the Comprehensive Plan and the Housing Needs Assessment to be a community need.
4. **Is required by changed conditions;** N/A.
5. **Is compatible with existing and proposed uses surrounding the land subject to the application, and is the appropriate zone and uses for the land;** The proposed multi-family housing provides a better transition between Highway 170 and the single family development located at Malind Bluff than 207,700 square feet of commercial development.
6. **Would not adversely affect nearby lands:** See 5 above.
7. **Would result in a logical and orderly development pattern**; See 5 and 6 above.

8. **Would not result in adverse impacts on the natural environment – including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment:** Any development on the site would be required to adhere to the natural resource protection, tree protection, wetland protection, and stormwater standards in the Community Development Code and the Stormwater BMP Manual. The amount of proposed impervious surface is comparable to what the proposed commercial development would have yielded.
9. **Would result in development that is adequately served by public facilities (e..g. streets, potable water, sewerage, stormwater management, solid waste collection and disposal, schools, parks, police, and fire and emergency medical facilities):** The site is in close proximity to pubic sewer and water, schools, fire and EMS. However, the nearest school, Okatie Elementary, is near capacity.

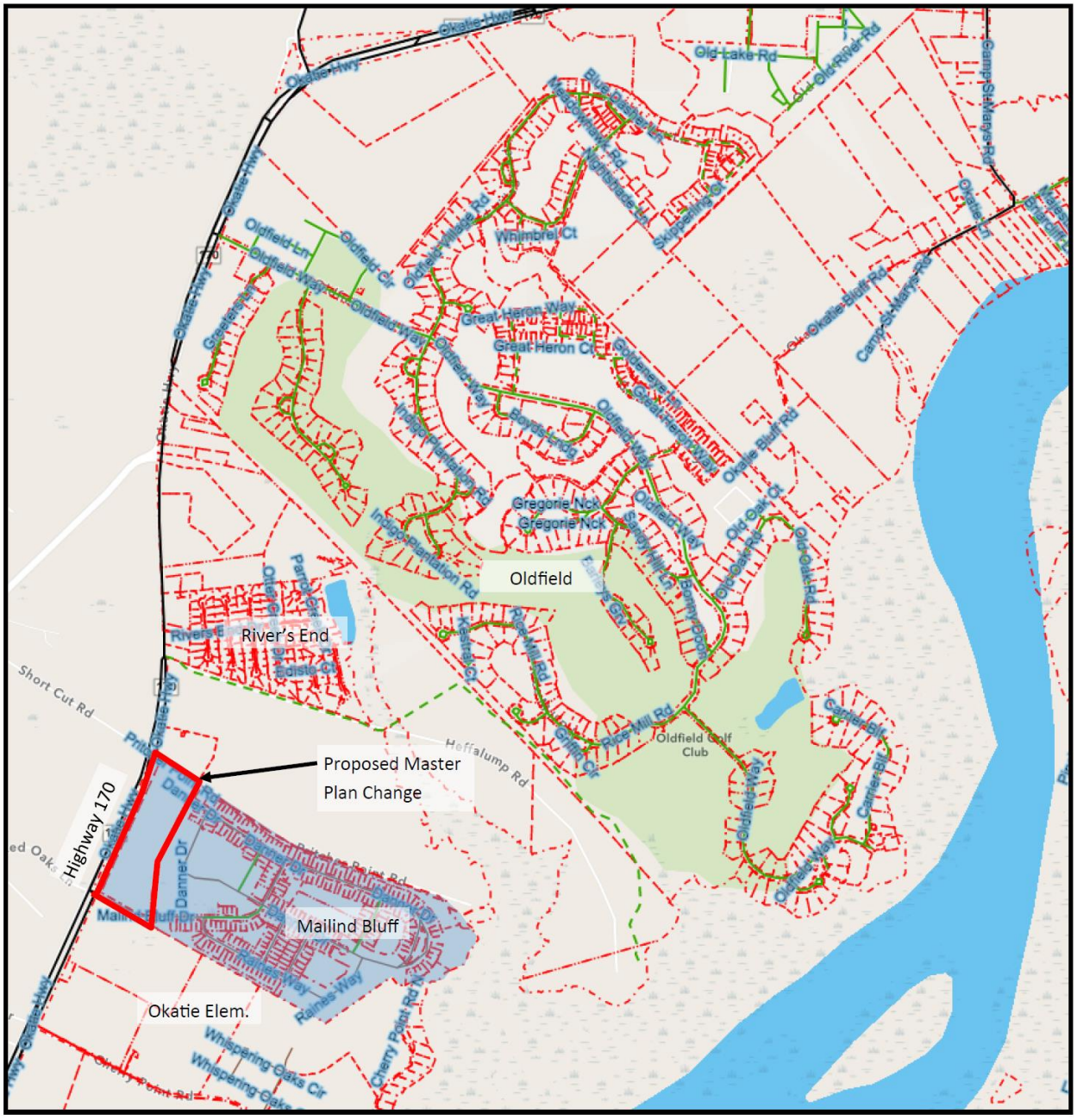
F. STAFF RECOMMENDATION: Staff **recommends approval with the following conditions**:

- The master plan and PUD development standards language shall be revised to meet the Multi-Family Oriented Community standards in Article 2, Division 2.4 of the Community Development Code.
- The development agreement and Osprey Point PUD document shall be revised to require that a minimum of 75% of the multi-family dwelling units are affordable to individuals and families earning 80% or less of county median income with an established monitoring and period of affordability acceptable to the county.
- The existing agreement requires the developer to dedicate a 0.5-acre parcel for public safety (Sheriff, Fire, EMS). The amended master plan does not show any land dedicated for this use. This existing requirement will need to be addressed during the development agreement amendment negotiation/discussion.
- The development agreement that accompanies the Osprey Point PUD needs to address the proposed changes to the master plan accordingly along with any additional item's staff/county deem appropriate during negotiations for consideration of this requested development agreement amendment.

G. PLANNING COMMISSION RECOMMENDATION: This PUD amendment was reviewed by the Beaufort County Planning Commission at their January 3, 2022 meeting. At that time, the Commission voted 6 to 1 to recommend denial of the PUD amendment.

H. ATTACHMENTS:

- Locational Map
- Proposed Conceptual Master Plan
- Application



PROJECT LOCATION MAP

DEVELOPMENT SUMMARY:

- +/- 17.2 ACRES
- 202 UNITS (11.7 DU / AC)
- 415 PARKING SPACES REQUIRED PER CDC
  - *OWNER REQUESTS A 20% REDUCTION IN REQUIRED PARKING FOR A NEW TOTAL OF 332 PARKING SPACES PROVIDED.
  - 290 PARKING SPACES ARE PROVIDED WITHIN THE PARCEL BOUNDARIES.
  - 42 PARALLEL PARKING SPACES PROVIDED ALONG ROAD "A".
- STORMWATER MANAGEMENT FACILITIES
- AMENITIES TO INCLUDE COMMUNITY WIDE SIDEWALKS; CLUBHOUSE; SWIMMING POOL; AND PLAYGROUND

PROJECTED UNIT MIX:

- BUILDING 1 - (12) STUDIOS/ (12) 1 BEDROOM - (33 PRKG SPCS REQD)
- BUILDING 2 - (12) 1 BEDROOM/ (12) 2 BEDROOM - (45 PRKG SPCS REQD)
- BUILDING 3 - (12) 2 BEDROOM/ (12) 3 BEDROOM - (54 PRKG SPCS REQD)
- BUILDING 4 - (24) 1 BEDROOM - (36 PRKG SPCS REQD)
- BUILDING 5 - (12) 2 BEDROOM/ (8) 3 BEDROOM - (45 PRKG SPCS REQD)
- BUILDING 6 - (24) 1 BEDROOM - (36 PRKG SPCS REQD)
- BUILDING 7 - (14) 3 BEDROOM - (32 PRKG SPCS REQD)
- BUILDING 8 - (12) 2 BEDROOM/ (12) 3 BEDROOM - (54 PRKG SPCS REQD)
- BUILDING 9 - (12) 2 BEDROOM/ (12) 3 BEDROOM - (54 PRKG SPCS REQD)

- STUDIOS - 12 OR 6.0%
- 1 BEDROOM - 72 OR 35.6%
- 2 BEDROOM - 60 OR 29.7%
- 3 BEDROOM - 58 OR 28.7%

PARKING ANALYSIS:

CLUBHOUSE: (OFFICE SPACE ONLY) 1 PER 300 GSF = +/- 700 / 300 =	2 SPACES
COMMERICAL BUILDING: 1 PER 300 GSF = +/- 7,150 / 300 =	24 SPACES
DWELLING: MULTI-FAMILY/UNIT:	
STUDIO: 1.25 / UNIT = 12 * 1.25 =	15 SPACES
1 BEDROOM: 1.5 / UNIT = 72 * 1.5 =	108 SPACES
2-3 BEDROOM: 2.0/ UNIT + 0.25 GUEST SP / UNIT = 118 * 2.0 = 236 + 30 =	266 SPACES
TOTAL SPACES REQUIRED PER BEAUFORT COUNTY CODE =	**415 SPACES**

***REQUEST AN 20% REDUCTION IN OVERALL PARKING SPACES REQUIRED FOR A TOTAL OF 332 PARKING SPACES PROVIDED.**



WOOD+PARTNERS
LANDSCAPE ARCHITECTURE
LAND PLANNING

PROJECT TITLE:
Malind Bluff Multi-Family Development

PROJECT LOCATION:
Beaufort County, SC

SHEET TITLE:
Conceptual Master Plan - based on Beaufort County Development Code

ISSUE DATE:
February 3, 2022

0' 25' 50' 100' 150' 200'
SCALE: 1" - 50'-0"

Plan is conceptual in nature and subject to change pursuant to SC Housing and/or market conditions.

COUNTY COUNCIL OF BEAUFORT COUNTY
Community Development Department
Beaufort County Government Robert Smalls Complex
Administration Building, 100 Ribaut Road
Post Office Drawer 1228, Beaufort, South Carolina 29901-1228

TO: Natural Resources Committee of County Council

FROM: Robert Merchant, Beaufort County Planning and Zoning Director

DATE: January 21, 2022

SUBJECT: **Osprey Point (Mailind Bluff) Planned Unit Development (PUD) Master Plan Amendment**

A. BACKGROUND:

Owner:	LCP III, LLC (J. Nathan Duggins, III)
Applicant:	Joshua Tiller, J.K. Tiller and Associates
Property Location:	On the east side of Okatie Highway (SC 170) at the intersection of Pritcher Point Road.
District/Map/Parcel:	R600-013-000-0006-0000
Property Size:	17.2 acres

B. SUMMARY OF REQUEST: The applicant is requesting that a portion of the Osprey Point PUD master plan be amended. The current PUD as amended in 2019 consists of 345 single-family residential units and 207,700 square feet of commercial development. The residential portion of the Osprey Point PUD is a Pulte Homes development called Mailind bluff and currently under construction. The applicant is proposing to amend the PUD master plan to replace the 207,000 square feet of commercial development that is proposed for the front 17.2 acres with 204 multi-family units.

C. ACCESS AND TRANSPORTATION:

- **Access:** The site is accessed off of SC 170 by Pritcher Point Road located off of Highway 170 across from Shortcut Road; and by Mailind Bluff Drive located across from Red Oaks Lane. A new road is proposed that runs parallel to SC 170 approximately 400 feet from the highway. That road is proposed to connect to Okatie Elementary located south of the site. The existing master plan shows a right-in/right-out intersection halfway between Pritcher Point and Mailind Bluff Roads. The revised master plan eliminates this access point.
- **Traffic Impacts:** This master plan amendment does not trigger the need for a Traffic Impact Analysis. The revised site plan would result in a reduction of estimated peak hour trips. A 207,700 would generate approximately 791 peak hour trips compare to 90 peak hour trips from 204 multi-family units. However, it is important to note removing the potential for commercial development would greatly reduce any internal trip capture for the 600+ homes in Mailind Bluff and River Oaks.

D. SCHOOL IMPACTS: The School District has been given a copy of this proposed master plan amendment. The School District does not have excess capacity to address the potential increase in the number of students in southern Beaufort County. In this immediate area, the District is already facing the need to absorb the students that will result from the 711 dwelling units in River Oaks and Mailand Bluff. However, because the proposal consists of Low Income Tax Credit housing, the Superintendent and the Vice-Chair of the School Board have indicated support for the project. Staff will provide additional input from the School District at the January 3 meeting.

E. ZONING MAP AMENDMENT REVIEW STANDARDS: In determining whether to adopt or deny a proposed Zone Map Amendment, the County Council shall weigh the relevance of and consider whether and the extent to which the proposed amendment:

1. **Is consistent with and furthers the goals, and policies of the Comprehensive Plan and the purposes of this Development Code:** This proposed master plan change would potentially result in the provision of 204 affordable housing units, which meets the Comprehensive Plan strategy to "aggressively pursue the development of affordable housing." Staff recommends that the Osprey Point PUD and accompanying development agreement require all multi-family units to be affordable to individuals or families earning 80% or less of county median income.
2. **Is not in conflict with any provision of this Development Code, or the Code of Ordinances;** The proposed master plan is not consistent with the Multi-Family Oriented Community standards found in Division 2.4 of the Community Development Code. These standards require multi-family developments to be oriented around a system of streets and blocks with parking located at the side or rear of buildings. While the Osprey Point PUD is currently not required to follow the development standards of Community Development Code, staff believes that any master plan amendment occurring after the adoption of the CDC should adhere to the standards of that ordinance to the greatest extent possible.
3. **Addresses a demonstrated community need:** The applicant proposed to develop affordable housing on the site, which has been documented in the Comprehensive Plan and the Housing Needs Assessment to be a community need.
4. **Is required by changed conditions;** N/A.
5. **Is compatible with existing and proposed uses surrounding the land subject to the application, and is the appropriate zone and uses for the land;** The proposed multi-family housing provides a better transition between Highway 170 and the single family development located at Mailind Bluff than 207,700 square feet of commercial development.
6. **Would not adversely affect nearby lands:** See 5 above.
7. **Would result in a logical and orderly development pattern**; See 5 and 6 above.
8. **Would not result in adverse impacts on the natural environment – including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, wetlands,**

and the natural functioning of the environment: Any development on the site would be required to adhere to the natural resource protection, tree protection, wetland protection, and stormwater standards in the Community Development Code and the Stormwater BMP Manual. The amount of proposed impervious surface is comparable to what the proposed commercial development would have yielded.

