

# COUNTY COUNCIL OF BEAUFORT COUNTY

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WM. WESTON J. NEWTON  
CHAIRMAN

D. PAUL SOMMERVILLE  
VICE CHAIRMAN

## COUNCIL MEMBERS

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GERALD W. STEWART  
LAURA VON HARTEN

GARY KUBIC  
COUNTY ADMINISTRATOR

BRYAN J. HILL  
DEPUTY COUNTY ADMINISTRATOR

JOSHUA A. GRUBER  
COUNTY ATTORNEY

SUZANNE M. RAINEY  
CLERK TO COUNCIL

## AGENDA COUNTY COUNCIL OF BEAUFORT COUNTY

Monday, September 10, 2012

4:00 p.m.

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

**Citizens may participate in the public comment periods and public hearings telephonically from Council Chambers of the Administration Building, Government Center, 100 Ribaut Road, Beaufort and as well as Mary Field School, Daufuskie Island.**

1. CAUCUS - 4:00 P.M.  
Discussion is not limited to agenda items.  
Large Meeting Room
2. REGULAR MEETING - 5:00 P.M.  
Large Meeting Room
3. CALL TO ORDER
4. PLEDGE OF ALLEGIANCE
5. INVOCATION
6. PUBLIC COMMENT
7. COUNTY ADMINISTRATOR'S REPORT  
Mr. Gary Kubic, County Administrator
  - A. The County Channel / Broadcast Update
  - B. Two-Week Progress Report / County Administrator ([backup](#))
  - C. Two-Week Progress Report / Deputy County Administrator ([backup](#))
  - D. Acceptance of Hilton Head Island Airport FAA Grant Offer #34 ([backup](#))
  - E. Hilton Head Water Supply and Saltwater Intrusion  
Mr. Pete Nardi, Community Relations Manager, Hilton Head Public Service District



8. CONSENT AGENDA – ITEMS A THROUGH E
  - A. MC RILEY COMPLEX MULTIPURPOSE FIELD LIGHTING ([backup](#))
    1. Consideration of contract award to occur September 10, 2012
    2. Public Facilities Committee discussion and recommendation to approve occurred August 28, 2012 / Vote 6:0
    3. Contract award: West Electrical, Newberry, South Carolina
    4. Contract amount: \$184,630
    5. Funding: Bluffton PALS Impact Fees, Account #09030-54450
  - B. LEASE OF SUITES B, C, D, E, F, G, I, J AND K OF 58 SHELTER COVE LANE BY AND BETWEEN THE TOWN OF HILTON HEAD ISLAND, BEAUFORT COUNTY AND BEAUFORT COUNTY SHERIFF’S OFFICE ([backup](#))
    1. Consideration of entering into a lease to occur September 10, 2012
    2. Public Facilities Committee discussion and recommendation to approve occurred August 28, 2012 / Vote 6:0
  - C. POLICY STATEMENT 15 – WORKING ON PRIVATE PROPERTY ([backup](#))
    1. Consideration of policy approval to occur September 10, 2012
    2. Public Facilities Committee discussion and recommendation to approve occurred August 28, 2012 / Vote 6:0
  - D. RESOLUTION / TRANSFER OF DEVELOPMENT RIGHTS PROGRAM -- ASSIGNING ADMINISTRATIVE RESPONSIBILITY TO THE PLANNING DEPARTMENT AND ESTABLISHING AN APPLICATION FEE ([backup](#))
    1. Consideration of adopting resolution to occur September 10, 2012
    2. Natural Resources Committee discussion and recommendation to approve occurred September 4, 2012 / Vote 7:0
  - E. TEMPORARY ACCESS USE AGREEMENT BETWEEN BEAUFORT COUNTY AND TRIANGLE PAVING AND GRADING, INC. TO USE THE RAILROAD RIGHT-OF-WAY BETWEEN ROSEIDA AND LAUREL BAY ROADS ([backup](#))
    1. Consideration of entering into a Temporary Access Use Agreement to occur September 10, 2012
    2. Natural Resources Committee discussion and recommendation to approve occurred September 4, 2012 / Vote 7:0
9. A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR MATCHING FUNDS UNDER THE 2013 FEDERAL MATCH PROGRAM ADMINISTERED BY THE SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION FOR RESURFACING PROJECTS ([backup](#))
  1. Consideration of adopting resolution to occur September 10, 2012
10. AN ORDINANCE TO AMEND BEAUFORT COUNTY ORDINANCE 93/20 SO AS TO EXPAND THE PERMISSIBLE EXPENDITURES OF FUNDS COLLECTED UNDER SAID ORDINANCE ([backup](#))
  1. Consideration of first reading approval to occur September 10, 2012

11. PUBLIC HEARING – 6:00 P.M.

A. AUTHORIZING THE ISSUANCE AND SALE OF NOT EXCEEDING \$5,000,000 OF GENERAL OBLIGATION BOND ANTICIPATION NOTES TO PROVIDE FUNDS FOR COURTHOUSE RENOVATIONS, CORONER’S OFFICE RENOVATIONS AND MYRTLE PARK COUNTY ADMINISTRATION BUILDING RENOVATIONS; FIXING THE FORM AND DETAILS OF THE NOTES; AUTHORIZING THE COUNTY ADMINISTRATOR TO DETERMINE CERTAIN MATTERS RELATING TO THE NOTES; PROVIDING FOR THE PAYMENT OF THE NOTES AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO ([backup](#))

1. Consideration of second reading approval to occur September 10, 2012
2. First reading approval occurred August 27, 2012 / Vote 11:0
2. Finance Committee discussion and recommendation to approve occurred August 20, 2012 / Vote 5:0

12. COMMITTEE REPORTS ([backup](#))

13. PUBLIC COMMENT

14. EXECUTIVE SESSION

- A. Discussion of negotiations incident to proposed contractual arrangements and proposed purchase of property
- B. Receipt of legal advice relating to pending and potential claims covered by the attorney-client privilege

15. ADJOURNMENT



## Memorandum

DATE: September 7, 2012  
TO: County Council  
FROM: Gary Kubic, County Administrator  
SUBJ: County Administrator's Progress Report

The following is a summary of activities that took place August 27, 2012 through September 7, 2012:

### August 27, 2012

- Meeting with Town of Bluffton and Palmetto Electric representatives re: Tax credits for Project Pants
- Conference call with Staff Attorney Josh Gruber and Compliance Officer Monica Spells re: Courthouse Reskin Project
- County Council Caucus meeting
- County Council meeting

### August 28, 2012

- Meeting with Ernie Lindblad of Windmill Harbour POA, and Council Chairman Weston Newton re: Dennis Corporation Traffic Mitigation Alternatives/ Windmill Harbour
- Meeting with Mark Roseneau, Director of Facilities Management re: Facilities update
- Communications Team meeting
- Public Works Committee meeting

### August 29, 2012

- Meeting with Deputy County Administrator Bryan Hill, Bluffton Town Manager Anthony Barrett and Project Pants representative
- Conference call with Ashley Feaster, of Hilton Head Homebuilders Association, re: Buckwalter Recreation facility
- Staff conference call re: Capital Improvements Projects

August 30, 2012

- County Treasurer's meeting with municipalities

August 31, 2012

- No scheduled appointments

September 3, 2012

- Labor Day holiday

September 4, 2012

- Meeting with Sheriff's Office personnel re: Records management program
- Natural Resources Committee meeting
- Governmental Committee meeting

September 5, 2012

- Agenda review with Chairman, Vice Chairman and Executive staff
- Phase III Archaeology and Data Recovery Consultation meeting at Hilton Head Island Branch Library
- Meeting with FAA officials, Scott Seritt, Parks Preston, Lisa Favors and Airports Director Paul Andres

September 6, 2012

- Greater Island Council meeting
- Meeting with Craig Molloy, CEO, Carolina Cleaning

September 7, 2012

- Meeting with Department Heads
- Photo Judging / 2013 Calendar
- Staff meeting re: Stormwater runoff issue



## Memorandum

DATE: September 7, 2012  
TO: County Council  
FROM: Bryan Hill, Deputy County Administrator  
SUBJECT: Deputy County Administrator's Progress Report

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The following is a summary of activities that took place August 27, 2012 through September 7, 2012:

August 27, 2012 (Monday):

- Meet with Town of Bluffton Representatives and Palmetto Electric Representatives re: Tax Credits for Project Pants
- Conference Call with David Starkey, CFO re: Fitch Ratings
- Conference call with Gary Kubic, County Administrator, Joshua Gruber, Staff Attorney, and Monica Spells, Compliance Officer re: Courthouse Reskin Subcontractor Summary
- Prepare for County Council Meeting
- County Council

August 28, 2012 (Tuesday):

- Meet with Phil Foot, Public Safety Director
- Meet with Douglas Henderson, Treasurer and Jimmy Taylor, Regions Bank
- Attend Communications Team Meeting
- Attend Public Facilities Committee Meeting

August 29, 2012 (Wednesday)--Bluffton:

- Meet with Gary Kubic, County Administrator, Anthony Barrett, Town of Bluffton Manager and Project Pants Representative
- Meet with Marc Orlando, Town of Bluffton
- Meet with Duffie Stone, Solicitor
- Meet with Gary Kubic, County Administrator and Joshua Gruber, Staff Attorney

August 30, 2012 (Thursday):

- PLD

August 31, 2012 (Friday):

- PLD

September 3, 2012 (Monday)--LABOR DAY:

- Closed

September 4, 2012 (Tuesday):

- PLD

September 5, 2012 (Wednesday):

- PLD

September 6, 2012 (Thursday):

- PLD

September 7, 2012 (Friday):

- Attend Department Head Meeting
- Briefing on all Current County Matters



U.S. Department  
of Transportation  
Federal Aviation  
Administration

Atlanta Airports District Office  
Campus Building  
1701 Columbia Ave., Suite 2-260  
College Park, GA 30337-2747  
(404) 305-7150 FAX: (404) 305-7155

September 4, 2012

Mr. Wm. Weston J. Newton  
Chairman, Beaufort County Council  
Post Office Box 1228  
Beaufort, South Carolina 29901

Dear Mr. Newton:

Enclosed are five original grant offers issued in response to your project application dated August 31, 2012, for Airport Improvement Program Project No. 3-45-0030-034-2012, at Hilton Head Island Airport, Hilton Head, South Carolina. This grant offer is in the amount of \$309,978.