9. **Would result in development that is adequately served by public facilities (e..g. streets, potable water, sewerage, stormwater management, solid waste collection and disposal, schools, parks, police, and fire and emergency medical facilities):** The site is in close proximity to pubic sewer and water, schools, fire and EMS. However, the nearest school, Okatie Elementary, is near capacity.

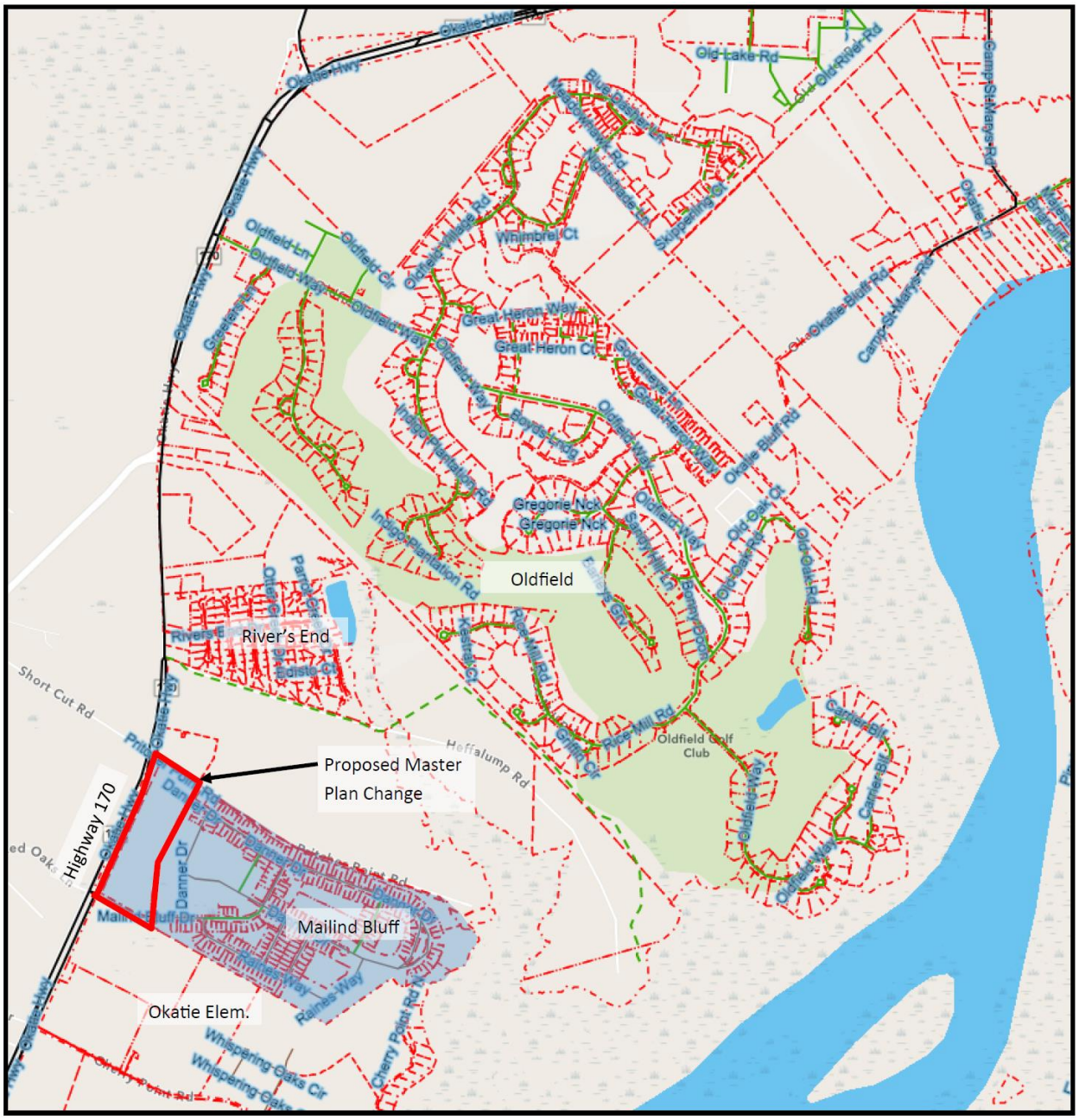
F. STAFF RECOMMENDATION: Staff **recommends approval with the following conditions**:

- The master plan should be revised to meet the Multi-Family Oriented Community standards in Article 2, Division 2.4 of the Community Development Code.
- The Osprey Point PUD document should be revised to require that all multi-family dwelling units are affordable to individuals and families earning 80% or less of county median income. The affordable housing units should be required to meet the Affordable Housing requirements found in Article 4, Section 4.1.350.G of the Community Development Code.
- The existing Osprey Point PUD required the developer to dedicate a 0.5 acre parcel for public safety (Sheriff, Fire, EMS). The amended master plan does not show any land dedicated for this use.
- The development agreement that accompanies the Osprey Point PUD needs to address the proposed changes to the master plan. The development agreement also needs to address any agreed upon affordable housing requirements.

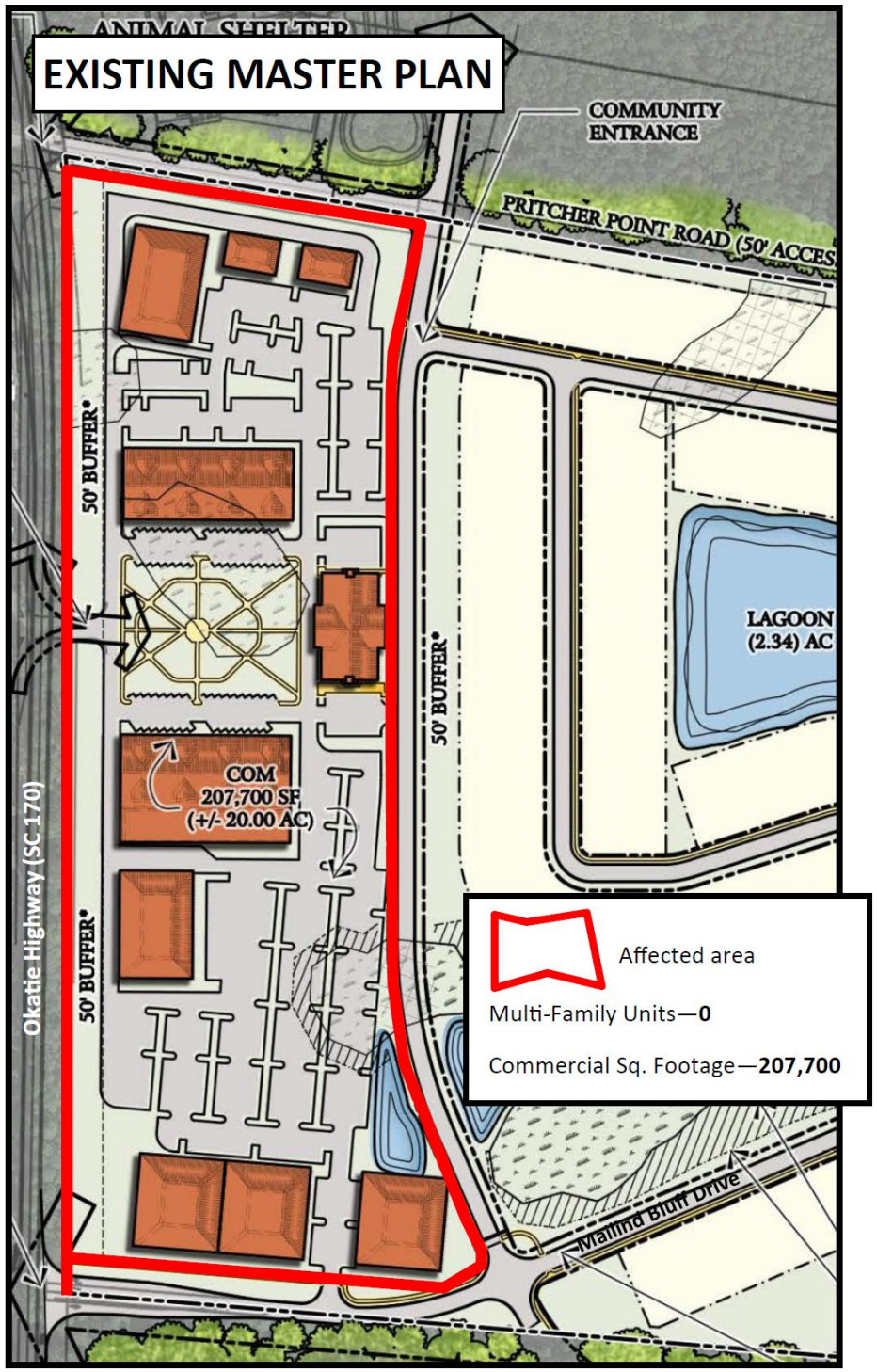
G. PLANNING COMMISSION RECOMMENDATION: This PUD amendment was reviewed by the Beaufort County Planning Commission at their January 3, 2022 meeting. At that time, the Commission voted 6 to 1 to recommend denial of the PUD amendment.

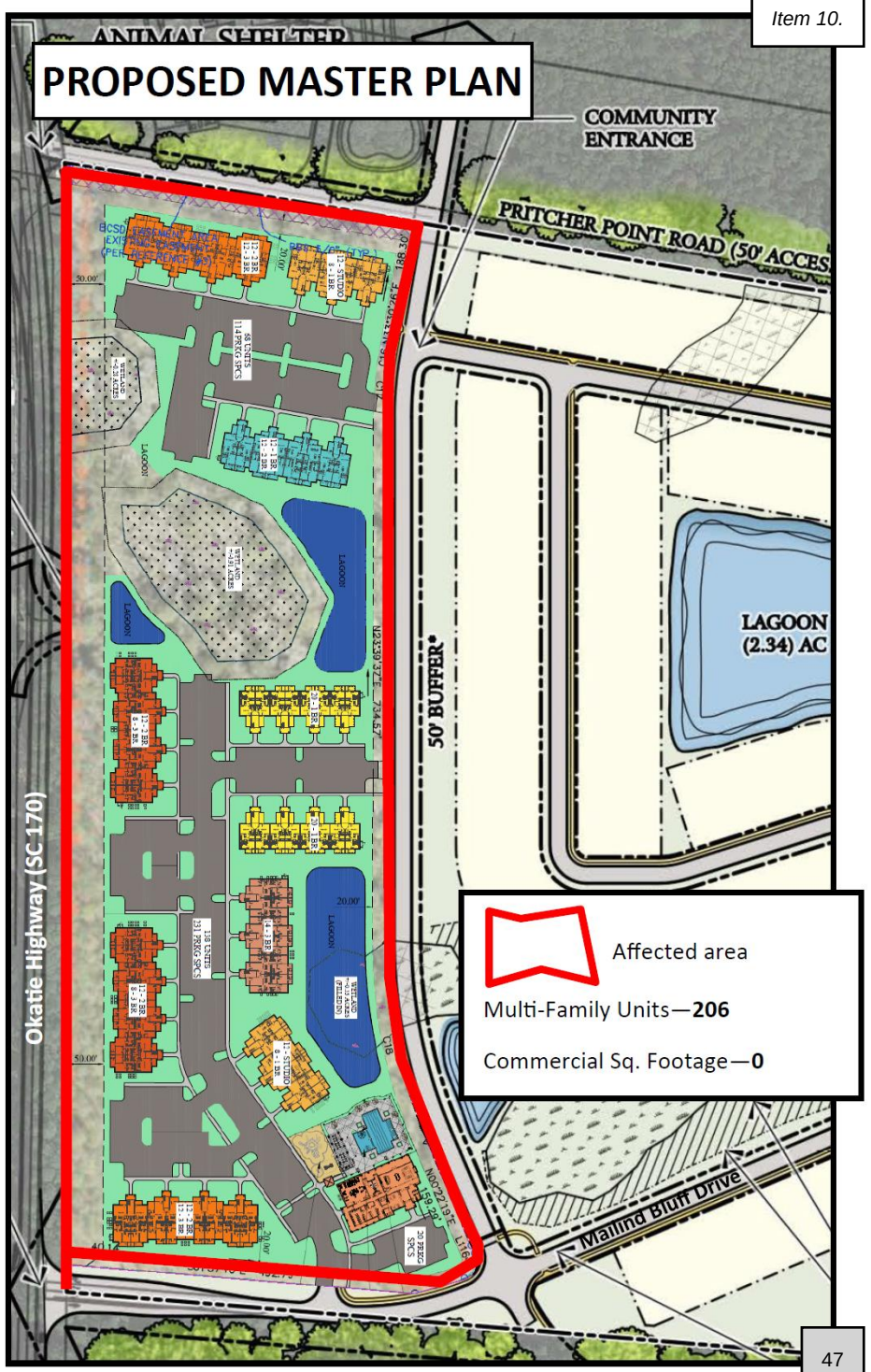
H. ATTACHMENTS:

- Locational Map
- Existing and Proposed Master Plan Map
- Application



PROJECT LOCATION MAP


EXISTING MASTER PLAN
COMMUNITY ENTRANCE
PRITCHER POINT ROAD (50' ACCES
50' BUFFER*
50' BUFFER*
50' BUFFER*
LAGOON (2.34) AC
COM 207,700 SF (+/- 20.00 AC)
Okatie Highway (SC 170)
Malind Bluff Drive
Affected area
Multi-Family Units—0
Commercial Sq. Footage—207,700


PROPOSED MASTER PLAN
COMMUNITY ENTRANCE
PRITCHER POINT ROAD (50' ACCES
50' BUFFER*
LAGOON (2.34) AC
Okatie Highway (SC 170)
Malind Bluff Drive
Affected area
Multi-Family Units—206
Commercial Sq. Footage—0

BEAUFORT COUNTY COUNCIL
AGENDA ITEM SUMMARY

ITEM TITLE:
PURSUANT TO S.C. CODE SECTION 30-4-70(A)(2): DISCUSSION OF NEGOTIATIONS INCIDENT TO PROPOSED CONTRACTUAL ARRANGEMENTS AND PROPOSED SALE OR PURCHASE OF DEVELOPMENT RIGHTS ON REAL PROPERTY KNOWN AS BEECH CITY ROAD
MEETING NAME AND DATE:
Natural Resources Committee, Monday, March 7 2022
PRESENTER INFORMATION:
Eric Greenway, County Administrator
ITEM BACKGROUND:
Rural and Critical Land Preservation Board recommended approval for due diligence on 2/10/22
PROJECT / ITEM NARRATIVE:
Beach City Road project was proposed by Town of Hilton Head for partnership with RCLP program in the Historic Mitchelville area
FISCAL IMPACT:
Up to $10,000 due diligence fees Beaufort County Rural and Critical Land Preservation Program Bond Referendum (Account # 4500) Costshare possible
STAFF RECOMMENDATIONS TO COUNCIL:
Staff recommends to proceed with due diligence.
OPTIONS FOR COUNCIL MOTION:
Motion to approve due diligence for Beach City Road Fee Motion to modify due diligence for Beach City Road Fee Motion to reject due diligence for Beach City Road Fee

Beaufort County Rural and Critical Land Preservation Program Application

GENERAL INFORMATION

APPLICANT'S NAME: André White

ADDRESS: 2331 Galbreth Rd. Pasadena, CA 91104
CITY STATE ZIP CODE

EMAIL: andrewhite@mitcheluille.com

PROPERTY OWNER'S NAME: Heirs of Johnny White / André White, Personal Rep. of Estate of Perry White

ADDRESS: 2331 Galbreth Rd. Pasadena, CA 91104
CITY STATE ZIP CODE

PHONE: 843-338-3811 SAME SAME
CELL: HOME: WORK:

EMAIL: andrewhite@mitcheluille.com

PROPERTY INFORMATION

PROPERTY DIRECTIONS: located directly behind school building at St. James Baptist church

PROPERTY CONDITIONS: OPEN FIELD

R510 005 000 0010 0000
PROPERTY TAX MAP #: ADDRESS: Beach City Rd.

ZONING DISTRICT: RM-4 PARCEL SIZE: 0.50 ACRES

USE OF PROPERTY: OPEN FIELD

OWNER'S PRICE EXPECTATION: $200,000

PURCHASE ARRANGEMENT: (Circle one) **PDR** **FEE**

PLAT: Please provide the most recent version of the deeded survey of the property as an attachment to this application.

I CERTIFY THAT ALL INFORMATION PRESENTED BY ME IN THIS APPLICATION IS ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BENEFIT:

8-26-21

APPLICANT **DATE**

I (WE) CERTIFY THAT I (WE) ARE THE OWNERS OF THE PROPERTY NAMED IN THIS APPLICATION AND FURTHER THAT I (WE) DESIGNATE THE PERSON SIGNING AS APPLICANT TO REPRESENT ME (US) IN THIS APPLICATION.

8-26-21

PROPERTY OWNER (S) **DATE**

**ATTACH OWNER'S NOTARIZED WRITTEN AUTHORIZATION IF OWNER'S SIGNATURE CANNOT BE OBTAINED.*

DATE ACCEPTED:
RECEIVED BY:

OFFICE USE ONLY

ACCEPTED BY:

BEAUFORT COUNTY OFFICIAL/CONTRACTOR **DATE**

PROPOSED RCLP BOARD MEETING DATE: _____

PROPOSED NATURAL RESOURCES COMMITTEE MEETING DATE: _____

**DISCLAIMER: THIS DOES NOT GUARANTEE FAVORABLE ACTION BY BEAUFORT COUNTY AND THE PROCESS MAY TAKE UP TO ONE YEAR TO COMPLETE.*

.50 Acre Beach City Rd. Parcel



12/5/2020, 11:59:02 AM

Search Results: LiveParcels

Override 1

Road Classifications

STATE, PAVED

PRIVATE, UNPAVED

LiveParcels

1:1,128

0 0.0125 0.025 0.05 mi

0 0.02 0.04 0.08 km

Data supplied for you by Beaufort County Mapping and Applications, powered by Web AppBuilder for ArcGIS

BEAUFORT COUNTY COUNCIL
AGENDA ITEM SUMMARY

ITEM TITLE:

STORMWATER UTILITY INTERGOVERNMENTAL AGREEMENT (IGA) AMENDMENT WITH CITY OF BEAUFORT

MEETING NAME AND DATE:

Natural Resources Committee – March 7th, 2022

PRESENTER INFORMATION:

Brittany Ward – Deputy County Attorney

Neil Desai, P.E - Public Works Director *(Alternate)*

(10 min)

ITEM BACKGROUND:

February 25th, 2021 – City of Beaufort letter written
February 7th, 2022 – Background presentation at NRC
February 9th, 2022 – Updates presented at SWUB

PROJECT / ITEM NARRATIVE:

Beaufort County Stormwater was contacted by the City of Beaufort stating they were no longer interested in Beaufort County pursuing delinquent stormwater fees from the military installations. Public Works staff have been working internally with Legal and the County Administrator to discuss impacts and solutions between the City, the County, and the Military installations. County staff has amended the IGA language to remove the County's responsibility to collect delinquent fees for the Military installations within the City of Beaufort's jurisdiction. Language has also been included to hold the County responsible for providing an annual CWI fee report prior to September 1st each year.

FISCAL IMPACT:

N/A

STAFF RECOMMENDATIONS TO COUNCIL:

Approve the amendments to the Stormwater Utility IGA with the City of Beaufort.

OPTIONS FOR COUNCIL MOTION:

Motion to approve the amendments to the Stormwater Utility IGA with the City of Beaufort.

Motion to deny the amendments to the Stormwater Utility IGA with the City of Beaufort.

(Next Step – Send for signatures)

William A. Prokop
CITY MANAGER
843-525-7070
FAX 843-525-7013

COUNCIL MEMBERS:
Stephen Murray, Mayor
Phillip Cromer, Mayor Pro Tem
Harold "Mitch" Mitchell
Neil Lipsitz

CITY OF BEAUFORT
1911 Boundary Street
BEAUFORT, SOUTH CAROLINA 29902

February 25th, 2021

The Honorable Joseph Passiment
Chairman, Beaufort County Council
100 Ribaut Rd
Beaufort, SC 29902

Dear Chairman Passiment:

This letter is provided as requested by your Interim Administrator, Eric Greenway. As discussed last week, the City of Beaufort was recently made aware that Beaufort County Council has retained an out of state law firm to pursue the collection of stormwater fees from the Department of Defense. It is our understanding that Beaufort County Council is taking this action, ostensibly, on behalf of the City of Beaufort and the Town of Port Royal. The City of Beaufort does not support and does not desire to participate in any legal action against the Department of Defense.

The City of Beaufort adopts this position for two major reasons. First, the City possesses no evidence that any of the installation's stormwater adversely affects or exacerbates flooding in the community. As you know, approximately three years ago the local municipalities teamed up to identify multijurisdictional flooding issues, and the areas surrounding the bases have never been identified as troubled areas. Next, we enjoy an excellent relationship with each of the installations and believe that any challenges, either perceived or actual, may be resolved without leveraging attorneys and pursuing civil action against our military community.

Please let me know if you have questions or would like to discuss this matter further.

In Service,

Stephen D. Murray III, Mayor

Cc: Beaufort County Council & Eric Greenway, Interim Admin
Port Royal Town Council & Van Willis, Manager
Colonel Karl Arbogast, Commanding Officer MCAS Beaufort
Kim Fleming, Deputy Director, Operations, Plans, and External Affairs MCAS Bft.

RESOLUTION 2022/

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVER OF A REVISED STORMWATER MANAGEMENT AND UTILITY INTERGOVNERNMENTAL AGREEMENT WITH THE CITY OF BEAUFORT;

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

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

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

WHEREAS, the County has previous entered into that certain "Stormwater Management and Utility Intergovernmental Agreement" dated November 16th, 2016 (the "***Original IGA***") with the City of Beaufort, South Carolina (the "***City***");

WHEREAS, the City and County have negotiated an "Amended and Restated Stormwater Management and Utility Intergovernmental Agreement" (the "***Agreement***"), the provisions of which amend and restate the Original IGA in its entirety, in the form attached hereto as Exhibit A;

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

Section 1 Recitals

Each Finding or statement of fact set forth in the recitals hereto has been carefully examined and has been found to be in all respects true and correct.

Section 2 Approval of the Agreement

A. The County has reviewed the agreement, the form of which is attached to this resolution as Exhibit A.
B. The Council approves of and authorizes the execution and delivery of the Agreement. The Agreement shall be executed and delivered on behalf of the County by the County Administrator, with such changes as the Administrator may deem necessary or helpful. Upon such execution, the Council shall be timely informed of the execution of the Agreement. The consummation of the transactions and undertakings described in the agreement, and such additional transactions and undertakings as may be determined by the County Administrator in consultation with the Council to be necessary or advisable in connection therewith, are hereby approved.

Section 3 Other Documents; Ratification of Prior Actions

In connection with the execution and deliver of the Agreement, the County administrator is additional authorized to prepare, review, negotiate, execute, deliver, and agree to such additional agreements, certifications, documents, closing proofs, and undertakings as they shall deem necessary or advisable. Any actions previously undertaken by the County Administrator, Council or County staff shall

in connection with the execution and delivery of the Agreement prior to the enactment of this Resolution are ratified and confirmed.

Section 4 Severability

If any one or more of the provisions of this Resolution should be contrary to law, then such provision shall be deemed severable from the remaining provisions, and shall in no way affect the validity of the other provisions of this Resolution.

Section 5 Repealer

Nothing in this Resolution shall be construed to affect any suit or proceedings pending in any court, or any rights acquired or liability incurred, or any cause of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Resolution.

Section 6 Inconsistency

All ordinances, resolutions, or parts of any ordinances or resolutions inconsistent or in conflict with the provisions of this Resolution are hereby repealed to the extent of the conflict or inconsistency.

Section 7 Effect

This Resolution be enacted upon approval by the Beaufort County Council.

ADOPTED, this _____ day of _____, 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY:_____

Joseph Passiment, Chairman

ATTEST:

_____

Sarah W. Brock, Clerk to Council

AN AMENDED AND RESTATED STORMWATER MANAGEMENT AND UTILITY INTERGOVERNMENTAL AGREEMENT BETWEEN BEAUFORT COUNTY, SOUTH CAROLINA, AND THE CITY OF BEAUFORT, SOUTH CAROLINA

DATED: JUNE 23, 2020

REVISED: FEBRUARY 24, 2022

EXHIBIT A

FORM OF AGREEMENT

TABLE OF CONTENTS

ARTICLE 1 - TITLE AND PURPOSE 1
1.00 Title..... 1
1.01 Purpose 1
1.02 References to County Ordinances..... 2

ARTICLE 2 - DEFINITIONS 2
2.00 Definitions..... 2
2.01 2015 Utility Rate Study 2
2.02 Agreement 3
2.03 Beaufort County Stormwater Implementation Committee 3
2.04 City..... 3
2.05 Chapter 99 3
2.06 County. 3
2.07 County Stormwater Management Implementation Guide..... 3
2.08 GIS..... 3
2.09 NPDES. 3
2.10 Public Stormwater..... 4
2.11 State 4
2.12 Stormwater Infrastructure..... 4
2.13 Stormwater Utility User Fees..... 4
2.14 Stormwater Management..... 5
2.15 Stormwater Management Plan 6
2.16 Stormwater Utility 6

ARTICLE 3 - TERM OF THIS AGREEMENT 6
3.00 Term of This Agreement 6
3.01 Initial Term of this Agreement..... 6
3.02 Periodic Review of this Agreement..... 7
3.03 Extension of this Agreement..... 7
3.04 Termination of this Agreement 7
3.05 Bonds Affected on Termination..... 7
3.06 Effect of Termination 7
3.07 Conveyance of Assets..... 8
3.08 Rebate of User Fees 8

ARTICLE 4 - FINANCE AND FUNDING 8
4.00 Financial and Funding Relationship 8
4.01 Use of Revenue 8
4.02 Further Agreements Authorized..... 11
4.03 Cost of Services 11
4.04 Setting of Stormwater Utility User Fee Rate (per Account, IA, GA, and SFU's) 11
4.05 Plan Review and Site Inspection..... 11

4.06 Coordination of Services 12

ARTICLE 5 - ADMINISTRATION OF STORMWATER UTILITY 12
5.0 Stormwater Utility 12
5.1 Stormwater Management Plan 12
5.2 Relationship of Plan to Agreement 12
5.3 Stormwater Utility User Fees 12
5.4 County Responsibilities 12
5.5 Delivery of Services 15
5.6 Coordination with Other Jurisdictions 15
5.7 Qualifications and Extents of Service 16
5.8 Fee Credits 16
5.9 Easements 16
5.10 Conflicts, ... 16

ARTICLE 6- STORMWATER ORDINANCES AND DEVELOPMENT STANDARDS 16
6.0 Applicable Standards 16
6.1 State or Federal Laws or Regulations 17
6.2 Regulatory Obligations of the County and City 17
6.3 Plan Review and Site Inspection 17

ARTICLE 7- NPDES MS4 PHASE II PERMIT COMPLIANCE 18
7.0 NPDES Compliance 18
7.1 Roles and Responsibilities 18
7.2 Coordination of Activities 18
7.3 Annual Reporting 18
7.4 Permit Related Costs 19

ARTICLE 8-DATA ACQUISITION AND MANAGEMENT 19
8.0 Roles and Responsibilities 19
8.1 Cost Sharing 19
8.2 Data Sharing 19
8.3 Data Types 19

ARTICLE 9-0THER AGREEMENTS 20
9.0 Scope and Cost Sharing 20
9.1 Agreement Recommendations 20
9.2 Agreement Approvals 20
9.3 Funds Distribution 20

ARTICLE 10- MISCELLANEOUS 20
I0.00 Provisions Applicable to This Agreement 20
10.1 Binding Effect 20
10.2 Amendment, Changes and Modifications 21

10.3 Severability 21
10.4 Execution in Counterparts 21
10.5 Applicable Law 21
10.6 Captions 21
I0.07 Plural/Singular 21
I0.08 No Third-Party Beneficiaries 21
10.09 Notices 22
IO.IO No Waiver 22
10.11 Further Assurances and Corrective Documents 22

wWHEREAS, this Amended and Restated Stormwater Management and Utility Intergovernmental Agreement Between Beaufort County, South Carolina, and the City of Beaufort, South Carolina is made on this 23 d a y o f June, 2020, by and between Beaufort County, South Carolina, and the City of Beaufort, South Carolina, for the purpose of establishing the terms and conditions of the participation by the City in a county-wide stormwater utility, which utility shall be operated by the County.