If the terms of the grant offer are satisfactory, you should accept the grant offer **on or before September 19, 2012**, and have your attorney certify that the acceptance complies with local and state laws and constitutes a legal and binding obligation on the part of the airport sponsor

"Terms and Conditions of Accepting Airport Improvement Program Grants" is enclosed. This master agreement is incorporated into the grant agreement by reference and will become binding upon your execution of the grant. Please retain the master agreement for your records.

Three original executed grant agreements should be returned to this office as soon as possible. **Also, please fax or email ([Keke.Rice@faa.gov](mailto:Keke.Rice@faa.gov)) a copy of the executed grant to ensure timely processing.** Our fax number is 404-305-7155.

Sincerely,

A handwritten signature in cursive script that reads "Scott L. Seritt".

Scott L. Seritt  
Manager

Enclosures



U. S. Department  
of Transportation  
Federal Aviation  
Administration

# GRANT AGREEMENT

Date of Offer: September 4, 2012  
Project Number: 3-45-0030-034-2012  
Recipient: Beaufort County (Herein called Sponsors)  
Airport: Hilton Head Island Airport  
DUNS Number: 080775331

## OFFER

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay, as the United States' share of ninety percent of the allowable costs incurred in accomplishing the project consisting of the following:

Obstruction Removal, Phase VI- Runway 21 Supplemental Surveys;  
Install Airfield Guidance Signs;  
Extend Runway, Phase II- Environmental Assessment;

as more particularly described in the Project Application dated August 31, 2012.

The maximum obligation of the United States payable under this Offer shall be **\$309,978** for airport development. This offer is made in accordance with and for the purpose of carrying out the provisions of Title 49, United States Code, herein called Title 49 U.S.C. Acceptance and execution of this offer shall comprise a Grant Agreement, as provided by Title 49 U.S.C., constituting the contractual obligations and rights of the United States and the Sponsor.

UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION

  
\_\_\_\_\_  
Manager Airports District Office

## ACCEPTANCE

The Sponsor agrees to accomplish the project in compliance with the terms and conditions contained herein and in the document "Terms and Conditions of Accepting Airport Improvement Program Grants" dated April 13, 2012. The Sponsor specifically acknowledges that knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject the Sponsor's Designated Official Representative to fines, imprisonment or both if the U.S. Department of Justice determines the official acted outside the scope of his/her duties.

Executed this \_\_\_\_ day of \_\_\_\_\_, 2012.  
(Seal)

Beaufort County  
Name of Sponsor

\_\_\_\_\_  
Attest

\_\_\_\_\_  
Signature of Sponsor's Designated Official Representative

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

## CERTIFICATE OF SPONSOR'S ATTORNEY

I, \_\_\_\_\_, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of South Carolina. Further, I have examined the foregoing Grant Agreement, and the actions taken by said Sponsor relating thereto, and find that the acceptance thereof by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and Title 49 U.S.C. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

\_\_\_\_\_  
Signature of Sponsor's Attorney

\_\_\_\_\_  
Date (Date must be on or later than execution date above)



County Council of Beaufort County  
Hilton Head Island Airport – [www.hiltonheadairport.com](http://www.hiltonheadairport.com)  
Beaufort County Airport – [www.beaufortcoairport.com](http://www.beaufortcoairport.com)  
Post Office Box 23739 – 120 Beach City Road  
Hilton Head Island, South Carolina 29925-3739  
Phone: (843) 255-2950 - Fax: (843)255-9424

TO: Wm. Weston J. Newton, Chairman, Beaufort County Council

VIA: Gary Kubic, County Administrator *GK*  
Bryan Hill, Deputy County Administrator  
Joshua Gruber, County Attorney *JG*  
David Starkey, Chief Financial Officer *DS*  
Rob McFee, Division Director, Engineering and Infrastructure *JR McFee*

FROM: Paul Andres, Director of Airports *PA*

SUBJ: **Hilton Head Island Airport FAA Grant Offer #34**

DATE: September 5, 2012

**BACKGROUND.** The FAA has issued Grant Offer #34 for the Hilton Head Island Airport in the amount of \$309,978.00 to fund the replacement of all airfield guidance signs, to conduct a Traditional Cultural Property analysis as part of the Phase II Environmental Assessment, and for reimbursement of additional survey costs associated with the Runway 21 tree obstruction removal project. These projects are necessary to address safety related issues as well as provide an expanded analysis required for the ongoing Environmental Assessment. This matter is coming directly to County Council since the grant offer must be accepted not later than September 19, 2012. The Airports Board was briefed regarding the possibility of this grant offer at their last meeting.

**FUNDING.** FAA Grant #34 (90%), State Grant (5% Pending) \$17,221.00; and local match of \$17,221.00 which will come from the Airports Operating Budget.

**RECOMMENDATION.** That County Council accept FAA Grant Offer #34 for the Hilton Head Island Airport in the amount of \$309,978.00.

PAA/paa

Attachment: FAA Grant Offer #34



## **MEMORANDUM**

TO: County Council

FROM: Gary Kubic, County Administrator

DATE: September 7, 2012

SUBJ: Timeline Regarding Hilton Head Island Airport FAA Grant

The following is a timeline, since this matter did not go through Council Committee.

This grant offer was made to take advantage of available FAA grant funding needed to correct safety related issues at the Hilton Head Island Airport. The FAA requires certified bid amounts prior to issuing grants.

1. Invitation for Bids issued August 1, 2012.
2. Bids opened August 30, 2012.
3. Certified bids forwarded to FAA August 31, 2012.
4. FAA issues grant offer September 4, 2012.
5. FAA grant offer received September 5, 2012.
6. FAA grant offer forwarded to County Council for acceptance September 5, 2012.
7. FAA grant offer must be accepted and executed not later than September 19, 2012.

Please let me know if you have any questions.

GK:ch



**COUNTY COUNCIL OF BEAUFORT COUNTY  
BEAUFORT COUNTY ENGINEERING DIVISION**  
102 Industrial Village Road, Building #3, Beaufort, SC 29906  
Post Office Drawer 1228, Beaufort, SC 29901-1228  
Telephone: 843-255-2700 Facsimile: 843-255-9420

TO: Councilman Herbert N Glaze, Chairman, Public Facilities Committee

VIA: Gary Kubic, County Administrator  
Bryan Hill, Deputy County Administrator  
David Starkey, Chief Financial Officer  
Robert McFee, Director of Engineering and Infrastructure  
Dave Thomas, Purchasing Director  
Monica Spells, Compliance Officer

FROM: Bob Klink, County Engineer

SUBJ: **MC RILEY COMPLEX MULTIPURPOSE FIELD LIGHTING**  
**IFB# 13 09030 072004**

DATE: August 22, 2012

**BACKGROUND.** On March 26, 2012, County Council approved the MC Riley Complex Multipurpose Field Lighting project with a budget of \$175,000 from the Bluffton PALS Impact Fees. On August 21, 2012, Beaufort County received bids for the installation of the MC Riley Complex Multipurpose Field Lighting from the following companies:

<u>Contractors</u>	<u>Total Bid</u>
West Electrical Contractors 2447 Wilson Road, Newberry, SC	\$184,630
Quality Electrical Systems, Inc. 2735 Depot Road, Beaufort, SC	\$208,950
Engineers Estimate	\$175,000

West Electrical Contractors submitted the lowest qualified/responsible bid of \$184,630.00. They will be self performing all work, and are in compliance with the County's SMBE Ordinance. There is no apparent cause for rejecting their bid.

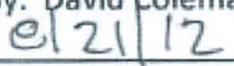
**FUNDING.** Bluffton PALS Impact Fees, Acct #09030-54450 which has an available balance as of 8/22/12 of \$1,224,883.

**RECOMMENDATION.** The Public Facilities Committee approve and recommend to County Council an increase of \$9,630 to the approved project budget for a total of \$184,630 and award of a contract to West Electrical Contractors for the construction of the MC Riley Complex Multipurpose Field Lighting with funding from Bluffton PALS Impact Fees.

REK/DC/mjh

Attachments: 1) Bid Certification  
2) Self-Performance Affidavit  
3) 3/26/12 County Council Minutes  
4) 8/21/12 PALS Director Email

Buckwalter Regional Park Soccer Fields 1 & 2 Lighting Construction				
IFB #13 09030 0720 04				
Opened August 21, 2012				
	Vendor	Location	Bid Bond	Total
1	West Electrical Contractors	Newberry, SC	Yes	\$ 184,630.00
2	Quality Electrical Systems, Inc.	Beaufort, SC	Yes	\$ 208,950.00

  
 Bid Certification  
 By: David Coleman  
  
 Date

SELF-PERFORMANCE AFFIDAVIT

*If self-performing 100% sign below and return this page with your bid/proposal.*

I hereby certify my company's intent to perform one hundred percent (100%) of the work required for:

Project Name: MC Riley Park Multipurpose Field Lighting  
Bid/Proposal Number: 13 09030 0720 04

By signing this affidavit, I further certify that my company has the capability to perform and will perform all elements of the work on the project referenced above with my company's employees.

I further agree to provide additional information or documentation requested by Beaufort County in support of the above statement.

If a need to subcontract all and/or some of my company's work on this project arises, I will notify the Beaufort County Compliance Office in writing within three (3) business days.

West Electrical Contractors of Newberry, Inc.

Name of Company

Sabin S. West  
Authorized Representative Name

Signature

Treasurer

Title

August 21, 2012

Date

State of South Carolina County of Newberry

Subscribed and sworn to before me this 21st day of August 2012

Notary Public Grada S. Knight My Commission Expires: April 4, 2017

M.C. RILEY COMPLEX MULTIPURPOSE FIELD LIGHTING

This item comes before Council under the Consent Agenda. It was discussed at the March 19, 2012 Community Services Committee meeting. It was moved by Mr. McBride, seconded by Mr. Flewelling, that Council approve the M.C. Riley Complex multipurpose field lighting project in the amount of \$175,000. The funding source is Bluffton Park and Leisure Services Impact Fees. The vote was: YEAS - Mr. Beer, Mr. Caporale, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, Mr. Newton, Mr. Rodman, Mr. Sommerville, Mr. Stewart and Ms. Von Harden. The motion passed

LEASE OF SUITES B, C, D, E, F, G, I, J and K OF

58 SHELTER COVE LANE

BY AND BETWEEN

THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA,

AND

BEAUFORT COUNTY, SOUTH CAROLINA AND THE  
BEAUFORT COUNTY SHERIFF'S OFFICE

DATED THIS \_\_\_\_ DAY OF SEPTEMBER, 2012.