ARTICLE 1 - TITLE AND PURPOSE

1.0 *Title:* This intergovernmental agreement between Beaufort County, South Carolina, and the City of Beaufort, South Carolina, shall be known as the "Stormwater Management and Utility Intergovernmental Agreement Between Beaufort County, South Carolina, and the City of Beaufort, South Carolina" (this "Agreement"). This Agreement is intended to amend and restate any prior agreements between the parties regarding the stormwater in the County, specifically including that certain agreement entitled "A Stormwater Management and Utility Intergovernmental Agreement between Beaufort County, South Carolina and the City of Beaufort, South Carolina" dated September 21, 2001, as amended on January 26, 2004, November 11, 2016 and any subsequent amendments.

1.1 *Purpose:* This Agreement is made for the purpose of defining the roles, responsibilities and financial relationship between the County and the City with respect to the establishment, administration and operation of the Stormwater Utility (as defined in Article 2 below), which includes the following:

(a) Establishment of rates;

(b) Use of revenue;

(c) Acquisition of existing stormwater infrastructure;

(d) Construction of new stormwater infrastructure;

(e) Maintenance of stormwater infrastructure;

(f) Operation of stormwater infrastructure;

(g) Regulation and use of stormwater infrastructure; and,

(h) Enhancement of water quality.

1.2 *References to County Ordinances:* This Agreement hereby incorporates by reference Beaufort County, South Carolina, Ordinance 2015-24 (as may be amended from time to time) regarding the establishment of a Stormwater Utility, which is codified at Chapter 99 of the County's Code of Ordinances. The Beaufort County Stormwater Implementation Committee ("SWIC") will review this Agreement for any needed revisions upon future amendments to Chapter 99. Amendments to Chapter 99 shall become binding to this Agreement upon SWIC review and duly authorized revisions to this Agreement, if deemed necessary. In the case of any conflict between the provisions of Chapter 99 and this Agreement, the provisions of this Agreement shall control.

ARTICLE 2 - DEFINITIONS

2.0 *Definitions:* When used in this Agreement words with initial capitals shall have the meanings set forth in this Article 2 and as otherwise defined herein.

2.1 *2015 Utility Rate Study:* The study was conducted by the County and City which was adopted by County Council on August 24, 2015 and submitted by the study consultant to the City on April 20, 2016 to determine an equitable and appropriate rate structure for Stormwater Utility User Fees within all areas of the County, so that fees charged by the Stormwater Utility will be in

compliance with provisions of S. C. Code Ann. §48-14-120(C)(Supp. 2010), and S. C. Regs. 72-310 (Supp. 2010).

2.2 *Agreement:* This Amended and Restated Stormwater Management and Utility Intergovernmental Agreement between Beaufort County, South Carolina, and the City of Beaufort, South Carolina.

2.3 *Beaufort County Stormwater Implementation Committee (SWIC):* The SWIC shall consist of a technical staff member from each of the following jurisdictions: Unincorporated Beaufort County; Town of Hilton Head Island; Town of Bluffton; Town of Port Royal; and City of Beaufort.

2.4 *City:* City of Beaufort, South Carolina.

2.5 *Chapter 99:* Chapter 99 - "Stormwater Management" of the County's Code of Ordinances.

2.6 *County:* Beaufort County, South Carolina.

2.7 *County Stormwater Management Implementation Guide:* The study conducted by the County to determine the drainage infrastructure and maintenance needs within the various watersheds within the County. This became the County Stormwater Management Implementation Guide dated February 20, 2006. In 2016, the County and the City entered into an agreement to update the "County Stormwater Management Implementation Guide". Future amendments of the County Stormwater Management Implementation Guide shall be incorporated by reference once agreed upon by the SWIC. The County Stormwater Management Implementation Guide constitutes a "Stormwater Management Plan" as such term is used in Section 2.15 hereinbelow.

2.8 *GIS:* The County's geographic information system.

2.9 *NPDES:* The National Pollutant Discharge Elimination System stormwater regulatory program established by the United States Environmental Protection Agency to address pollutants in stormwater discharged to waters of the United States. Phase II of this regulatory program impacts communities under 100,000 in population, small construction sites between one acre and five acres, and industrial sites owned and operated within communities under 100,000 population.

2.10 *Public Stormwater:* Stormwater runoff which is conveyed through a public drainage easement or public road right of way, and/or which some portion is generated from a public road right of way.

2.11 *State:* State of South Carolina

2.12 *Stormwater Infrastructure:* Real property, interests in real property, improvements to real property such as ditches, drains, pipes, culverts, catch basins, pumps, post-construction best management practices (BMPs), or the like, or any combination of them, used or useful in the collection and disbursement of storm and surface water, or the control of flooding. As used herein, Stormwater Infrastructure does not include drainage systems or facilities that are not publicly owned, and which do not carry Public Stormwater.

2.13 *Stormwater Utility User Fees:* Stormwater Utility User Fees shall mean the service fee imposed pursuant to this Agreement for the purpose of funding costs related to Public Stormwater programs, services, systems, and facilities. Stormwater Utility User Fees will be calculated based upon the residential category for a parcel and/or the nonresidential parcel's impervious area and/or a parcel's gross area and an Administrative Fee, depending on the

applicable utility rate structure, pursuant to the provisions of Chapter 99. The Stormwater Utility User Fees include and consist of the following sub-fees:

(A) *Administrative Fee:* Per "Option C or E" of the 2015 Utility Rate Study, the Administrative Fee is a fixed cost per billable account and includes costs to the utility not directly applicable to the improvements of the property, such as administrative costs, public education and outreach, and water quality monitoring. For "Option C or E" rate structures, the Administrative Fee is determined per Section 4.01 of this Agreement.

(B) *Countywide Infrastructure Fee (CW!):* Per the 2015 Utility Rate Study, the Countywide Infrastructure Fee is based on GIS data obtained per Article 8 herein. It is a fee applicable to the City for the operation and maintenance cost of the county owned infrastructure described in Section 5.07, collected and paid directly to the County. The County shall provide to the City an annual report of its CWI fee expenditures from the previous fiscal year. For each year that this agreement is in effect, a report shall be prepared and delivered to by the County to the Town by (i) August 31, or (ii) as soon as the previous fiscal year's report is complete.

(C) *Gross Area Fee (GA):* Per "Option C or E" of the 2015 Utility Rate Study, the Gross Area Fee is calculated from the area in acres of a parcel of land as measured from GIS data obtained per Article 8 herein.

(D) *Impervious Area Fee (IA):* Per "Option C or E" of the 2015 Utility Rate Study, the Impervious Area Fee is based on impervious area measurements calculated in the same manner as the SFU.

(E) *Single Family Unit Rate (SFU):* Per "Option A" of the 2015 Utility Rate Study, the SFU shall be defined as the impervious area measurements obtained from a statistically

representative sample of all detached single-family structures within the County. The representative value will be 4,906 square feet.

2.14 *Stormwater Management:* Control of storm and surface water, erosion, Public Stormwater quality protection and flooding through the use of Stormwater Infrastructure, and the creation and enforcement of development standards related to storm and surface water.

2.15 *Stormwater Management Plan:* The plan or plans, which includes the County Stormwater Management Implementation Guide defined in Section 2.07 above, developed by the County and City that addresses planning, design and construction of capital improvements to the Stormwater Infrastructure; acquisition of real property or interests in real property for the purposes of Stormwater Management; maintenance and repair of Stormwater Infrastructure; regulation of the use of Stormwater Infrastructure; acquisition of equipment and other assets; regulation of impacts including any that may be mandated under the NPDES Phase II regulations, contracting with engineering, financial, legal, construction and other professionals for services in support of the Stormwater Utility, emergency preparedness related to storms and hurricanes, acquisition or construction of Stormwater Infrastructure, or any other functions required, useful or prudent for a program of Stormwater Management.

2.16 *Stormwater Utility:* The administrative section of the County's Stormwater Department created for the purposes of planning, designing, overseeing, funding, building, and maintaining Stormwater Infrastructure, either directly or through cooperative arrangements with other governmental bodies; and for administering and managing Stormwater Management throughout the County.

ARTICLE 3 - TERM OF THIS AGREEMENT

3.0 Term of This Agreement: The term and duration of this Agreement shall be as follows in this Article 3.

3.1 *Initial Term of this Agreement:* The Initial Term of this Agreement shall be for a period of twenty (20) years, commencing on the date the Agreement is signed by both the City and the County, whichever comes last.

3.2 *Periodic Review of this Agreement:* The SWIC shall conduct periodic review of this Agreement to ensure that it remains current with the state-of-the-art Stormwater Management practices applicable to coastal areas and shall provide recommendations for updates to decrement, if necessary.

3.3 *Extension of this Agreement:* The term of this Agreement may be extended at any time by the mutual agreement of the parties hereto, or upon the expiration of the initial twenty (20) year term set forth in Section 3.01 above.

3.4 *Termination of this Agreement:* Except as provided in Section 3.05 below, this Agreement may be terminated by either party hereto, by delivering written notice of the termination to the other party. Termination under this Article shall only be effective on the final day of any given County fiscal year. The written notice of termination shall be provided by the party terminating the Agreement no less than one hundred eighty (180) days prior to the date the termination will beeffective.

3.5 *Indebtedness Affected on Termination:* In the event the City has outstanding any indebtedness either (i) secured by revenues received under this Agreement, or (ii) payable from revenues received under this Agreement, this Agreement may not be terminated without the written approval of the City.

3.6 *Effect of Termination:* Upon termination of this Agreement under any provision of this Article 3, or otherwise, all rights and obligations of any party hereto, specifically including

but not limited to the right of the County to charge Stormwater Utility User Fees to property owners in the City, shall immediately end.

3.7 *Conveyance of Assets:* Upon termination of this Agreement under any provision of this Article 3, the County shall convey to the City all of its right, title and interest in any Stormwater Infrastructure, including any Public Stormwater easements, within the municipal limits of the City. However, this shall not include Stormwater Infrastructure on County owned parcels or County road rights of way (otherwise described in Section 5.07) within the limits of the City.

3.8 *Rebate of User Fees:* Upon termination of this Agreement under any provision of this Article 3, the County shall return to the City any collected, but unspent or unobligated Stormwater Utility User Fees collected from within the City limits.

ARTICLE 4 - FINANCE AND FUNDING

4.0 *Financial and Funding Relationship:* The City shall provide the County with its Stormwater Utility User Fee rate for its upcoming fiscal year prior to June 30 each year of this Agreement. This will be in the form of a letter to the County Administrator from the City Manager. In the event the City fails to timely submit the required letter in accordance with Article 4 of this Agreement, the rate used by the City for the previous year shall apply. The City shall also provide to the County an annual report of its Public Stormwater fee expenditures from the previous fiscal year. For each year that this Agreement is in effect, a report shall be prepared and delivered by the City to the County by the later of (i) January 15, or (ii) as soon as the previous fiscal year's financial records are complete.

4.1 *Use of Revenue:* In accordance with the provisions of S.C. Code Ann. §48-14-

120(C) (Supp. 2010), and S.C. Regs. 72-310 (Supp. 2010), all Stormwater Utility User Fees collected within the City, less the Administrative Fee, shall be returned to the City. The Administrative Fee is to be calculated as a fixed dollar amount for each unit billed and collected by the Stormwater Utility. The billable unit shall be either a per account charge or a charge per SFU, depending on the applicable utility rate structure. The Stormwater Utility shall define its administrative costs each year during the annual budget process. The SWIC shall conduct annual reviews of the Stormwater Utility's administrative budget and recommend to the municipalities and County any changes to the amount billed per account or SFU and the SWIC and Stormwater Utility shall provide the City an itemized proposal and a written explanation for adjustments for the administrative services and deliverables to be provided in the coming fiscal year. This proposal shall be submitted to the City by February 15 of each calendar year. The City shall provide a written recommendation of acceptance to the Stormwater Utility by April 1 of the same year. Once agreed upon, this shall serve as the basis for the annual Administrative Fee to be calculated per City-account or SFU, and included in each entity's annual budget.

(a) The Administrative Fee shall be used by the County to defray the County's administrative costs in managing the Stormwater Utility.

(b) The City shall use Stormwater Utility User Fees to provide Stormwater Management within the City, including, but not limited to:

(i) The acquisition, design, construction, and maintenance of Stormwater Infrastructure, or repayment of bonded indebtedness issued to fund construction of Stormwater Infrastructure, in so far as the law and

covenants of the bonds allow, or for repayment to the City for general fund or other funds spent by the City to fund Stormwater Management activities;

(ii) Acquisition of Stormwater Infrastructure. Certain Stormwater Infrastructure in the City, which includes any easements or other interests in real property, shall be held in the name of the City;

(iii) Maintenance of Stormwater Infrastructure by the City and its contractor(s) or by direct services of the Stormwater Utility. Charges for services by the Stormwater Utility shall be negotiated and approved by the County and the City, as is provided in Articles 4.03, 4.05(a), 5.05, and 5.07 below; the City shall have the right of non-exclusive use of direct maintenance services, and there shall be no minimum dollar amount required to be spent annually by the City on any services provided by the Stormwater Utility;

(iv) Plan review and site inspections related to compliance with Public Stormwater ordinances and standards for development within the City as set forth in Articles 4.05, 4.06 and 4.07 below;

(v) NPDES Phase II permit compliance;

(vi) Payment of bond indebtedness or repayment of funds borrowed from the general fund or any other fund for the purpose of funding Stormwater Management projects or activities; and

(vii) Any other services related or attendant to Stormwater Management.

(c) The City shall be authorized to revise or amend and/or increase Stormwater Utility User Fees as necessary in order to comply with covenants, promises and other provisions related to any indebtedness secured by or payable from the Stormwater Utility User Fees.

(d) Nothing in this Agreement shall be construed to require the County to become obligated on any of the City's indebtedness and under no circumstances shall the County be liable to the City or responsible in any way for the payment or securing of the City's debt.

4.2 *Further Agreements Authorized:* The City and the County may negotiate and enter into agreements to share costs and responsibilities related to NPDES permit compliance. Such agreements and cost allocations shall be reflected in each entity's annual budget and must be authorized by the respective governing bodies of the City and County.

4.3 *Cost of Services:* If the City chooses to utilize the direct services of the Stormwater Utility, however described, they shall be accounted for at the County's actual cost of the equipment, materials, and personnel utilized in the delivery of the services.

4.4 *Setting of Stormwater Utility User Fee Rate (Per Account, IA, GA, and SFU's):* The City shall be responsible each year for setting the Stormwater Utility User Fee rates to be assessed on parcels within the City. The Stormwater Utility User Fee rate shall be set in accordance with the 2015 Utility Rate Study, Chapter 99 and S.C. Code Ann. §48-14-120(C) (Supp. 2010), and S. C. Regs. 72-31O(G) (Supp. 2010), or any other applicable law or regulation.

4.5 *Plan Review and Site Inspection:* For all activities that constitute development within City limits, the City will provide review of plans and site inspections to ensure compliance with

applicable laws, ordinances and regulations related to storm and surface water, erosion control and flooding.

4.6 *Coordination a/Services:* The City shall identify a representative of its staff to serve as the contact person and coordinator for Stormwater Management services, including services provided by the County within the City, long range planning and water quality initiatives such as the NPDES Phase II requirements compliance, notification of problems, facilitating access within any planned or future planned unit developments within the City, and advising the County on site- specific conditions within the City.

ARTICLE 5 - ADMINISTRATION OF STORMWATER UTILITY

5.0 *Stormwater Utility:* The County has established a Stormwater Utility that administers funds and conducts a Stormwater Management program throughout the County.

5.1 *Stormwater Management Plan:* The County and City shall have the responsibility to develop and maintain a Stormwater Management Plan. The County and the City have developed and implemented the County Stormwater Management Implementation Guide as a Stormwater Management Plan and subject document shall be administered by SWIC.

5.2 *Relationship of Plan to Agreement:* The Stormwater Management Plan developed and maintained by the SWIC shall incorporate the obligations of the County and City under this Agreement. In the case of any conflict between the provisions of the Stormwater Management Plan and this Agreement, the provisions of this Agreement shall control.

5.3 *Stormwater Utility User Fees:* The Stormwater Utility shall bill and collect parcel- based Stormwater Utility User Fees from property owners, tenants, or other appropriate parties, pursuant to its authority and subject to any intergovernmental agreements, including this

Agreement, and may also apply for, acquire and use any other funding from any public or private source in support of the County Stormwater Management Implementation Guide as allowed by law.

5.4 County Responsibilities: The County, through the Stormwater Utility, shall have the following responsibilities:

(a) *Collection and Distribution of Fees:* Stormwater Utility User Fees within the City limits shall be charged and collected by the County in accordance with the provisions of Article 4.0 of this Agreement; the Stormwater Utility User Fees shall be collected in accordance with S. C. Code Ann. §48-14-l 20(C) (Supp. 2010), and S. C. Regs. 72-31O(G) (Supp. 2010), or any other applicable law or regulation, and shall not include provisions for relief from the payment of the Stormwater Utility User Fees unless otherwise directed in writing by City Council or other designated authority for Military installations; the County shall distribute the City's Stormwater Utility User Fees less the Administrative Fee, in the same manner as *ad valorem* property taxes are distributed for each year this Agreement is in effect;

(b) *Provision of Services:* Provision of the services required under this Agreement.

(c) *Budgeting and Expenditure:* Setting the budget for the Stormwater Utility, and spending the revenues in accordance with any applicable ordinances or agreements, including this Agreement;

(d) *Administrative Activities:* Managing all administrative activities of the Stormwater Utility, including but not limited to, fee assessment, collection and

distribution, maintenance of accounting records, maintenance of Public Stormwater

data, implementation of the County Stormwater Management Implementation Guide, acquisition of easements, coordination with other agencies, reporting to the SWIC or other required entities;

(e) *Accounting:* Maintaining an accounting of revenues and expenditures on a jurisdictional or geographic basis, as may be set or described under any applicable ordinance or agreement, including this Agreement, the County shall provide the City with an itemized annual accounting of all Stormwater Utility User Fees within the City limits in the form of a budget report, including but not limited to: how parcel fees were determined, calculated, and assessed; total fees collected; total Administrative Fee retained by the County; total fees in arrears, on a per parcel basis and including the status of the collection attempt(s) on such parcels; fee credits applied for; fee credits paid; and fees that required adjustment since the last billing. This budget report shall be parcel-based and provided to the City annually prior to each February 1[51] throughout the term of this Agreement as an electronic document compatible with the most current version of Microsoft Office. The County shall also maintain an annual accounting of all administrative costs associated with operating the Stormwater Utility. Either the City or County, at the sole expense of the requesting jurisdiction, may request a professional audit of any of the budget reports;

(f) *Operation and Maintenance:* At the direction and approval of the City, provide for the operation and maintenance of Stormwater Infrastructure within the City; and,

(g) *Cooperation on Issue of Debt.* The County covenants and agrees that it will cooperate with the City in the issuance of any bonds or other obligations proposed to be issued by the City that are governed by or payable from revenues derived under this Agreement. In connection therewith, the County shall comply with all reasonable requirements of the City and will, upon request:

1. Make available information about the County, the Stormwater Utility and the Stormwater Infrastructure;

2. Consent to publication and distribution of financial information;

3. Certify that certain general and financial information provided by it is accurate, does not contain an untrue statement of a material fact and does not omit to state a fact necessary in order to make the statements in that information in light of the circumstances under which they were made, not misleading;

4. Provide reasonable certifications and closing documents;

5. Provide opinions of counsel as to the validity of its actions taken with respect to the binding effect of this Agreement, its ability to own and operate the Stormwater Utility, pending or threatened litigation which could affect performance hereunder and other personally requested opinions; and

6. Such other reasonable information documents and certifications as the City may request.

5.5 *Delivery of Services:* The County shall coordinate the delivery of services hereunder through the City Manager or his designee, via a job order process as agreed to by the City and County. All delivery of Public Stormwater services by the County upon parcels within the City

limits shall be approved in writing by the City before any work is performed or any funds may be returned to the County, and all delivery of Stormwater Infrastructure services within County right of ways shall be coordinated with the City.

5.6 *Coordination with Other Jurisdictions:* From time to time a need for coordination between all incorporated jurisdictions within the County is required and it shall be the responsibility of the County to facilitate such coordination. The County will work with designated representatives from all jurisdictions within the County to ensure effective communication regarding issues impacting the Public Stormwater Infrastructure and the County Stormwater Management Implementation Guide.

5.7 *Qualifications and Extents of Service:* Stormwater Infrastructure in public road right of ways, whether State, County or municipal, shall be maintained by the road owner, as these areas are exempt from Stormwater Utility User Fees per Section 99-109 (b) of Chapter 99. The City shall retain the right to determine the qualifications for, extent of, and level of service required to maintain the Stormwater Infrastructure within the limits of the City, with the exception of County and State road rights of way, which shall be designed and maintained in accordance with their current standards.

5.8 *Fee Credits:* The City shall have the authority to review and comment on all Public Stormwater fee credit applications requested by the County upon parcels within the City limits prior to such adjustments being made.

5.9 *Easements:* The City and County will allow mutual blanket encroachments upon each other's existing easements, but only to enable the City and/or County to perform Public Stormwater Utility related work within the limits of the City.

5.10 *Conflicts:* To the extent any conflict exists between the provisions of this Agreement and Chapter 99, the provisions of this Agreement shall be controlling in all circumstances.

ARTICLE 6: STORMWATER ORDINANCES AND DEVELOPMENT STANDARDS

6.0 *Applicable Standards:* The current hydrologic and hydraulic engineering and design standards of the County and City shall prevail in the design, construction, operation and maintenance of any portion of the Stormwater Infrastructure within the County and City, respectively, unless superseded by the hydrologic and hydraulic engineering and design standards of the State, as may be required for specific work performed in State rights of way. In all cases, the County or City standards shall prevail within the applicable jurisdiction unless determined to be less stringent than State standards.

6.1 *State or Federal Laws or Regulations:* The City and the County shall at all times comply with any applicable State or Federal laws or regulations relating to Stormwater Management, Stormwater Infrastructure, erosion control or pollution.

6.2 *Regulatory Obligations of the County and City:* The County and City shall adopt and enforce ordinances and development standards as necessary to comply with State and Federal standards regarding storm water management, erosion and sedimentation, pollution control, and flooding. Minimum water quality controls in jurisdictions shall be protective enough to reach and maintain state designated water uses.

6.3 *Plan Review and Site Inspection:* The City and County shall be responsible for the review and approval of all development plans within their respective jurisdictions, to ensure that all applicable regulations pertaining to construction site erosion, sedimentation, and pollution control as well to post-construction storm water quantity and quality control are met. The County

and City shall be responsible for providing inspections during construction of all County and City owned storm water systems, respectively. The County and City will continue its practice of inspection and review of privately owned stormwater systems during construction and upon completion to ensure that construction conforms with the approved development stormwater plan.

ARTICLE 7 - NPDES MS4 PHASE II PERMIT COMPLIANCE

7.0 *NPDES Compliance:* In 2015, Beaufort County, the Town of Bluffton, and the Town of Hilton Head Island were designated by the State for compliance with the NPDES program. The County and the aforementioned towns shall be responsible for the development of the NPDES MS4 Phase II permit application, the development of BMPs required by the permit, and the implementation of the program of BMPs set forth in the permit. Should the City or the Town of Port Royal be designated (at any time) by the State for compliance with the NPDES program, the provisions of this Article shall also apply to the City.

7.1 *Roles and Responsibilities:* The City and County shall hold separate NPDES MS4 Phase II permits and shall each be responsible for maintaining compliance with their respective permit requirements. The City may request to "co-permit" or share MS4 Phase II permitting with the County or another regulated town, as allowed by Article 9 of this Agreement, as allowed by State law, and as encouraged in the State of South Carolina General Permit for MS4 Phase II communities.

7.2 *Coordination of Activities:* It is expected that some aspects of NPDES MS4 Phase II requirements will lend themselves to coordination and cooperation between the City and the County. In such instances, coordination between the City and the County shall be on the basis of a specific Minimum Control Measure (MCM) and shall be established by a separate written

agreement that specifies the objectives, product deliverables, schedules, funding distribution, and the roles and responsibilities of each party in addressing these measures.

7.3 *Annual Reporting:* The City and County will each be responsible for preparing an annual report documenting the activities undertaken in support of NPDES MS4 Phase II permit requirements during the previous year and submitting the report to the South Carolina Department of Health and Environmental Control.

7.4 *Permit Related Costs:* All costs related to the NPDES MS4 Phase II permit shall be borne by the permit holder. In instances where the City and County coordinate to meet permit requirements, costs may be shared on a basis that is detailed in a separate written agreement.

ARTICLE 8 - DATA ACQUISITION AND MANAGEMENT

8.0 *Roles and Responsibilities:* The City and County shall each be responsible for acquiring and maintaining data sets that are relevant to Stormwater Management in their respective jurisdictions.

8.1 *Cost Sharing:* Cost sharing agreements for data acquisition may be made between the City and County on a project-specific basis. The terms and details of any cost sharing agreement shall be detailed in a separate written agreement between the City and County.

8.2 *Data Sharing:* The City and County shall share acquired data at the request of the other. In such instances the City and County will agree to abide by each entity's current data distribution policy.

8.3 *Data Types:* Types of data that the City and County will acquire, maintain, and may share include but are not limited to, GIS data, aerial photography, LIDAR data, water quality monitoring data, stream gage data, financial and accounting data.

ARTICLE 9 - OTHER AGREEMENTS

9.0 *Scope and Cost Sharing:* From time to time various projects may be shared in scope and/or cost between the County and the City, or the County and multiple municipalities within the County via memos of agreement, memos of understanding, contracts, and/or joint resolutions.

9.1 *Agreement Recommendations:* SWIC shall be the vehicle whereby agreements of project scope and cost sharing between the County and multiple municipalities within the County are reviewed and recommended to the municipalities and County. It is understood that the SWIC shall have no authority to financially commit the City or County to any project of any type and only will provide technical recommendations for such projects. For agreements solely between the City and the County, the SWIC review is not required.