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STATE OF SOUTH CAROLINA            )  
  )  
COUNTY OF BEAUFORT                 )                                   LEASE

This Lease Agreement (herein, the “Lease”), is made and entered into on this \_\_\_\_\_ day of September, 2012, between the Town of Hilton Head Island, South Carolina (herein, the “Town”), Beaufort County, South Carolina, (herein, the “County”), and the Beaufort County Sheriff’s Office (herein, the “BCSO”).

For and in consideration of the Rent to be paid by the County and BCSO hereunder, and the full and faithful performance of the following terms and conditions, the Town, the County and BCSO (herein, the “Parties”), hereto mutually understand and agree as follows:

1.       LEASED PREMISES:

(a)       The Town hereby leases to the County and BCSO, and the County and BCSO hereby lease from the Town, 17,011 square feet of office space plus 74 square feet (which equals BCSO’s pro-rata share of the Common Area of the Building) for a total of 17,085 square feet and all other improvements contained within the building located at 58 Shelter Cove Lane, Suites B, C, D, E, F, G, I, J and K, Hilton Head Island, South Carolina (herein, the “Building”), the floor plan of which is shown on the attached Exhibit “A” (herein, “the Leased Premises”). For the purposes of this Lease, the total square feet of the Leased Premises has been determined by measuring from the outside of any exterior walls and from the middle of any interior walls. The County and BCSO shall have the non-exclusive right in common with the Town and any other tenant, to those areas in the Building, including the building entrances, lobbies, corridors, loading docks, trash removal areas, grounds, roads, driveways, sidewalks, parking areas and facilities, and other similar areas, which enable the County and BCSO to obtain the use and enjoyment of the Leased Premises for its Permitted Use (hereinafter, the “Common Areas”).

(b)       It is the intention of the Town to re-designate the Suite described as Suite “G” on Exhibit “A” hereto as Suite “H”, and upon such re-designation, the Leased Premises shall be described as 58, Shelter Cove Lane, Suites B, C, D, E, F, H, I, J and K, Hilton Head Island, SC, 29928.

2.       TERM:

(a)       The County and BCSO shall have and hold the Leased Premises for a term (herein, the “Lease Term”) beginning on the 1st day of September, 2012 (herein, the “Commencement Date”), and ending at midnight on January 17, 2015 (herein, the “Expiration Date”).

(b)       The County and BCSO’s entry into, and taking possession of, the Leased Premises shall constitute BCSO acknowledgment that the Leased Premises are in a good and tenantable condition as of the beginning of the Lease Term. At the time of execution

of this Lease or at any time thereafter, the Town shall be under no duty to make alterations or repairs to the Leased Premises that are not expressly set forth in this Lease.

(c) If the Town is unable to deliver possession of the Leased Premises upon the Commencement Date, then neither the Town nor its agents shall be liable for any damages caused to the County and BCSO by reason of the delay, nor shall this Lease become void or voidable; however, except as otherwise expressly provided, BCSO shall not be liable for the payment of Rent until the Town delivers possession of the Leased Premises.

(d) If the County and BCSO shall be in possession of the Leased Premises after the Expiration Date (herein, the "Holdover Period"), and in the absence of any written agreement extending the Lease Term hereof, or the Town's demand to the County and BCSO to sooner vacate the Leased Premises, the tenancy under this Lease shall become one from month to month terminable by either Party on 30 days prior written notice. Such tenancy shall be subject to all other conditions, provisions and obligations of this Lease provided, however, that:

- (a) the Rent due to the Town during the first three (3) months of any Holdover Period shall be One Hundred Fifteen (115%) Percent of the Rent due to the Town from the County and BCSO during the last month of the Lease Term; and,
- (b) the Rent due to the Town for the fourth (4<sup>th</sup>) month and thereafter of any Holdover Period shall be One Hundred Fifty (150%) Percent of the Rent due to the Town from the County and BCSO during the last month of the Lease Term.

3. RENT:

The following Rent schedule is based an annual Rent rate of Sixty Five Thousand Three Hundred Thirty Five and 80/100 (\$65,335.80) Dollars. The Rent shall be payable in equal quarterly payments, in advance, beginning on the Commencement Date, and thereafter, on the first day of every quarter (January 1, April 1, July 1 and October 1) throughout the entire Lease Term; provided, however, that Rent payments for the month in which the Expiration Date occurs shall be prorated based upon the number of days remaining in the month, calculated on a daily rate using a Thirty (30) day month.

(a) RENT SCHEDULE:

Year	Total Square Feet	Monthly	Yearly
September 1, 2012 to July 31, 2013	17,085	\$5,444.65	\$65,335.80

September 1, 2013 to July 31, 2014	17,085	\$5,444.65	\$65,335.80
September 1, 2014 to January 17, 2015	17,085	\$5,444.65	\$65,335.80

4. LATE FEES:

Any payment of Rent not received on or before the Tenth ( 10<sup>th</sup>) day of the month in which the Rent is due to be paid will be assessed a charge of Ten (10%) percent on the entire past due amount and any payments of Rent hereunder not received on or before the Fifteenth (15<sup>th</sup>) day of the month will be assessed an additional charge of one and 1/2% per month, or 18% per annum on the entire past due amount until paid by the County and BCSO. Any payment of Rent not paid by the Tenth (10<sup>th</sup>) day of the month in which the payment is due constitutes a Default of the County and BCSO's obligations under the terms of this Lease. The assessment of the late fees in this article 4 is an additional remedy due to the Town, and is in addition to any other remedy for a Default that is provided in this Lease.

5. USE AND COMPLIANCE:

(a) PERMITTED USE: The County and BCSO shall continuously occupy and use the Leased Premises as the Hilton Head Island Headquarters of the Beaufort County Sheriff's Department" (herein the "Permitted Use"), to include all normal daily operations of the Beaufort County Sheriff's Department, including the installation of a short term holding cell within the confines fo the Leased Premises, unless the written consent of the Town is first obtained for any other use. The Leased Premises shall not be used for any use other than the Permitted Use, or which is disreputable, creates extraordinary fire hazards, results in an increased rate of insurance on the Building, or the contents therein, or for the storage of any Hazardous Materials as defined herein (other than those which might be used in the ordinary course of the County and BCSO's Permitted Use, and then only in compliance with all applicable laws related thereto).

(b) COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS: T h e County and BCSO shall comply with all applicable statutes, ordinances, rules, covenants, restrictions and regulations relating to the use, condition, access to and occupancy of the Leased Premises and shall maintain the Leased Premises free of trash, litter and debris, and in a clean and sightly condition.

6. MAINTENANCE AND REPAIR:

(a) MAINTENANCE AND REPAIR OF LEASED PREMISES: The County and BCSO shall keep and maintain the Leased Premises in good order, condition and repair; provided, however, that the obligation of the BCSO and the County to maintain, repair or replace any structural portion of the Leased Premises, the exterior and interior portion of

all doors, window glass, plate glass, plumbing fixtures, water and sewage equipment, pipes and lines, mechanical, heating and air-conditioning and electrical systems, sprinkler systems, the foundation, roof, interior and exterior walls, floors and ceilings applicable to or within the Leased Premises, shall be limited to Five Hundred and no/100 (\$500.00) per occurrence. Any repair or replacement, on any occurrence, costing over Five Hundred and no/100 (\$500.00) Dollars shall be paid by the Town, unless the cause of the repair or replacement is any act or omission of the County or the BCSO, or any combination of them, upon which the County and BCSO shall be liable for the total cost of the repair or replacement.

(b) TOWN'S RIGHT OF ENTRY: The Town, including contractors hired by the Town, shall have the right to enter the Leased Premises upon twenty four (24) hours' notice to the BCSO for the purpose of performing repair or replacement work at the Leased Premises, except in the case of emergency. In the event of an emergency, the Town, including contractors hired by the Town, may enter the Leased Premises for the purpose of making repairs with no notice to the County or BCSO.

(c) LIMITATION ON TOWN'S OBLIGATION TO REPAIR: The Town shall have no obligation to repair, maintain or replace any installations made by the County and BCSO under the terms of this Lease, and the County and the BCSO shall be solely responsible for the maintenance, repair and replacement of the same.

(d) TOWN'S CONSENT REQUIRED FOR ALTERATIONS: The County and BCSO shall not make any alteration of, or addition or improvement to, the Leased Premises without securing the Town's prior written consent. Any and all roof, exterior wall or foundation slab penetrations must first be approved by and coordinated through the Town. The County and BCSO shall save the Town harmless on account of claims for mechanics or materialmen's liens, or any other lien, in connection with any work performed by the County and BCSO, and any such liens shall exist only against the County and BCSO's leasehold interest and shall be discharged, by bond or otherwise, within 30 days of the filing and service of thereof.

(e) ADDITIONAL COUNTY AND BCSO OBLIGATIONS: The County and BCSO shall keep and maintain the Leased Premises in accordance with all directions, rules and regulations of the proper officials of any government or other agency having jurisdiction over the Building, at the sole cost and expense of the County and BCSO, and the County and BCSO shall comply with all requirements of law, statute, ordinance, covenants, restrictions or otherwise, governing the use of the Leased Premises and all appurtenances thereto.

(f) TOWN NOT LIABLE: The Town shall not be liable for any loss or damage to the County and BCSO's personal property, equipment, fixtures and improvements to the Leased Premises.

7. TOWN REPRESENTATIONS:

(a) ZONING: The Town hereby warrants and represents that the Leased Premises are properly zoned for the County and BCSO's proposed use as a Sheriff's Office and that the County and BCSO's proposed use thereof is permitted upon the Leased Premises.

(b) QUIET ENJOYMENT: The Town of warrants and covenants that, if BCSO shall perform all of the covenants and agreements as stipulated in this Lease to be performed on the part of the County and BCSO, the County and BCSO at all times during the Lease Term shall have the exclusive, peaceable and quiet enjoyment and possession of the Leased Premises without any manner of hindrance from anyone claiming by, through or under the Town.

8. SURRENDER OF LEASED PREMISES:

On or before the Expiration Date, or upon earlier termination of its interest in the Leased Premises as provided herein, the County and BCSO shall peaceably surrender possession of the Leased Premises to the Town with all improvements located therein, in good repair and in the same condition in which delivered to the County and BCSO, ordinary wear and tear excepted, and the County and BCSO shall deliver to the Town all keys to the Leased Premises. Regardless of the foregoing, at any time prior to the expiration of the Lease Term, the County and BCSO may, at its cost and expense, remove in a careful manner any unattached trade fixtures, furniture and personal property placed within the Leased Premises by the County and BCSO during the Lease Term, and prior to such expiration shall repair any damage caused to the Leased Premises by such removal. All items not so removed shall, at the Town's option, be deemed to have been abandoned by the County and BCSO and may be destroyed or otherwise disposed of by the Town without notice to the County and BCSO, and without any obligation to account for such items, or liability to the County and BCSO therefore. The provisions of this Article 8 of the Lease shall survive the expiration or termination of this Lease.

9. TOWN'S RIGHT OF ENTRY:

The Town or its employees and agents may enter the Leased Premises at any mutually agreeable time for the purpose of inspecting or maintaining the Leased Premises. In the event of an emergency, however, the Town or its employees and agents may enter the Leased Premises without consent or agreement of the County and BCSO; provided, however, that the Town's Right of Entry does not include the portion of the Leased Premises where the BCSO maintains and holds evidence for pending and ongoing investigations and prosecutions. Keys for this purpose must be held by the Town or its agent, and in the event that the BCSO installs keypads, the BCSO must provide the Town key code to permit access. In the event that the County and BCSO desires to change or alter any locks to the Leased Premises, the County and BCSO will notify the Town of the County and BCSO's request, and the Town or the Town's agent will have the locks changed or

altered at the County and BCSO's expense.

10. UTILITIES:

(a) UTILITY CONNECTIONS. The Town shall at all times cause or make available to the Building for the use of the County and BCSO, connections for adequate water, electric, gas, telephone and sewage.

(b) ARRANGEMENT AND PAYMENT FOR UTILITIES: The County and BCSO shall arrange for the provision of all utilities to be furnished to the Leased Premises during the term of this Lease. The County and BCSO shall pay for its own telephone, internet, janitorial, cable TV, water, sewage, garbage disposal and electricity services for the Leased Premises. The Town shall have no obligation to provide or pay for any utility service in connection with the Leased Premises.

11. SIGNS:

The County and BCSO shall not erect any signs or advertisements on any exterior door, wall or window of the leased premises, building or the "On Premises" sign located near U. S. 278 without the prior written consent of the Town. If the Town approves any such signage, all related costs for the installation and fabrication for the signage shall be the sole financial responsibility of the County and BCSO. The County and BCSO agree to maintain such signs as approved by the Town in good condition and repair. Any such sign shall comply all requirements of any law, statute, ordinance, covenants, restrictions or otherwise, governing the use of the Leased Premises.

12. CONTROL OF LEASED PREMISES:

(a) THE COUNTY AND BCSO'S EXCLUSIVE CONTROL: The County and BCSO warrant and represent that during any Term of this Lease, the daily operations, use and occupancy of the Leased Premises shall be under the sole and exclusive control of the County and BCSO.

(b) COUNTY AND BCSO DUTY TO INSURE: The County and BCSO shall insure any their equipment, furniture, fixtures, contents of any description and installations made pursuant to this Lease, at the expense of the County and BCSO.

(c) SURVIVAL: The warranty and representation set forth in this Article 12 shall survive the expiration, cancellation or termination of this Lease.

13. DAMAGE OR DESTRUCTION OF LEASED PREMISES:

(a) DESTRUCTION OF LEASED PREMISES: In the event that the Leased Premises are destroyed, or that damage to the leased premises is so extensive that restoration or repairs cannot be accomplished within 90 days, as certified by the opinion

of the Building Official of the Town of Hilton Head Island, South Carolina, then the County and BCSO or the Town may terminate this Lease by giving the other written notice before any restoration or repair is commenced, and in that event, any applicable insurance proceeds shall be paid to the Town.

(b) **DAMAGE TO LEASED PREMISES:** In the event of an insured loss and subject to the termination provisions set forth herein, the Town shall repair or restore the Building to as good a condition as existed before such damage occurred, to the extent of any available insurance proceeds. Should the Town provide the County and BCSO with the opinion of an experienced insurance adjuster that such insurance proceeds will not be sufficient to pay for such repairs or restoration, then the Town or the County and BCSO may terminate this Lease by written notice, in which event all insurance proceeds will be paid to the Town.

(c) **RENT ABATEMENT DURING REPAIR:** During the period of any restoration or repairs which permits partial occupancy of the Leased Premises, the Rent shall be pro rated, based upon the percentage of the usable portion of the Leased Premises to the non-usable portion of the Leased Premises. In the event of destruction of the Leased Premises, or damage that is so extensive as to render the leased premises unfit for occupancy by the County and BCSO, the Rent shall abate until such time as the restoration or repair of the Leased Premises has proceeded to the point that the occupancy and use of the Leased Premises is permitted by the Building Official of The Town of Hilton Head Island, South Carolina.

14. **EMINENT DOMAIN:**

(a) **TERMINATION OF LEASE:** If any portion of the Leased Premises is taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase under threat or initiation of exercise of the right of eminent domain, this Lease shall terminate upon the election of either Party, effective on the date possession of the Leased Premises, or any portion thereof, is taken by the condemning authority or private purchaser as aforesaid. In the case of such partial condemnation and an election by the Parties hereto not to terminate this Lease, then the Rent payable hereunder shall, during the unexpired portion of the Lease, shall be pro-rated, based upon percentage of square feet of the Leased Premises so taken, of the whole of the Leased Premises stated in this Lease. The Town shall promptly provide the County and BCSO a copy of any and all notices from any such condemning authority, or private purchaser as mentioned above, respecting any requirement that the Town surrendered its right to all or any portion of the Leased Premises pursuant to this Article 14 (a).

(b) **NOTICE OF ELECTION:** Any notice of election by the County and BCSO to terminate this Lease as provided in this Article 14 shall be given by the County and BCSO to the Town within 30 days after written notice by the Town to the County and BCSO as provided in Article 14 (a) above, or within 30 days after receipt by BCSO of actual knowledge of any requirement that the Town surrendered its right to possession to all or

any part of the Leased Premises, whichever shall first occur. In the event this lease is not terminated pursuant to this article 14, after a taking of a portion of the leased premises, the Town shall make such reasonable repairs or alterations as may be necessary to make the structure of the leased premises and architectural whole, and this lease shall thereafter be in full force and effect, as provided herein.

(c) CONDEMNATION AWARD: Any payment or award from the condemning authority shall be the property of the Town.

15. SUBLETTING PROHIBITED:

BCSO shall not sublet all or any portion of the Leased Premises, or assign or otherwise transfer any of its rights under this lease, in whole or in part, to any third party without the prior written consent of the Town. Any and all documents utilized by the County and BCSO to evidence any subletting or assignment to which the Town has consented shall be subject to prior written approval by the Town and its counsel.

16. DEFAULT OF COUNTY AND BCSO:

Occurrence of any of the following shall constitute a Default under the Terms of this Lease:

(a) FAILURE TO PAY RENT OR MONEY DUE: If the County and BCSO shall fail to pay any payment of Rent, or any other sum of money due and payable under this Lease, whether to the Town or otherwise, when due and payable, and such failure shall continue for a period of Ten (10) days from the due date thereof;

(b) VIOLATION OF LEASE: If the County and BCSO shall violate any term of this Lease, or fail to perform any term, condition, covenant, obligation or agreement to be performed or observed by the County and BCSO under this Lease, and such failure shall continue for a period of Thirty (30) days after the delivery of written notice thereof;

(c) ABANDONMENT OF LEASED PREMISES: If the County and BCSO shall desert, vacate or not regularly use the Leased Premises for a period of 30 days or more, even though the County and BCSO continue to timely pay all Rent payments when due;

(d) INSOLVENCY: Any of the following occur with respect to the County and BCSO: (i) the County and BCSO become insolvent as such term is defined in the United States bankruptcy code or under the insolvency laws of any state, district, commonwealth or territory of the United States; (ii) the appointment of a receiver or custodian of any or all of BCSO's property or assets or the institution of a foreclosure action upon any of the County and BCSO's real or personal property as pertains to the Leased Premises and such receiver or custodian or such foreclosure action is not dismissed within 60 days; (iii) the County and BCSO's filing or consenting in writing to any petition under the provisions of the United States Bankruptcy code, or the insolvency laws of any State, district,

commonwealth or territory of the United States; (iv) the filing of a petition against the County and BCSO as the subject debtor under the United States bankruptcy code, or any insolvency laws of any state, district, commonwealth or territory of the United States, and which results in an order of relief in favor of the County and BCSO; (v) the County and BCSO's making or consenting, whether in writing or not, to a voluntary assignment for the benefit of creditors or a common-law composition of creditors; (vi) a court order dissolution of the County and BCSO or court ordered liquidation of substantially all of the County and BCSO's assets;

(e) **FAILURE TO BUDGET FOR RENT:** If BCSO shall fail to include amounts sufficient to pay Rent and any other amounts due under this Lease for any fiscal year during the Term of this Lease in its budget, or if the County shall fail to approve any budget for the BCSO that include amounts sufficient to pay Rent and any other amounts due under this Lease for any fiscal year during the Term of this Lease.

(f) **DISSOLUTION:** The dissolution of the County and BCSO for any reason; or,

(g) **WARRANTIES AND REPRESENTATIONS:** Any of the representations or warranties of BCSO as set forth in this Lease are or become untrue or incorrect in any material respect during the term of this Lease.