9.2 *Agreement Approvals:* Other agreements between the County and the City must be approved by the governing bodies of the City and County, respectively.

9.3 *Funds Distribution:* These Agreements will define how funds are distributed, either by invoice or as part of the Per Account Administrative Fee collected by the County.

ARTICLE 10 - MISCELLANEOUS

10.0 *Provisions Applicable to This Agreement:* The following general provisions are applicable to this Agreement:

10.1 *Binding Effect:* This Agreement shall inure to the benefit of and shall be binding upon the City and County and their respective successors and assigns, if any are permitted hereunder. The Parties agree that this Agreement constitutes the entire Agreement between the Parties and that no other agreements or representations other than those contained in this Agreement have been made by the Parties to each other. This Agreement shall be amended only

in writing, and effective when signed by those authorized by the Parties. This Agreement shall amend and replace the provisions of that certain "Stormwater Management and Utility Intergovernmental Agreement" dated November 16, 2016 in its entirety.

10.2 *Amendment, Changes and Modifications:* Except as otherwise provided herein, this Agreement may not be effectively amended, changed, modified or altered without the written consent of the City and the County.

10.3 *Severability:* In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

10.4 *Execution in Counterparts:* This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

10.5 *Applicable Law:* This Agreement shall be governed by and construed in accordance with the laws of the State.

10.6 *Captions:* The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

10.7 *Plural/Singular:* Where appropriate, the use of the singular herein shall include and be deemed to be the plural, and the use of the plural herein shall be deemed to include the singular.

10.8 *No Third-Party Beneficiaries:* The City and the County hereto affirmatively represent that this Agreement is made solely for the benefit of the parties hereto and their respective successors and assigns and not for the benefit of any third party who is not a signature party hereto. No party other than the signature parties and their respective successors and assigns hereto shall

have any enforceable rights hereunder, or have any right to the enforcement hereof, or any claim for damages as a result of any alleged breach hereof.

10.9 *Notices:* All notices, applications, requests, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered in person, via electronic mail, or mailed by regular first class mail, postage prepaid (in such case, delivery shall be deemed complete upon mailing), addressed as follows, or to such other place as may be designated in writing by the parties.

To the City: THE CITY OF BEAUFORT
City Manager
1911 Boundary Street
Beaufort, SC 29902

To the County: BEAUFORT COUNTY
County Manager
Post Office Box 1128
Beaufort, SC, 29902

10.10 *No Waiver:* No failure of either party hereto to exercise any power or right given to such party hereunder, or to insist on strict compliance by any other party to its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of any party's right to thereafter demand strict compliance with the terms of this Agreement.

10.11 *Further Assurances and Corrective Documents:* The City and the County agree to do, execute, acknowledge, deliver or cause to be done all such further acts as may be reasonably determined to be necessary to carry out this Agreement and give effect to the provisions hereof. The City and the County agree that each shall, upon request, execute and deliver such other or corrective documents as may be reasonably determined to be necessary to carry out this Agreement and each of the provisions hereof.

In Witness Whereof, the City of Beaufort, South Carolina, and Beaufort County, South Carolina, by and through their duly authorized officers, have set their hands and seals on this day of June, 2020.

WITNESSES:

CITY OF BEAUFORT,
SOUTH CAROLINA

By: _____
Billy Keyserling, Mayor

Attest: _____
Bill Prokop, City Manager

WITNESSES:

BEAUFORT COUNTY, SOUTH CAROLINA

By: [redacted]

Attest:
Ashley M. Jacobs, County Administrator

BEAUFORT COUNTY COUNCIL
AGENDA ITEM SUMMARY

ITEM TITLE:

STORMWATER UTILITY INTERGOVERNMENTAL AGREEMENT (IGA) AMENDMENT WITH TOWN OF PORT ROYAL

MEETING NAME AND DATE:

Natural Resources Committee – March 7th, 2022

PRESENTER INFORMATION:

Brittany Ward – Deputy County Attorney

Neil Desai, P.E - Public Works Director *(Alternate)*

(10 min)

ITEM BACKGROUND:

March 3rd, 2021 – Town of Port Royal letter written
February 7th, 2022 – Background presentation at NRC
February 9th, 2022 – Updates presented at SWUB

PROJECT / ITEM NARRATIVE:

Beaufort County Stormwater was contacted by the Town of Port Royal stating they were no longer interested in Beaufort County pursuing delinquent stormwater fees from the military installations. Public Works staff have been working internally with Legal and the County Administrator to discuss impacts and solutions between the Town, the County, and the Military installations. County staff has amended the IGA language to remove the County's responsibility to collect delinquent fees for the Military installations within the Town of Port Royal jurisdiction. Language has also been included to hold the County responsible for providing an annual CWI fee report prior to September 1st each year, and changing the due date for the Town to provide its annual stormwater financial report to the County.

FISCAL IMPACT:

N/A

STAFF RECOMMENDATIONS TO COUNCIL:

Approve the amendments to the Stormwater Utility IGA with the Town of Port Royal.

OPTIONS FOR COUNCIL MOTION:

Motion to approve the amendments to the Stormwater Utility IGA with the Town of Port Royal.

Motion to deny the amendments to the Stormwater Utility IGA with the Town of Port Royal.

(Next Step – Send for signatures)

Council

Joe DeVito
Mayor

Jerry Ashmore
Mayor Pro Tempore

Mary Beth Heyward
Darryl Owens
Kevin Phillips

Van Willis
Town Manager

T. Alan Beach
Chief of Police

Jeffrey S. Coppinger
Operations

Linda Bridges
Planning

March 3rd, 2021

The Honorable Joseph Passiment
Chairman, Beaufort County Council
100 Ribaut Rd
Beaufort, SC 29902

Dear Chairman Passiment:

The Town of Port Royal was recently made aware that Beaufort County Council has retained an out of state law firm to pursue the collection of stormwater fees from the Department of Defense. It is our understanding that Beaufort County Council is taking this action, superficially, on behalf of the City of Beaufort and theTown of Port Royal. The Town of Port Royal does not support and does not desire to participate in any legal action against the Department of Defense.

The Town of Port Royal adopts this position for two reasons. First, the Town possesses no evidence that any of the installation's stormwater adversely affects or exacerbates flooding in the community. Secondly, we do not understand what service we would be offering the installations.

We enjoy an excellent relationship with each of the installations and believe that any challenges, either perceived or actual, may be resolved without leveraging attorneys and pursuing civil action against our military community.

Please let me know if you have questions or would like to discuss this matter further.

Joe DeVito

Joe DeVito, Mayor

Cc: Beaufort City Council & Bill Prokop, City Manager
Beaufort County Council & Eric Greenway, Interim Admin
Colonel Riccoh Player, Commanding Officer HQSVCBN & TF Commitment
Kim Fleming, Deputy Director, Operations, Plans, and External Affairs MCAS Bft.
Brigadier General Julie L. Nethercot, Commanding General, Marine Corps Recruit Depot Parris Island
Captain Raymond R. Batz, Commanding Officer of Naval Hospital Beaufort

RESOLUTION 2022/

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVER OF A REVISED STORMWATER MANAGEMENT AND UTILITY INTERGOVNERNMENTAL AGREEMENT WITH THE TOWN OF PORT ROYAL;

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

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

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

WHEREAS, the County has previous entered into that certain "Stormwater Management and Utility Intergovernmental Agreement" dated July 11th, 2016 (the "***Original IGA***") with the Town of Port Royal, South Carolina (the "***Town***");

WHEREAS, the Town and County have negotiated an "Amended and Restated Stormwater Management and Utility Intergovernmental Agreement" (the "***Agreement***"), the provisions of which amend and restate the Original IGA in its entirety, in the form attached hereto as Exhibit A;

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

Section 1 Recitals

Each Finding or statement of fact set forth in the recitals hereto has been carefully examined and has been found to be in all respects true and correct.

Section 2 Approval of the Agreement

A. The County has reviewed the agreement, the form of which is attached to this resolution as Exhibit A.
B. The Council approves of and authorizes the execution and delivery of the Agreement. The Agreement shall be executed and delivered on behalf of the County by the County Administrator, with such changes as the Administrator may deem necessary or helpful. Upon such execution, the Council shall be timely informed of the execution of the Agreement. The consummation of the transactions and undertakings described in the agreement, and such additional transactions and undertakings as may be determined by the County Administrator in consultation with the Council to be necessary or advisable in connection therewith, are hereby approved.

Section 3 Other Documents; Ratification of Prior Actions

In connection with the execution and deliver of the Agreement, the County administrator is additional authorized to prepare, review, negotiate, execute, deliver, and agree to such additional agreements, certifications, documents, closing proofs, and undertakings as they shall deem necessary or advisable. Any actions previously undertaken by the County Administrator, Council or County staff shall

in connection with the execution and delivery of the Agreement prior to the enactment of this Resolution are ratified and confirmed.

Section 4 Severability

If any one or more of the provisions of this Resolution should be contrary to law, then such provision shall be deemed severable from the remaining provisions, and shall in no way affect the validity of the other provisions of this Resolution.

Section 5 Repealer

Nothing in this Resolution shall be construed to affect any suit or proceedings pending in any court, or any rights acquired or liability incurred, or any cause of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Resolution.

Section 6 Inconsistency

All ordinances, resolutions, or parts of any ordinances or resolutions inconsistent or in conflict with the provisions of this Resolution are hereby repealed to the extent of the conflict or inconsistency.

Section 7 Effect

This Resolution be enacted upon approval by the Beaufort County Council.

ADOPTED, this _____ day of _____, 2022.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY:_____

Joseph Passiment, Chairman

ATTEST:

_____

Sarah W. Brock, Clerk to Council

A STORMWATER MANAGEMENT AND UTILITY

INTERGOVERNMENTAL AGREEMENT

BETWEEN BEAUFORT COUNTY, SOUTH CAROLINA, AND

THE TOWN OF PORT ROYAL, SOUTH CAROLINA

DATED: JULY 11, 2016

REVISED: FEBRUARY 24, 2022

TABLE OF CONTENTS

ARTICLE 1 - TITLE AND PURPOSE 1
1.00 Title..... 1
1.01 Purpose 1
1.02 References to County Ordinances 2

ARTICLE 2 - DEFINITIONS 2
2.00 Definitions 2
2.01 Agreement 2
2.02 County 2
2.03 County Wide Stormwater Management Study (and Implementation Guide) 2
2.04 Cost of Service Analysis and Rate Study 3
2.05 Stormwater utility user fee 3
2.06 Stormwater utility user fee; single family unit rate (SFU). 3
2.07 Stormwater utility user fee; Administrative fee. 3
2.08 Stormwater utility user fee; Countywide Infrastructure Fee (CWI). 4
2.09 Stormwater utility user fee; Gross Area fee (GA). 4
2.10 Stormwater utility user fee; Impervious Area fee (IA). 4
2.11 NPDES 4
2.12 Public Stormwater 4
2.13 Stormwater Infrastructure 5
2.14 Stormwater Management 5
2.15 Stormwater Management Plan 5
2.16 Stormwater Utility 5
2.17 Town 6

ARTICLE 3 - TERM OF THIS AGREEMENT 6
3.00 Term of This Agreement 6
3.01 Initial Term of this Agreement 6
3.02 Periodic Review of this Agreement 6
3.03 Extension of this Agreement 6
3.04 Termination of this Agreement 6
3.05 Effect of Termination 7
3.06 Conveyance of Assets 7
3.07 Rebate of User Fees 7

ARTICLE 4 - FINANCE AND FUNDING 7
4.00 Financial and Funding Relationship 7
4.01 Use of Revenue 8
4.02 Further Agreements Authorized 10
4.03 Cost of Services 10
4.04 Setting of Stormwater Utility User Fee Rate (per Account, IA, GA, and SFU's) 10

4.05 Plan Review and Site Inspection....10
4.06 Coordination of Services....10

ARTICLE 5 - ADMINISTRATION OF STORMWATER UTILITY....11
5.00 Stormwater Utility....11
5.01 Stormwater Management Plan....11
5.02 Relationship of Plan to Agreement....11
5.03 Stormwater Utility User Fees....11
5.04 County Responsibilities....12
a. Collection and Distribution of Fees....12
b. Provision of Services....12
c. Budgeting and Expenditure....12
d. Administrative Activities....12
e. Accounting....13
f. Operation and Maintenance....13
5.05 Delivery of Services....13
5.06 Coordination with Other Jurisdictions....14
5.07 Qualifications and Extents of Service....14
5.08 Fee Credits....14
5.09 Easements....14

ARTICLE 6- STORMWATER ORDINANCES AND DEVELOPMENT STANDARDS....15
6.00 Applicable Standards....15
6.01 State or Federal Laws or Regulations....15
6.02 Regulatory Obligations of the County and Town....15
6.03 Plan Review and Site Inspection....15

ARTICLE 7- NPDES MS4 PHASE II PERMIT COMPLIANCE....16
7.00 NPDES Compliance....16
7.01 Roles and Responsibilities....16
7.02 Coordination of Activities....16
7.03 Annual Reporting....17
7.04 Permit Related Costs....17

ARTICLE 8- DATA ACQUISITION AND MANAGEMENT....17
8.00 Roles and Responsibilities....17
8.01 Cost Sharing....17
8.02 Data Sharing....17
8.03 Data Types....18

ARTICLE 9- OTHER AGREEMENTS....18
9.00 Scope and Cost Sharing....18
9.01 Agreement Recommendations....18

9.02 Agreement Approvals 18
9.03 Funds Distribution 18

ARTICLE 10- MISCELLANEOUS 19
10.00 Provisions Applicable to This Agreement 19
10.01 Binding Effect 19
10.02 Amendment, Changes and Modifications 19
10.03 Severability 19
10.04 Execution in Counterparts 19
10.05 Applicable Law 19
10.06 Captions 19
10.07 Plural/Singular 19
10.08 No Third Party Beneficiaries 20
10.09 Notices 20
10.10 No Waiver 21
10.11 Further Assurances and Corrective Documents 21

THIS PAGE INTENTIONALLY LEFT BLANK

WHEREAS, this Agreement is made on this ___ day of _____, 2016, by and between Beaufort County, South Carolina, and the Town of Port Royal, South Carolina, for the purpose of establishing the terms and conditions of the participation by the Town in a county-wide stormwater utility, which utility shall be operated by the County.