17. **DEFAULT OF THE TOWN:**

Occurrence of any of the following shall constitute a Default under the Terms of this Lease:

(a) If the Town should fail to perform or observe any of the conditions or terms of this Lease, and such failure to perform or observe shall continue for a period of Thirty (30) days after written notice to the Town by the County and BCSO of such.

18. **RIGHTS OF THE PARTIES ON DEFAULT:**

(a) **ALL REMEDIES PRESERVED:** Upon Default of the other Party, the Town or the County and BCSO, as the case may be, shall be entitled to pursue any remedy at law or in equity available to it.

(b) **ATTORNEY'S FEES AND COSTS:** If any legal action or other proceeding is brought for the enforcement of this Lease, or because of a dispute, breach, default or misrepresentation in connection with all or any of the provisions of this Lease, the successful or prevailing party shall be entitled to recover its reasonable attorney's fees and any costs incurred as a result of any such legal action or other proceeding, whether incurred before the institution of suit or after the commencement of suit, including appellate proceedings, in addition to any other relief to which the prevailing party may be entitled.

19. INTERPRETATION:

The County and BCSO acknowledge that the County and BCSO have reviewed and agreed to all of the terms and provisions of this Lease and that the County and BCSO have had a full opportunity to consult with an attorney of the County and BCSO's choosing concerning the legal consequences of entering into this Lease with the Town. As a result of the foregoing, it is the intent of the Parties hereto that this lease shall not be construed or interpreted against either Party in any dispute concerning any term or provision of this Lease.

20. NO WAIVER:

The Town's acceptance of any payment of Rent following any default by the County and BCSO shall not waive the Town's rights regarding such a default. No waiver by the Town of any violation or breach of any of the terms contained in this Lease shall waive the Town's rights regarding any future violation of such term, or any violation of any other term contained within this Lease. The Town's acceptance of any partial payment of Rent shall waive the Town's rights with regard to the remaining portion of the Rent regardless of any endorsement or other statement on any instrument delivered in payment of Rent, or any writing delivered to the Town in connection therewith. Accordingly, the Town's acceptance of any partial payment as required by this Lease shall not constitute an accord and satisfaction with respect to the full amount of any such payment.

21. MECHANIC'S OR OTHER LIENS:

The County and BCSO shall have no power to subject the Leased Premises or the Town's interest in the Leased Premises to any mechanic's or any other lien. If any mechanic's or any other lien or order for the payment of money shall be filed against the Leased Premises by reason of or arising out of any labor or material furnished or alleged to have been furnished or to be furnished to or on behalf of the County and BCSO at the Leased Premises, or for or by reason of any change, alteration, or addition or the cost or expense thereof or any contract relating thereto, the County and BCSO shall cause the same to be discharged of record against the Leased Premises by bond or otherwise as allowed by law at the sole expense of the County and BCSO, within Thirty (30) days after written demand therefor by the Town, and shall also defend on behalf of the Town at the County and BCSO's sole cost and expense, any action, suit or proceeding that may be brought thereon or for the enforcement of any such lien or order, and the County and BCSO shall save the Town harmless from any judgment, claim or damage resulting therefrom.

22. ESTOPPEL CERTIFICATES:

The County and BCSO agree that at any time and from time to time upon not less than Ten (10) days prior written request by the Town, to execute, acknowledge and deliver to the Town a statement in writing certifying that this Lease is unmodified and is in full force and effect (or if there have been modifications that this Lease is in full force and effect

as modified and stating the modifications), and the dates to which the Rent and other charges have been paid in advance, if any, it being intended that any such statement delivered pursuant to this Article 22 may be relied on by any prospective purchaser or purchasers of the Town's interest in the Building or the Leased Premises.

23. WAIVER OF JURY TRIAL:

TO THE EXTENT PERMITTED BY LAW, THE TOWN AND THE COUNTY AND BCSO EACH AGREED TO WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION ARISING IN CONNECTION WITH THIS LEASE, OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HEREWITH, OR THE TRANSACTIONS RELATED HERETO.

24. HAZARDOUS MATERIALS:

(a) HAZARDOUS MATERIALS PROHIBITED: The County and BCSO shall not cause or permit any hazardous materials to be brought upon, kept or used in or about the Leased Premises (other than in the ordinary course of the County and BCSO's Permitted Use, and then only in compliance with any and all applicable laws) without the prior written consent of the Town, which consent may be withheld by the Town for any reason. "Hazardous Materials" shall mean any substance, material or waste which is now or hereafter classified were considered to be hazardous, toxic, or dangerous, under any law or regulation relating to pollution or the protection or regulation of human health, natural resources or the environment, or which opposes or threatens to pose a hazard to the health or safety of any person on or about the Leased Premises, or the Building.

(b) TOWN'S RIGHTS: If the County and BCSO breaches its obligations under this Article 24, the Town may, but is not obligated to, immediately take, at the County and BCSO's expense, any and all action reasonably appropriate to remedy the same, including taking any appropriate action to clean up or remediate any contamination resulting from the County and BCSO's use, generation, storage or disposal of any Hazardous Materials.

(c) INDEMNIFICATION: The County and BCSO shall indemnify the Town and pay the cost of any cleanup or remediation and shall defend the Town, and hold the Town harmless from any claims, judgments, damages, penalties, fines or losses which arise during or after the Term of this Lease from or in connection with the presence or suspected presence of any Hazardous Materials in, on or under the Leased Premises, or within the Building, which Hazardous Materials were brought upon, kept or used in or about the Leased Premises or the Building, by the County and BCSO. This indemnity provision shall survive the termination or expiration of this Lease.

(d) SURVIVAL: The obligations of the County and BCSO set forth in this Article 24 shall survive the expiration, cancellation or termination of this Lease.

25. MISCELLANEOUS:

(a) **BINDING EFFECT:** This Lease shall inure to the benefit of and shall be binding upon the Town, the County and BCSO and their respective successors and assigns, if any are permitted hereunder.

(b) **ENTIRE AGREEMENT/AMENDMENT AND MODIFICATIONS:** This Lease supersedes all prior discussions and agreements between the Parties with respect to the Leased Premises and all other matters contained herein and constitutes the sole and entire agreement and understanding between the Town, the County and BCSO with respect to the Lease of the Leased Premises. This Lease shall not be modified or amended except by an instrument in writing signed by both the Town, the County and BCSO.

(c) **SEVERABILITY:** In the event that any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(d) **EXECUTION IN COUNTERPARTS:** This Lease 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.

(e) **APPLICABLE LAW:** This Lease shall be governed by and construed in accordance with the laws of the State of South Carolina.

(f) **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 Articles of this Lease.

(g) **RECORDING PROHIBITED:** The parties hereto may not record this Lease in the Office of the Register of Deeds for Beaufort County, South Carolina.

(h) **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.

(i) **NO THIRD PARTY BENEFICIARIES:** The Parties hereto affirmatively represent that this Lease 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.

(j) **NOTICES:** All notices, applications, requests, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered in person, 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 HILTON HEAD ISLAND  
Stephen G. Riley, Manager  
One Town Center Court  
Hilton Head Island, SC 29928

With Copy to: Gregory M. Alford, Esq.  
ALFORD, WILKINS & COLTRANE, L. L. C.  
Post Office Drawer 8008  
Hilton Head Island, SC 29938-8008

To the County: BEAUFORT COUNTY, SOUTH CAROLINA  
Gary Kubic, Manager  
Post Office Drawer 1228  
Beaufort, SC, 29901

To BCSO: BEAUFORT COUNTY SHERIFF'S OFFICE  
Hon. P. J. Tanner  
Post Office Box 1758  
Beaufort, SC 29901

With Copy to: COUNTY ATTORNEY  
Joshua A. Gruber, Esq.  
Post Office Drawer 1228  
Beaufort, SC 29901

(j) SURVIVAL: The obligations of the County and BCSO set forth in this Lease shall survive the expiration, cancellation or termination of this Lease, whether or not expressly stated with respect to any specific obligation.

(k) FURTHER ASSURANCES AND CORRECTIVE DOCUMENTS: The Town and BCSO 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 Lease and give effect hereto. The Town, the County and BCSO agree that each shall, upon request, execute and deliver such other or corrective documents as may be reasonably determined to be necessary, either before or after the execution delivery of this Lease. The obligations of this Article 26(1) shall survive the expiration, cancellation or termination of this Lease.

**(Signatures Appear On Following Page)**

IN WITNESS WHEREOF, The Town of Hilton Head Island, South Carolina, and Beaufort County Sheriff's Office, have, or have caused their duly authorized officers and representatives to execute this Lease as of the date and year first above written.

**WITNESSES:**

**THE TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA**

\_\_\_\_\_

**By:** \_\_\_\_\_  
**Drew A. Laughlin, Mayor**

\_\_\_\_\_

**Attest:** \_\_\_\_\_  
**Stephen G. Riley, ICMA-CM  
Town Manager**

**WITNESSES:**

**BEAUFORT COUNTY, SOUTH CAROLINA**

\_\_\_\_\_

**By:** \_\_\_\_\_  
**Wm. Weston J. Newton, Chairman**

\_\_\_\_\_

**Attest:** \_\_\_\_\_  
**Gary Kubic, Administrator**

**WITNESSES:**

**BEAUFORT COUNTY SHERIFF'S  
OFFICE**

\_\_\_\_\_

**By:** \_\_\_\_\_  
**P. J. Tanner**

\_\_\_\_\_

## RESOLUTION

### A RESOLUTION APPROVING THE BEAUFORT COUNTY POLICY FOR WORKING ON PRIVATE PROPERTY.

~~WHEREAS, Beaufort County Council has designated certain public roads that are maintained by the County's Public Works Department. (Other "public roads" within the County are designated and maintained by the Federal or State governments). All public roads are designated and maintained as public roads by the County Public Works Department; all other roads are private roads. Beaufort County employees shall not enter private property for the purpose of repairing or improving non public roads, except as provided hereunder.~~

~~(A) Citizens who have not asked for their roads to be converted from private road(s) to a public road(s) may apply to the County Administrator (County Engineer) by petition to have their road(s) classified as "County maintained public roads". Such roads shall not be maintained until the appropriate rights of way or easement are donated to the County, and the property owner agrees the road(s) will be designated a "public road(s)" and the petition has been accepted.~~

~~(B) It is the policy of Beaufort County that it will not maintain "private driveways" as defined herein. A "private driveway" is defined as any vehicular pathway where ownership of the land abutting both sides of such pathway is the same and the pathway serves less than six (6) discrete dwelling units, and the property owners have not granted either an easement or a right of way to the County, as appropriate and the road is not designated as a public road.~~

~~(C) Exceptions to this policy may be granted, on a case-by-case basis, by a majority vote of County Council upon the recommendation of the County Administrator. Exceptions to this policy will be considered: upon receipt of a petition in writing from all the property owner(s) of a "private driveway" that serves five (5) or more discrete dwelling units, and the property owner(s) agreement to execute either an easement or a right of way (or assignment thereof) to the County as appropriate, and accept a public road designation. The County Administrator may recommend an exception to this policy based upon medical needs of occupants of private dwelling units abutting "private driveways", and refer his recommendation to the Public Services Committee for its review and recommendation to Council.~~

~~WHEREAS, Beaufort County employees shall not enter private property for the purpose of correcting drainage problems, unless the Engineering Department, the Stormwater Management Utility, or the Public Works Department can conclusively determine that actions of Beaufort County or another government entity created the problem. County employees shall obtain permission from the private property owner, preferably in the form of formal written easements or rights-of-way, before entering the private property to correct problems caused by the actions of Beaufort County or other government entities. The County Administrator may recommend an exception to this policy based upon the health and welfare of the residents of the private property in question or their neighbors, and refer his recommendation to the Public Facilities Services Committee for its review and recommendation to the Council.~~

**WHEREAS,** This policy encourages Beaufort County employees to secure easements or rights-of-way to traverse property with ditches and other infrastructure so as to move water in the best interest of the Beaufort County Stormwater Management Program. Before any drainage work on private property may be done without properly executed easements or rights-of-way obtained in accordance with paragraph 2 above, the County Administrator must approve the work, after appropriate recommendation(s) from the Engineering and/or Public Works Departments.

**NOW THEREFORE, BE IT RESOLVED,** the Beaufort County Council does approve the Policy for Working on Private Property.

Adopted this \_\_\_ day of \_\_\_\_\_, 2003.

**COUNTY COUNCIL OF BEAUFORT COUNTY**

By: \_\_\_\_\_  
Wm. Weston J. Newton, Chairman

ATTEST:

\_\_\_\_\_  
Suzanne M. Rainey, Clerk to Council

Amending Policy Statement #15

**RESOLUTION NO. \_\_\_\_\_**

**WHEREAS**, in December 2006, Beaufort County Council adopted land use regulations as part of the Beaufort County Zoning & Development Standards Ordinance (ZDSO) to discourage encroachment by incompatible development within MCAS-Beaufort noise and accident potential (AICUZ) zones; and

**WHEREAS**, in June 2011, the Beaufort County Council further amended the ZDSO to establish a Transfer of Development Rights (TDR) Program to further reduce development potential near MCAS-Beaufort and to redirect that development to locations outside of AICUZ zones through the voluntary participation of individuals and entities located within the AICUZ zones; and

**WHEREAS**, the Beaufort County Planning Department is responsible for the administration of the TDR Program, including processing and review of applications for TDRs from interested property owners.

**NOW, THEREFORE, BE IT RESOLVED**, that Beaufort County Council hereby establishes a TDR Program application fee of \$50.00 to help defray application review and processing costs.

**DONE** this \_\_\_\_\_ day of \_\_\_\_\_, 2012

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

\_\_\_\_\_  
Joshua A. Gruber, Staff Attorney

ATTEST:

\_\_\_\_\_  
Suzanne M. Rainey, Clerk to Council



## MEMORANDUM

**TO:** Natural Resources Committee

**FROM:** Tony Criscitiello, Beaufort County Director of Planning & Development <sup>T.C.</sup>

**DATE:** August 29, 2012

**SUBJECT:** Implementation of a Pilot Transfer of Development Rights (TDR) Program for the area surrounding MCAS-Beaufort

---

In December 2006, the County Council adopted overlay regulations in the ZDSO to limit the type and density of development that can occur within noise and accident potential zones associated with MCAS-Beaufort (AICUZ zones). To encourage the voluntary reduction of additional incompatible development in the AICUZ zones, the County Council further amended the ZDSO in June 2011 to adopt a Transfer of Development Rights (TDR) Program. The purpose of this program is to “transfer” development out of the AICUZ zones and “send” it to other unincorporated areas on Port Royal Island not constrained by AICUZ zones.

The Lowcountry Council of Governments (LCOG) has received tangible financial support for this program in the amount of \$250,000 in seed money provided by the South Carolina Military Task Force. These funds are to be used to purchase development rights from interested property owners in the designated “sending area,” which will then be banked by the County for future resale to interested developers in the designated “receiving” zone.

The County Planning Department has proposed an implementation strategy to expend these funds (see attached). The planning staff, with legal support from Howell, Gibson, & Hughes, will be responsible for carrying out the steps involved in implementing the program.

## Steps to Implement TDR Pilot Program

1. Send out letters to Sending Area property owners explaining the Pilot Program and providing a time window during which the County will accept applications to participate in the Pilot Program.
2. Create a rank-order list of applicants (smallest landowner to largest by date application was received)
3. For each application:
  - Verify that the property owner has clear title to the property (evidence to be provided by property owner)
  - Determine existing easements, deed restrictions, covenants, etc. that may affect further residential development on the property (evidence to be provided by property owner)
  - Do a site visit to verify existing homes/other buildings on the property and to inventory natural resources
  - Calculate available development rights using the Residential Site Capacity calculation from the ZDSO
4. Starting at the top of the rank-order list until the pilot program dollars have been spent:
  - Appraise property (before and after TDRs)
  - Negotiate purchase price
  - Prepare restrictive easement document retiring future development rights
  - Record easement
  - Close sale
5. For remaining applications (if any):
  - Prepare restrictive easement document retiring future development rights
  - Record easement
  - Issue TDR Certificates, which may be sold on the private market or, in the future, to the TDR Bank.



destination, on the terms and conditions set forth in this Agreement. Access points shall be as generally shown on Exhibit B attached hereto.

1. Security for Performance. Prior to entering upon the Property, Grantee shall provide to Grantor a Letter of Credit or such other instrument acceptable to Beaufort County ("Performance Instrument"), securing the performance of Grantee to return the Property to its pre-use condition. The condition of the Property shall be documented by photographic means prior to the use by Grantee of the Property, and Grantor shall provide written acceptance of the photographic evidence to Grantee. It is agreed that such security shall be in the amount of \$81,250.00, representing 125% of the estimated costs to repair any damage caused by the use of the Property. The Performance Instrument shall provide for its release back to Grantee and cancellation of the security upon presentation of documents to the Grantor substantiating (i) the return of the Property to its pre-use condition, or such other condition as the parties may mutually agree upon, and (ii) that an unconditional lien release or other evidence that final payment has been made to any contractor that worked on the Property.

2. Termination of License. The Access Use Agreement shall automatically terminate and be of no further force or effect upon the earlier of (i) at such time as the Adjacent Property has completed its permitted sand mining operations as certified by the County Engineer, or (ii) the expiration of the Special Use Permit, and any extensions (if any) ("Termination Date"). Upon request of Grantor, Grantee shall execute and deliver such documents as Grantor may require in its reasonable discretion effectuating or confirming the termination of the Access License.

3. Mechanics Liens, Indemnity and Insurance.

(a) Mechanics Liens. Grantee shall keep the Property free and clear of any mechanics liens and/or materialmen's liens arising out of any of Grantee's activities on the Property.

(b) Indemnification. Grantee shall indemnify, defend and hold harmless Grantor, BJWSA, and their respective affiliates, officers, employees, agents, contractors, successors and assigns (collectively, the "Indemnified Parties") from and against any and all obligations, liabilities, claims, demands, suits, liens, encumbrances, losses, damages, costs and expenses (including, without limitation, reasonable attorneys' fees and costs) relating to the use of the Property or breaches of this Agreement, including for loss of or damage to property, including, without limitation, Grantor's Property and the property of each of the Indemnified Parties, and for injuries to or death of any person (including, without limitation, the agents and employees of each of the Indemnified Parties) (each, a "Claim") when arising or resulting from the acts or omissions of Grantee and/or their agents, contractors, officers, directors, attorneys, and employees, unless such Claim is due to the negligence or willful misconduct of any of the Indemnified Parties. The obligations under this Subsection (b) shall survive the expiration or earlier termination of this Agreement.

(c) Insurance. At all times during the term of this Agreement, Grantee, at their sole cost and expense, shall procure and maintain in effect insurance policies with financially responsible insurance companies reasonably acceptable to Grantor covering (i) the

activities of Grantee on Grantor's Property, and (ii) the indemnity obligations of Grantee set forth in this Agreement.

(d) Prior to any entry on the Property by Grantee, Grantee shall secure, maintain and provide evidence to Grantor, of the following:

(i) worker's compensation insurance as required by law;

(ii) Grantee shall deliver to Grantor a certificate of insurance for the commercial general liability insurance policy prior to commencing use of the Property. Such insurance policy shall have a per occurrence limit of at least One Million and No/100 Dollars (\$1,000,000.00) and an aggregate limit of at least Three Million and No/100 Dollars (\$3,000,000.00), shall name Grantor as an additional insured, shall be primary and non-contributing with any other insurance available to Grantor;

(iii) automobile liability insurance, including liability for all owned, hired and non-owned vehicles, with minimum limits of \$1,000,000 for bodily injury per person, \$1,000,000 property damage and \$1,000,000 combined single limit per occurrence.

4. Duty to Repair, Restore or Replace. Within five (5) days following the Termination Date, Grantee shall (a) remove all of Grantee's personal property from Grantor's Property, and (b) restore Grantor's Property to the condition it was in on the date and at the time of the execution of this Agreement. Such restoration work shall include, without limitation, the repair or replacement of any structures, fences, driveways, or other improvements on Grantor's Property that belong to Grantor and that are removed, damaged, or destroyed by Grantee or Grantee's affiliates, agents, employees, contractors or subcontractors.