ARTICLE 1 - TITLE AND PURPOSE

1.00 *Title:* This intergovernmental agreement between Beaufort County, South Carolina, and the Town of Port Royal, South Carolina, shall be known as the "Stormwater Management and Utility Agreement Between Beaufort County, South Carolina, and the Town of Port Royal, South Carolina."

1.01 *Purpose:* This Agreement is made for the purpose of defining the roles, responsibilities and financial relationship between the County and the Town with respect to the establishment, administration and operation of the Beaufort County Stormwater Utility, which includes the following:

(a) Establishment of rates;

(b) Use of revenue;

(c) Acquisition of existing stormwater infrastructure;

(d) Construction of new stormwater infrastructure;

(e) Maintenance of stormwater infrastructure;

(f) Operation of stormwater infrastructure;

(g) Regulation and use of stormwater infrastructure; and,

(h) Enhancement of water quality.

1.02 *References to County Ordinances:* This Agreement hereby incorporates by reference Beaufort County, South Carolina, Ordinance 2015-24 regarding the establishment of a Stormwater Utility. The Beaufort County Stormwater Implementation Committee (SWIC) will review this Agreement for any needed revisions upon future amendments to *Chapter 99* of the County Ordinance. Amendments to *Chapter 99* shall become binding to this Agreement upon SWIC review and revisions to this Agreement, if deemed necessary. In the case of any conflict between the provisions of the Ordinances and this Agreement, the provisions of this Agreement shall control.

ARTICLE 2 - DEFINITIONS

2.00 *Definitions:* When used in this "Stormwater Management and Utility Agreement between Beaufort County, South Carolina, and the Town of Port Royal, South Carolina," the following words shall have the meanings set forth in this Article 2:

2.01 *Agreement:* This Stormwater Management and Utility Agreement between Beaufort County, South Carolina, and the Town of Port Royal, South Carolina.

2.02 *County:* Beaufort County, South Carolina.

2.03 *County Wide Stormwater Management Study (and Implementation Guide):* The study conducted by the County to determine the drainage infrastructure and maintenance needs within the various watersheds within the County. This became the Beaufort County Stormwater Master Plan dated February 20, 2006. In 2016, the County and Town of Port Royal entered into agreement to update the Master Plan, said document being referred to as the "Beaufort County Stormwater Management Implementation Guide". Future amendments of the Plan/Guide shall be

incorporated by reference once agreed upon by the Beaufort County Stormwater Implementation Committee (SWIC).

2.04 *Cost of Service Analysis and Rate Study:* The study was conducted by the County and Town which was adopted by County Council on August 24, 2015 and submitted by the Study consultant to the Town of Port Royal on April 20, 2016 to determine an equitable and appropriate rate structure for Stormwater Utility User Fees within all areas of the County, so that fees charged by the Stormwater Utility will be in compliance with provisions of S. C. Code Ann. 48-14-120(C)(Supp. 2010), and S. C. Regs. 72-310 (Supp. 2010).

2.05 *Stormwater Utility User Fees:* Stormwater Utility User Fees shall mean the service fee imposed pursuant to this article for the purpose of funding costs related to stormwater programs, services, systems, and facilities. These fees will be calculated based upon the residential category for a parcel and/or the nonresidential parcel's impervious area and/or a parcel's gross area and an administrative fee, depending on the applicable Utility Rate Structure, as pursuant to the provisions of the Beaufort County Ordinance listed in Section 1.02.

2.06 *Stormwater Utility User Fee; Single Family Unit Rate (SFU).* Per "Option A" of the 2015 Utiltiy Rate Study, the single-family unit fee rate shall be defined as the impervious area measurements obtained from a statistically representative sample of all detached single-family structures within Beaufort County. The representative value will be 4,906 square feet

2.07 *Stormwater Utility User Fee; Administrative fee.* For "Option A" rate structures, the Administrative fee is a portion of the SFU and determined per Section 4.01 of this Agreement. Per "Option C or E" of the 2015 Utility Rate Study, the Administrative fee is a fixed cost per billable account and includes costs to the Utility not directly applicable to the improvements of the

property, such as administrative costs, public education and outreach, and water quality monitoring. For "Option C or E" rate structures, the Administrative fee is determined per Section 4.01 of this Agreement.

2.08 *Stormwater Utility User Fee; Countywide Infrastructure Fee (CWI).* Per the 2015 Utility Rate Study, the countywide infrastructure fee is based on GIS data obtained per Article 8 herein. It is a fee applicable to each Town for the operation and maintenance cost of the county owned infrastructure defined in Section 5.07, collected and paid directly to the County. The County shall provide to the Town an annual report of its CWI fee expenditures from the previous fiscal year. For each year that this agreement is in effect, a report shall be prepared and delivered to by the County to the Town by (i) August 31, or (ii) as soon as the previous fiscal year's report is complete.

2.09 *Stormwater Utility User Fee; Gross Area fee (GA).* Per "Option C or E" of the 2015 Utility Rate Study, the Gross Area fee is calculated from the area in acres of a parcel of land as measured from GIS data obtained per Article 8 herein.

2.10 *Stormwater Utility User Fee; Impervious Area fee (IA).* Per "Option C or E" of the 2015 Utility Rate Study, the Impervious Area fee is based on impervious area measurements calculated in the same manner as the SFU.

2.11 *NPDES:* The National Pollutant Discharge Elimination System stormwater regulatory program established by the United States Environmental Protection Agency to address pollutants in stormwater discharged to waters of the United States. Phase II of this regulatory program impacts communities under 100,000 in population, small construction sites between one acre and five acres, and industrial sites owned and operated within communities under 100,000 population.

2.12 *Public Stormwater*: Stormwater runoff which is conveyed through a public drainage easement or public road right of way, and/or which some portion is generated from a public road right of way.

2.13 *Stormwater Infrastructure:* Real property, interests in real property, improvements to real property such as ditches, drains, pipes, culverts, catch basins, pumps, post-construction best management practices (BMPs), or the like, or any combination of them, used or useful in the collection and disbursement of storm and surface water, or the control of flooding. As used herein, Stormwater Infrastructure does not include drainage systems or facilities that are not publicly owned, and which do not carry public stormwater.

2.14 *Stormwater Management:* Control of storm and surface water, erosion, stormwater quality protection and flooding through the use of Stormwater Infrastructure, and the creation and enforcement of development standards related to storm and surface water.

2.15 *Stormwater Management Plan:* The plan(s) developed by the County and Town that addresses planning, design and construction of capital improvements to the Stormwater Infrastructure; acquisition of real property or interests in real property for the purposes of Stormwater Management; maintenance and repair of Stormwater Infrastructure; regulation of the use of Stormwater Infrastructure; acquisition of equipment and other assets; regulation of impacts including any that may be mandated under the NPDES Phase II regulations, contracting with engineering, financial, legal, construction and other professionals for services in support of the Stormwater Utility, emergency preparedness related to storms and hurricanes, acquisition or construction of Stormwater Infrastructure, or any other functions required, useful or prudent for a program of Stormwater Management.

2.16 *Stormwater Utility:* The administrative section of the County's Stormwater Department created for the purposes of planning, designing, overseeing, funding, building, and maintaining Stormwater Infrastructure, either directly or through cooperative arrangements with other governmental bodies; and for administering and managing Stormwater Management throughout Beaufort County.

2.17 *Town:* Town of Port Royal, South Carolina.

ARTICLE 3 - TERM OF THIS AGREEMENT

3.00 *Term of This Agreement:* The term and duration of this Agreement shall be as follows in this Article 3.

3.01 *Initial Term of this Agreement:* The Initial Term of this Agreement shall be for a period of ten (10) years, commencing on the date the Agreement is signed by both the Town and the County, whichever comes last.

3.02 *Periodic Review of this Agreement:* The Beaufort County Stormwater Implementation Committee (SWIC) shall conduct periodic review of this Agreement to insure that it remains current with the state of the art stormwater management and practices applicable to coastal areas and shall provide recommendations for updates to the agreement if necessary.

3.03 *Extension of this Agreement:* The term of this Agreement may be extended at any time by the mutual agreement of the parties hereto, or upon the expiration of the initial ten (10) year term set forth in Article 3.01 above.

3.04 *Termination of this Agreement:* This Agreement may be terminated by either party hereto, by delivering written notice of the termination to the other party. Termination under this

Article shall only be effective on the final day of any given County fiscal year. The written notice of termination shall be provided by the party terminating the Agreement no less than one hundred eighty (180) days prior to the date the termination will be effective.

3.05 *Effect of Termination:* Upon termination of this Agreement under any provision of this Article 3, or otherwise, all rights and obligations of any party hereto, specifically including but not limited to the right of the County to charge Stormwater Utility User Fees to property owners in the Town, shall immediately end.

3.06 *Conveyance of Assets:* Upon termination of this Agreement under any provision of this Article 3, the County shall convey to the Town all of its right, title and interest in any Stormwater Infrastructure, including any stormwater easements, within the municipal limits of the Town. However, this shall not include Stormwater Infrastructure on County owned parcels or County road rights of way (otherwise known as Countywide Infrastructure, CWI, as defined in Section 5.07) within the limits of the Town.

3.07 *Rebate of User Fees:* Upon termination of this Agreement under any provision of this Article 3, the County shall return to the Town any collected but unspent or unobligated Stormwater Utility User Fees collected from within the Town Limits.

ARTICLE 4 – FINANCE AND FUNDING

4.00 *Financial and Funding Relationship:* The Town shall provide the County with its Stormwater Utility User Fee Rate for its upcoming fiscal year prior to June 30 each year of this Agreement. This will be in the form of a letter to the County Administrator from the Town Manager.

In the event the Town fails to submit this letter in accordance with Article 4 of this Agreement, the previous year's rate shall apply. The Town shall also provide to the County an annual report of its stormwater fee expenditures from the previous fiscal year. For each year that this Agreement is in effect, a report shall be prepared and delivered by the City to the County by the later of (i) January 15, or (ii) as soon as the previous fiscal year's financial records are complete.

4.01 *Use of Revenue:* In accordance with the provisions of S. C. Code Ann. 48-14-120(C) (Supp. 2010), and S. C. Regs. 72-310 (Supp. 2010), all Stormwater Utility User Fees collected within the Town, less an administrative fee, shall be returned to the Town. The administrative fee is to be calculated as a fixed dollar amount for each unit billed and collected by the Stormwater Utility. The billable unit shall be either a Per Account charge or a charge per SFU, depending on the applicable Utility Rate Structure. The Utility shall define its administrative costs each year during the annual budget process. The Beaufort County Stormwater Implementation Committee (SWIC) shall conduct annual reviews of the Utility's administrative budget and recommend to the municipalities and County any changes to the amount billed per Account or SFU and the SWIC and Utility shall provide the Town an itemized proposal and a written explanation for adjustments for the administrative services and deliverables to be provided in the coming fiscal year. This proposal shall be submitted to the Town by February 15 of each calendar year. The Town shall provide a written recommendation of acceptance to the Utility by April 1 of the same year. Once agreed upon, this shall serve as the basis for the annual administrative fee to be calculated per Town Account or SFU, and included in each entity's annual budget.

(a) The administrative fee shall be used by the County to defray the County's administrative costs in managing the Stormwater Utility.

(b) The Town shall use Stormwater Utility User Fees to provide Stormwater Management within the Town, including, but not limited to:

(i) The acquisition, design, construction, and maintenance of Stormwater Infrastructure, or repayment of bonded indebtedness issued to fund construction of Stormwater Infrastructure, in so far as the law and covenants of the bonds allow, or for repayment to the Town for general fund or other funds spent by the Town to fund Stormwater Management activities;

(ii) Acquisition of Stormwater Infrastructure, including any easements or other interests in real property which shall be held in the name of the Town;

(iii) Maintenance of Stormwater Infrastructure by the Town and its contractor(s,) or by direct services of the Stormwater Utility. Charges for services by the Stormwater Utility; shall be negotiated and approved by the County and the Town, as is provided in Articles 4.03, 4.05(a), 5.05, and 5.07 below; The Town shall have the right of non-exclusive use of direct maintenance services, and there shall be no minimum dollar amount required to be spent annually by the Town on any services provided by the Stormwater Utility;

(iv) Plan review and site inspections related to compliance with

stormwater ordinances and standards for development within the Town as set forth in Articles 4.05, 4.06 and 4.07 below;

(v) NPDES Phase II permit compliance;

(vi) Payment of bond indebtedness or repayment of funds borrowed from the general fund or any other fund for the purpose of funding Stormwater Management projects or activities; and,

(vii) Any other services related to Stormwater Management.

4.02 *Further Agreements Authorized:* The Town and the County may negotiate and enter into agreements to share costs and responsibilities related to NPDES permit compliance. Such agreements and cost allocations shall be reflected in each entities annual budget and must be authorized by the Town Council and County Council.

4.03 *Cost of Services:* If the Town chooses to utilize the direct services of the Stormwater Utility, however described, they shall be accounted for at the County's actual cost of the equipment, materials, and personnel utilized in the delivery of the services.

4.04 *Setting of Stormwater Utility User Fee Rate (Per Account, IA, GA, and SFU's):* The Town shall be responsible each year for setting the Stormwater Utility User Fee Rate to be assessed on parcels within the Town. The Stormwater Utility User Fee rate shall be set in accordance with S. C. Code Ann. 48-14-120(C) (Supp. 2010), and S. C. Regs. 72-310(G) (Supp. 2010), or any other applicable law or regulation.