5. Miscellaneous.

(a) Captions; Incorporation by Reference. The captions used herein are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions hereof. Each of the Exhibits attached to this Agreement is hereby incorporated into this document as if set forth in full herein.

(b) Interpretation; Governing Law. This Agreement shall be construed as if prepared by both parties hereto. This Agreement shall be governed by and construed under the laws of the State of South Carolina.

(c) Attorneys' Fees. In the event of any legal action or other proceeding between the parties regarding this Agreement (an "ActionError! Bookmark not defined."), the prevailing party shall be entitled to the payment by the losing party of its reasonable attorneys, fees, court costs and litigation expenses, as determined by the court.

(d) Agreement Nonassignable. This Agreement shall not be assigned by Grantee without the prior written consent of Grantor. Any unauthorized assignment of this Agreement or of any interest in this Agreement shall be void and of no effect

(e) Severability. In the event that any phrase, clause, sentence, paragraph, section, article or other portion of this Agreement shall become illegal, null or void, or against public policy, for any reason, or shall be held by any court of competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of this Agreement shall not be affected thereby and shall remain in force and effect to the full extent permissible by law.

(f) Gender and Number. In this Agreement (unless the context requires otherwise), the masculine, feminine and neuter genders and the singular and the plural include one another.

(g) Binding Effect. The License shall run upon, over, and across Grantor's Property and shall run with the land, and the License and this Agreement shall inure to the benefit of and be binding upon the parties to this Agreement and their successors, transferees and assigns, except as otherwise provided in this Agreement.

(h) Injunctive Relief. In the event of any violation or threatened violation of this Agreement, either party shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action, written notice of such violation shall be given to the other party.

(i) Further Actions. The parties shall execute and deliver such further documents and shall take such further actions as may be reasonably necessary to effectuate the terms of this Agreement.

(j) Counterparts. This Agreement may be signed in counterpart by the parties hereto, and the signature pages and accompanying acknowledgments of all parties may thereafter be assembled as a single Agreement for recordation purposes, creating a fully executed Agreement, enforceable against the parties thereto.

(k) Notices. Unless otherwise provided for herein any notice to be given or other documents to be delivered by either party shall either be delivered in person or deposited in the United States mail with postage prepaid addressed to the party for whom intended as follows:

If to Grantor, to:

Mr. Gary Kubic, County Administrator  
P.O. Drawer 1228  
Beaufort, SC 29901-1228

With copy to:

Joshua A. Gruber, Esquire  
Beaufort County Attorney  
P.O. Drawer 1228  
Beaufort, SC 29901-1228

If to Grantee, to:

Mr. John Murray  
Triangle Grading and Paving, Inc.  
101 Schein Loop  
Beaufort, SC 29906

With copy to:

David L. Tedder, Esquire  
P.O. Box 1282  
Beaufort, SC 29901-1282

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date first above written.

**WITNESSES:**

\_\_\_\_\_  
  
\_\_\_\_\_

**GRANTOR:**  
**Beaufort County**

By: \_\_\_\_\_  
Gary Kubic, County Administrator

**GRANTEE:**  
**Triangle Paving and Grading, Inc.**

\_\_\_\_\_  
  
\_\_\_\_\_

By: \_\_\_\_\_  
John Murray

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

ACKNOWLEDGEMENT

I, the undersigned, a Notary Public for South Carolina, do hereby certify that Gary Kubic, County Administrator for Beaufort County, South Carolina, personally appeared before me this day and, in the presence of the two witnesses above named, acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires:\_\_\_\_\_

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT )

ACKNOWLEDGEMENT

I, the undersigned, a Notary Public for South Carolina, do hereby certify that John Murray, \_\_\_\_\_ of Triangle Paving and Grading, Inc., personally appeared before me this day and, in the presence of the two witnesses above named, acknowledged the due execution of the foregoing instrument.

Witness my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires:\_\_\_\_\_

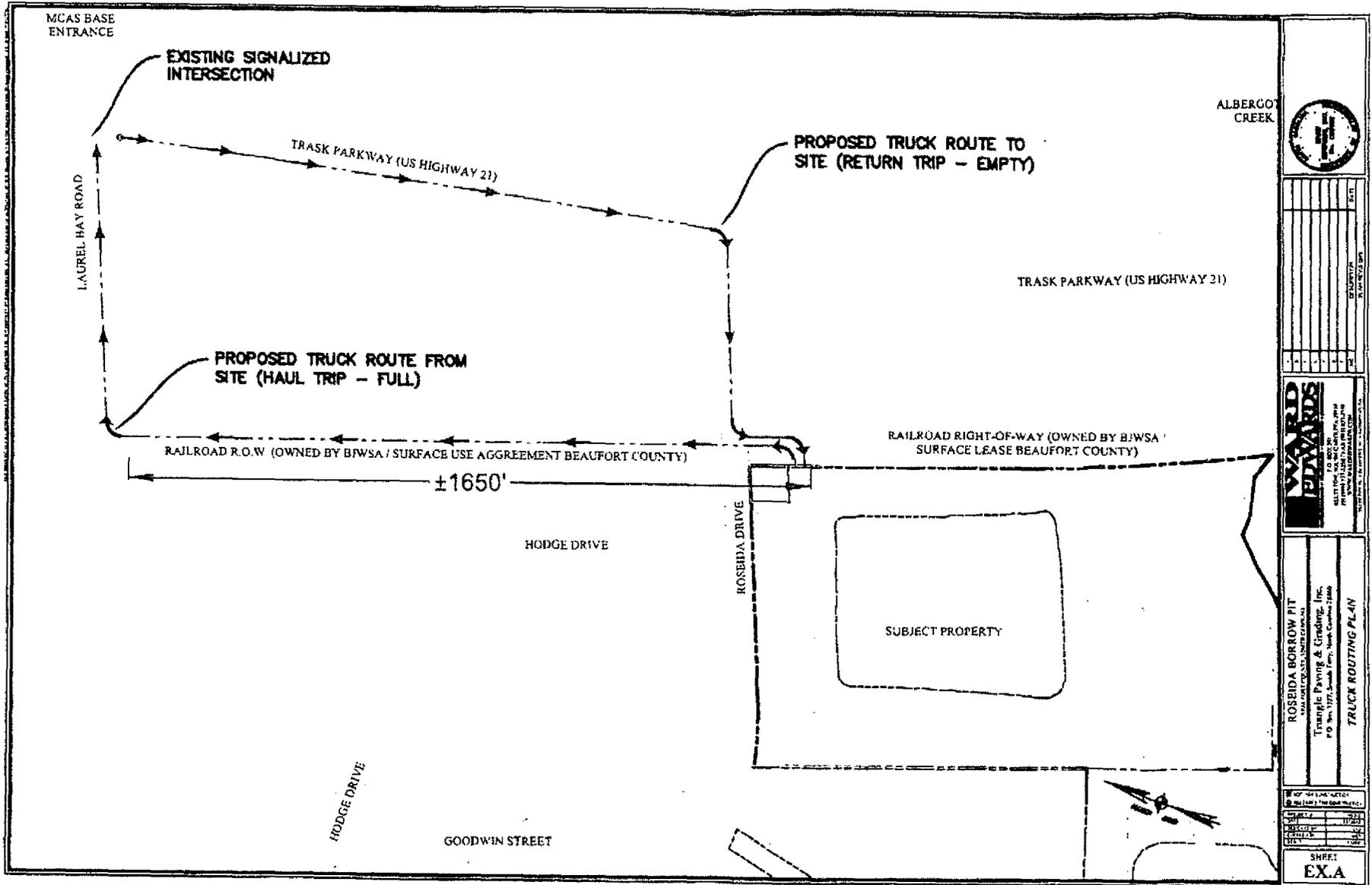
**EXHIBIT "A"**

to

**Temporary Access Agreement**

**Description of the Property**

Being that Property shown as the "Railroad R.O.W. (Owned by BJWSA/Surface Use Agreement Beaufort County)" on the attached Drawing entitled "Truck Routing Plan", being approximately 1,650 feet in length from its point of beginning on the "Subject Property" as shown to its terminus to the North where the Property abuts Laurel Bay Road.



DATE	
DESCRIPTION	
BY	
NO.	

**WARD BROTHERS**  
 ENGINEERS & ARCHITECTS  
 1000 W. 10th Street, Suite 100  
 Beaufort, NC 28520  
 P: 252.733.1111  
 F: 252.733.1112  
 WWW.WARDBROTHERS.COM

**ROSEBIDA BORROW PIT**  
 11 Triangle Parkway & Grading, Inc.  
 P.O. Box 10111, Raleigh, NC 27615  
**TRUCK ROUTING PLAN**

NO. OF SHEETS	1
SHEET NO.	EX.A
DATE	
BY	
CHECKED	
DATE	

SHEET  
EX.A

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR  
MATCHING FUNDS UNDER THE 2013 FEDERAL MATCH PROGRAM  
ADMINISTERED BY THE SOUTH CAROLINA DEPARTMENT OF  
TRANSPORTATION FOR RESURFACING PROJECTS**

**WHEREAS**, the South Carolina Department of Transportation is seeking applications for grant funding on Federal Aid qualified routes that are currently in need of resurfacing and/or system upgrade projects; and

**WHEREAS**, the grant funding allowed for under this program is a dollar-for-dollar (1:1) match in federal grant funding for all local funds that are allocated for participation in this program; and

**WHEREAS**, the South Carolina Department of Transportation will develop, contract for, and inspect all work performed under this program thereby providing even greater cost savings to the County; and

**WHEREAS**, Beaufort County Council desires to submit an application to receive grant funding under this program for the resurfacing of various federal aid qualified routes that will benefit all Beaufort County citizens; and

**WHEREAS**, Beaufort County staff will coordinate with the various municipal engineering staffs involved to program eligible roads to the maximum extent possible; and

**WHEREAS**, County staff proposes that the local participating funds for this program come from those monies collected under Beaufort County's Road Use Fee in the amount of approximately \$1,200,000.00 for a total anticipated local match of \$1,200,000.00; and

**WHEREAS**, the language contained within Beaufort County's Road Use Fee, Ordinance 93/20, restricts the use of these funds for the purpose of construction, maintenance, and repairs of all County owned roads and bridges; and

**WHEREAS**, it is the intent of Beaufort County Council, by separate Ordinance, to expand the authorized use of these funds to include the construction, maintenance, and repairs of all County and State owned roads and bridges; and

**WHEREAS**, all applications for grant funding under this program must be received no later than September 14, 2012, thereby necessitating the need to take expeditious action regarding these matters; and

**WHEREAS**, if Beaufort County is approved for grant funding under this program, it will be necessary for Beaufort County Council to confirm the amount of local funds that will be approved for this project and the corresponding sources of said funds upon being notified of any such award.