4.05 *Plan Review and Site Inspection:* For all activities that constitute development within Town limits, the Town will provide review of plans and site inspections to ensure compliance with

applicable laws, ordinances and regulations related to storm and surface water, erosion control and flooding.

4.06 *Coordination of Services:* The Town shall identify a representative of its staff to serve as the contact person and coordinator for Stormwater Management Services, including services provided by the County within the Town, long range planning and water quality initiatives such as the NPDES Phase II requirements compliance, notification of problems, facilitating access within any planned or future Planned Unit Developments within the Town, and advising the County on site-specific conditions within the Town.

ARTICLE 5 – ADMINISTRATION OF STORMWATER UTILITY

5.00 *Stormwater Utility:* The County has established a Stormwater Utility that administers funds and conducts a Stormwater Management program throughout the County.

5.01 *Stormwater Management Plan:* The County and Town shall have the responsibility to develop and maintain a Stormwater Management Plan to be administered by the Beaufort County Stormwater Implementation Committee (SWIC).

5.02 *Relationship of Plan to Agreement:* The Stormwater Management Plan developed and maintained by the Beaufort County Stormwater Implementation Committee (SWIC) shall incorporate the obligations of the County and Town under this Agreement. In the case of any conflict between the provisions of the Stormwater Management Plan and this Agreement, the provisions of this Agreement shall control.

5.03 *Stormwater Utility User Fees:* The Stormwater Utility shall bill and collect parcel based Stormwater Utility User Fees from property owners, tenants, or other appropriate parties,

pursuant to its authority and subject to any intergovernmental agreements, including this Agreement, and may also apply for, acquire and use any other funding from any public or private source in support of the Stormwater Management Plan as allowed by law.

5.04 *County Responsibilities:* The County, through the Stormwater Utility, shall have the following responsibilities:

(a) *Collection and Distribution of Fees:* Stormwater Utility User Fees within the Town limits shall be charged and collected by the County in accordance with the provisions of Article 4.0 of this Agreement; the Stormwater Utility User Fees shall be collected in accordance with S. C. Code Ann. 48-14-120(C) (Supp. 2010), and S. C. Regs. 72-310(G) (Supp. 2010), or any other applicable law or regulation, and shall not include provisions for relief from the payment of the Stormwater Utility User Fees unless otherwise directed in writing by Town Council or other designated authority; the County shall distribute the Town's Stormwater Utility User Fees less the County administrative costs as defined in Article 4.01, in the same manner as ad valorem taxes are distributed for each year this Agreement is in effect;

(b) *Provision of Services:* Provision of the services required under this Agreement.

(c) *Budgeting and Expenditure:* Setting the budget for the Stormwater Utility, and spending the revenues in accordance with any applicable ordinances or agreements, including this Agreement;

(d) *Administrative Activities:* Managing all administrative activities of the Stormwater Utility, including but not limited to, fee assessment, collection and distribution, maintenance of accounting records, maintenance of stormwater data, implementation of the master plan, acquisition of easements, coordination with

other agencies, reporting to the Stormwater Utility Board;

(e) *Accounting:* Maintaining an accounting of revenues and expenditures on a jurisdictional or geographic basis, as may be set or described under any applicable ordinance or agreement, including this Agreement, the County shall provide the Town with an itemized annual accounting of all Stormwater Utility User Fees within the Town limits in the form of a budget report, including but not limited to: how parcel fees were determined, calculated, and assessed; total fees collected; total Administrative costs retained by the County; total fees in arrears, on which parcels and the status of the collection attempt(s) on such parcels; fee credits applied for; fee credits paid; and fees that required adjustment since the last billing. This budget report shall be parcel based and provided to the Town annually prior to February 1st throughout the term of this agreement as an electronic document compatible with the most current version of Microsoft Office. The County shall also maintain an annual accounting of all administrative costs associated with operating the Utility. Either the Town or County, at the sole expense of the requesting jurisdiction, may request a professional audit of any of the budget reports;

(f) *Operation and Maintenance:* At the direction and approval of the Town, provide for the operation and maintenance of Stormwater Infrastructure within the Town; and,

5.05 *Delivery of Services:* The County shall coordinate the delivery of services hereunder through the Town Manager or his designee, via a Job Order Process as agreed to by the Town and County. All delivery of County services upon parcels within the Town limits shall be approved in

writing by the Town before any work is performed or any funds may be returned to the County, and all delivery of stormwater infrastructure services within County Rights of Ways shall be coordinated with the Town.

5.06 *Coordination with Other Jurisdictions:* From time to time a need for coordination between all incorporated jurisdictions within the County and the County may occur, and it shall be the responsibility of the County to facilitate such coordination. The County will work with designated representatives from all jurisdictions within the County to ensure effective communication regarding issues impacting the Stormwater Infrastructure and the Stormwater Management Plan.

5.07 *Qualifications and Extents of Service:* Stormwater infrastructure in public road Rights of Ways, whether State, County or Municipal, shall be maintained by the road owner, as these areas are exempt from Stormwater Utility User Fees per Section 99-109 (b) of the County Ordinance. The Town shall retain the right to determine the qualifications for, extent of, and level of service required to maintain the Stormwater Infrastructure within the limits of the Town, with the exception of County and State road Rights of Way, which shall be designed and maintained in accordance with their current standards.

5.08 *Fee Credits:* The Town shall have the authority to review and comment on all County stormwater fee credit applications requested upon parcels within the Town limits prior to such adjustments being made.

5.09 *Easements:* The Town and County will allow mutual blanket encroachments upon each other's existing easements, but only to enable the Town and/or County to perform stormwater utility related work within the limits of the Town.

ARTICLE 6: STORMWATER ORDINANCES AND DEVELOPMENT STANDARDS

6.00 *Applicable Standards:* The current hydrologic and hydraulic engineering and design standards of the County and Town shall prevail in the design, construction, operation and maintenance of any portion of the Stormwater Infrastructure within the County and Town, respectively, unless superseded by the hydrologic and hydraulic engineering and design standards of the State, as may be required for specific work performed in State rights of way. In all cases, the County or Town standards shall prevail within the applicable jurisdiction unless determined to be less stringent than State standards.

6.01 *State or Federal Laws or Regulations:* The Town and the County shall at all times comply with any applicable State or Federal Laws or regulations relating to Stormwater Management, Stormwater Infrastructure, erosion control or pollution.

6.02 *Regulatory Obligations of the County and Town:*

The County and Town shall adopt and enforce ordinances and development standards as necessary to comply with State and Federal standards regarding stormwater management, erosion and sedimentation, pollution control, and flooding. Minimum water quality controls in jurisdictions shall be protective enough to reach and maintain state designated water uses.

6.03 *Plan Review and Site Inspection:* The Town and County shall be responsible for the review and approval of all development plans within their respective jurisdictions, to ensure that all applicable regulations pertaining to construction site erosion, sedimentation, and pollution control as well to post-construction stormwater quantity and quality control are met.

The County and Town shall be responsible for providing inspections during construction of all County and Town owned stormwater systems, respectively. The County and Town will continue its practice of inspection and review of privately owned stormwater systems during construction and upon completion to ensure that construction conforms with the approved development stormwater plan.

ARTICLE 7 – NPDES MS4 PHASE II PERMIT COMPLIANCE

7.00 *NPDES Compliance*: In 2015, Beaufort County, the Town of Port Royal, and the Town of Port Royal were designated by the State of South Carolina for compliance with the NPDES Program. the County and Town shall be responsible for the development of the NPDES MS4 Phase II permit application, the development of Best Management Practices required by the permit, and the implementation of the program of Best Management Practices set forth in the permit. Should the Town of Port Royal or the City of Beaufort be designated by the State of South Carolina for compliance with the NPDES program, the provisions of this section shall also apply to the Town.

7.01 *Roles and Responsibilities:* The Town and County shall hold separate NPDES MS4 Phase II permits and shall each be responsible for maintaining compliance with their respective permit requirements. The Town may request to "co-permit" or share MS4 Phase II permitting with the County or another Town or City, as allowed by Article 9 of this Agreement, as allowed by State law, and as encouraged in the State of South Carolina General Permit for MS4 Phase II communities.

7.02 *Coordination of Activities:* It is expected that some aspects of NPDES MS4 Phase II

requirements will lend themselves to coordination and cooperation between the Town and the County. In such instances, coordination between the Town and the County shall be on the basis of a specific Minimum Control Measure (MCM) and shall be established by a separate written agreement that specifies the objectives, product deliverables, schedules, funding distribution, and the roles and responsibilities of each party in addressing these measures.

7.03 *Annual Reporting:* The Town and County will each be responsible for preparing an annual report documenting the activities undertaken in support of NPDES MS4 Phase II permit requirements during the previous year and submitting the report to the South Carolina Department of Health and Environmental Control.

7.04 *Permit Related Costs:* All costs related to the NPDES MS4 Phase II permit shall be borne by the permit holder. In instances where the Town and County coordinate to meet permit requirements, costs may be shared on a basis that is detailed in a separate written agreement.

ARTICLE 8 – DATA ACQUISITION AND MANAGEMENT

8.00 *Roles and Responsibilities:* The Town and County shall each be responsible for acquiring and maintaining data sets that are relevant to Stormwater Management in their respective jurisdictions.

8.01 *Cost Sharing:* Cost sharing agreements for data acquisition may be made between the Town and County on a project-specific basis. The terms and details of any cost sharing agreement shall be detailed in a separate written agreement between the Town and County.

8.02 *Data Sharing*: The Town and County shall share acquired data at the request of the other. In such instances the Town and County will agree to abide by each entity's current data distribution

policy.

8.03 *Data Types:* Types of data that the Town and County will acquire, maintain, and may share include but are not limited to, GIS data, aerial photography, LIDAR data, water quality monitoring data, stream gage data, financial and accounting data.

ARTICLE 9 – OTHER AGREEMENTS

9.00 *Scope and cost sharing:* From time to time various projects may be shared in scope and/or cost between the County and the Town, or the County and multiple Municipalities within the County via Memos of Agreement, Memos of Understanding, Contracts, and/or Joint Resolutions.

9.01 *Agreement Recommendations:* The Beaufort County Stormwater Implementation Committee (SWIC) shall be the vehicle whereby agreements of project scope and cost sharing between the County and multiple Municipalities within the County are reviewed and recommended to the Municipalities and County. It is understood that the Beaufort County Stormwater Implementation Committee shall have no authority to financially commit the Town or County to any project of any type and only will provide technical recommendations for such projects. For agreements solely between the Town and the County, the Beaufort County Stormwater Implementation Committee (SWIC) review is not required.

9.02 *Agreement approvals:* Other agreements between the County and the Town must be approved by the Town Council and the County Council or their designees.

9.03 Funds Distribution: These Agreements will define how funds are distributed, either by invoice or as part of the Per Account Administrative fee collected by the County.

ARTICLE 10 - MISCELLANEOUS

10.00 *Provisions Applicable to This Agreement:* The following general provisions are applicable to this Agreement:

10.01 *Binding Effect:* This Agreement shall inure to the benefit of and shall be binding upon the Town and County and their respective successors and assigns, if any are permitted hereunder.

10.02 *Amendment, Changes and Modifications:* Except as otherwise provided herein, this Agreement may not be effectively amended, changed, modified or altered without the written consent of the Town and the County.

10.03 *Severability:* In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

10.04 *Execution in Counterparts:* This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

10.05 *Applicable Law:* This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.

10.06 *Captions:* The captions or headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

10.07 *Plural/Singular:* Where appropriate, the use of the singular herein shall include and be deemed to be the plural, and the use of the plural herein shall be deemed to include the singular.

10.08 *No Third Party Beneficiaries:* The Town and the County hereto affirmatively represent that this Agreement is made solely for the benefit of the parties hereto and their respective successors

and assigns and not for the benefit of any third party who is not a signature party hereto. No party other than the signature parties and their respective successors and assigns hereto shall have any enforceable rights hereunder, or have any right to the enforcement hereof, or any claim for damages as a result of any alleged breach hereof.

10.09 *Notices:* All notices, applications, requests, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered in person, via electronic mail, or mailed by regular first class mail, postage prepaid (in such case, delivery shall be deemed complete upon mailing), addressed as follows, or to such other place as may be designated in writing by the parties.

To the Town: THE TOWN OF PORT ROYAL
Van Willis, Manager
700 Paris Ave.
Port Royal, SC 29935

To the County: BEAUFORT COUNTY, SOUTH CAROLINA
Gary Kubic, Manager
Post Office Box 1128
Beaufort, SC, 29902

10.10 *No Waiver:* No failure of either party hereto to exercise any power or right given to such party hereunder, or to insist on strict compliance by any other party to its obligations hereunder,

and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of any party's right to thereafter demand strict compliance with the terms of this Agreement.

10.11 *Further Assurances and Corrective Documents:* The Town and the County agree to do, execute, acknowledge, deliver or cause to be done all such further acts as may be reasonably determined to be necessary to carry out this Agreement and give effect to the provisions hereof. The Town and the County agree that each shall, upon request, execute and deliver such other or corrective documents as may be reasonably determined to be necessary to carry out this Agreement and each of the provisions hereof.

In Witness Whereof, The Town of Port Royal, South Carolina, and Beaufort County, South Carolina, by and through their duly authorized officers, have set their hands and seals on this _____day of _____, 2016.

WITNESSES: THE TOWN OF PORT ROYAL, SOUTH CAROLINA

_____ By:_____

_____, Mayor

_____ Attest:_____

_____, Town Manager

WITNESSES: BEAUFORT COUNTY, SOUTH CAROLINA

_____ By:_____

Paul Sommerville, Chairman

_____ Attest:_____

Gary Kubic, County Administrator