**NOW, THEREFORE**, be it **RESOLVED** by Beaufort County Council that County staff are hereby authorized to prepare and submit an application to the South Carolina Department of Transportation for participation and receipt of grant funding under the FY2013 Federal Match program on such terms and conditions outlined above.

**DONE** this \_\_\_\_ day of September, 2012.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

\_\_\_\_\_  
Joshua A. Gruber, Staff Attorney

ATTEST:

\_\_\_\_\_  
Suzanne M. Rainey, Clerk to Council

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO AMEND BEAUFORT COUNTY ORDINANCE 93/20 SO AS TO EXPAND THE PERMISSIBLE EXPENDITURES OF FUNDS COLLECTED UNDER SAID ORDINANCE**

**WHEREAS**, in 1993 Beaufort County adopted Ordinance 93/20 imposing a Road Use Fee of Ten and No/100 (\$10.00) Dollars per annum on all motorized licensed vehicles subject to the tax within Beaufort County; and

**WHEREAS**, Beaufort County Ordinance 93/20 limited the expenditure of the funds collected under this Ordinance to utilized for the purchase, condemnation, construction, ownership, maintenance, and repairs of all County owned roads and bridges; and

**WHEREAS**, in order to maximize potential federal match grant funding, it is necessary to amend Beaufort County Ordinance 93/20 so as to expand the permissible expenditures of funds for both County and State of South Carolina owned roads.

**NOW, THEREFORE**, be it **ORDAINED** by Beaufort County Council that Beaufort County Ordinance 93/20 is hereby amended to read as follows:

Section 1. Road Use Fee: There is hereby established a road use fee on all motorized licensed vehicles required by the State of South Carolina to be licensed, which are carried on the tax records of Beaufort County; such vehicles shall be subject to and pay, in addition to any other licensing fees, and taxes, the sum of Ten and No/100 (\$10.00) Dollars per vehicle per annum.

Section 2. Assessment: The Auditor is hereby directed to add a Ten and No/100 (\$10.00) Dollar uniform charge per vehicle, per annum to all motorized licensed vehicles subject to the taxes in the County beginning with tax notices which become due currently and each month thereafter. The Ten and No/100 (\$10.00) Dollar charge so added shall become due and payable at the time other personal property taxes become due and payable.

Section 3. Collection: The Treasurer for Beaufort County is directed to collect the above charges at the time of collection of all other charges and taxes due on such vehicles.

Section 4. Purpose and Use of Funds Collected: The funds collected under the terms and conditions of this ordinance as above described shall be deposited in the General Fund of Beaufort County and shall be utilized for the purchase, condemnation, construction, ownership, maintenance, and repairs of all County and State owned roads and bridges.

Section 5. Severability: If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

DONE this \_\_\_\_ day of October, 2012.

COUNTY COUNCIL OF BEAUFORT COUNTY

BY: \_\_\_\_\_  
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

\_\_\_\_\_  
Joshua A. Gruber, Staff Attorney

ATTEST:

\_\_\_\_\_  
Suzanne M. Rainey, Clerk to Council

First Reading:

Second Reading:

Public Hearing:

Third and Final Reading:

ORDINANCE NO. 2012/\_\_\_

AUTHORIZING THE ISSUANCE AND SALE OF NOT EXCEEDING \$5,000,000 OF GENERAL OBLIGATION BOND ANTICIPATION NOTES TO PROVIDE FUNDS FOR COURTHOUSE RENOVATIONS, CORONER'S OFFICE RENOVATIONS AND MYRTLE PARK COUNTY ADMINISTRATION BUILDING RENOVATIONS; FIXING THE FORM AND DETAILS OF THE NOTES; AUTHORIZING THE COUNTY ADMINISTRATOR TO DETERMINE CERTAIN MATTERS RELATING TO THE NOTES; PROVIDING FOR THE PAYMENT OF THE NOTES AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND OTHER MATTERS RELATING THERETO.

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

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

(a) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (the "Constitution"), provides that counties may incur general obligation bonded indebtedness upon such terms and conditions as the General Assembly may prescribe by general law subject to the following limitations: (i) such debt must be incurred only for a purpose which is a public purpose and a corporate purpose for a county and (ii) unless excepted from the bonded debt limit, such debt may be issued in an amount not exceeding eight percent of the assessed value of all taxable property of such county.

(b) Pursuant to Chapter 15, Title 4, Code of Laws of South Carolina 1976, as amended (the same being and hereinafter referred to as the "County Bond Act"), the governing body of any of the counties of the State may issue general obligation bonds for any authorized purpose and in any amount not exceeding such county's applicable constitutional debt limit.

(c) The County Bond Act provides that as a condition precedent to the issuance of bonds an election be held and result favorably thereto. Chapter 27, Title 11, Code of Laws of South Carolina 1976, as amended (the "Article X Enabling Act") provides that if an election be prescribed by the provisions of the County Bond Act, but is not required by the provisions of Article X, then in every such instance, no election need be held (notwithstanding the requirement therefor) and the remaining provisions of the County Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.

(d) The assessed value of all the taxable property in the County as of June 30, 2012, is \$1,799,829,659. Eight percent of the assessed value is \$143,985,973. As of the date hereof, the outstanding general obligation debt of the County subject to the limitation imposed by Article X, Section 14(7) of the Constitution is not more than \$80,253,597. Thus, the County may incur not exceeding \$63,732,376 of additional general obligation debt within its applicable debt limitation.

(e) Article X, Section 15 of the Constitution further provides that general obligation bond anticipation notes may be issued in anticipation of the proceeds of general obligation bonds which may lawfully be issued under such terms and conditions that the General Assembly may prescribe by law.

(f) Pursuant to the provisions of Title 11, Chapter 17 of the Code of Laws of South Carolina, 1976, as amended (Title 11, Chapter 17), any county, whenever authorized by general or special law to issue bonds, may, pending the sale and issuance thereof, borrow in anticipation of the receipt of the proceeds of the bonds. Such provisions also provide that if any approval be necessary prior to the issuance of bonds by the county, the county must obtain the same approval prior to the issuance of temporary financing provided therein.

(g) Pursuant to Ordinance No. 2012/10 enacted on August 13, 2012, the County adopted Written Procedures Related to Tax-Exempt Debt.

(h) The County Council finds that pending the issuance and sale of general obligation bonds it is necessary and in the best interest of the County to provide for the issuance and sale of general obligation bond anticipation notes of the County pursuant to the provisions of the Constitution and laws of the State of South Carolina for the purposes of providing funds: (i) defray the cost of renovations to the Courthouse, renovations to the Coroner's Office, and renovations to the Myrtle Park County Administration Building; and (ii) to pay the costs of issuance of the Notes.

SECTION 2. Authorization and Details of Bonds. Pursuant to the provisions of the Constitution and laws of the State of South Carolina, there is hereby authorized to be issued general obligation bonds of the County in an amount sufficient to pay the principal and interest on the Notes (hereinafter defined) together with additional amounts authorized for other capital projects. The bonds authorized hereunder shall be identified as "General Obligation Bonds of Beaufort County, South Carolina" (the "Bonds"). In order to reduce issuance costs, the Bonds may be issued as part of another issue of bonds comprising the Bonds and separately authorized bonds. The Bonds may be designated with such further series description and designation as shall be determined by the County Administrator of the County prior to any sale. The Bonds may be issued in one or more series and may be sold in conjunction with any other bonds heretofore or hereafter authorized.

SECTION 3. Authorization and Details of Notes. Pursuant to the provisions of the Constitution and laws of the State of South Carolina, there is hereby authorized to be issued general obligation bond anticipation notes of the County for the purposes set forth in Section 1(h) above in an aggregate amount not exceeding \$5,000,000. The notes authorized hereunder shall be identified as "General Obligation Bond Anticipation Notes of Beaufort County, South Carolina" (the "Notes").

The Notes will initially be issued under the DTC Book-Entry-Only System in the form of a single fully registered note, registered in the name of Cede & Co. as the registered owner and nominee of The Depository Trust Company, New York, New York, which will act as securities depository for the Notes. The Notes shall be dated as of the first day of the month in which the Notes are delivered to the initial purchaser(s) thereof or such other date as shall be selected by the County Administrator; shall be in denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of the Notes; shall be numbered from R-1 with an appropriate series designation, if any; shall bear interest from their date as may be accepted by the County Administrator at the time of the sale thereof; and shall mature in annual installments as determined by the County Administrator.

Both the principal of and interest on the Notes shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts.

SECTION 4. Delegation of Authority to the County Administrator. The County Council hereby expressly delegates to the County Administrator the authority, with respect to the Notes, to determine (a) the principal amount, the date of sale, and the maturity date of the Notes; (b) the redemption

provisions, if any, for the Notes; (c) the Registrar/Paying agent for the Notes; (d) whether to publish notice of the adoption of this ordinance under the provisions of Section 11-27-40(8), Code of Laws of South Carolina, 1976, as amended; and (e) such other matters regarding the Notes as are necessary or appropriate. The County Administrator is further directed to consult with the County's financial advisor and bond counsel in making any such decisions.

The County Administrator is hereby authorized and directed to conduct the sale of the Notes pursuant to the provisions of Section 13 hereof. The County Council hereby expressly delegates to the County Administrator the authority to award the sale of the Notes in accordance with a notice of sale referenced in Section 13, provided that the net interest cost of the Notes shall not exceed 3% unless authorized by a separate resolution of the County Council.

SECTION 5. Registrar/Paying Agent. Both the principal of and interest on the Notes shall be payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts. Within twenty-four hours of the sales of the Notes, the County shall appoint a Registrar/Paying Agent therefor.

SECTION 6. Registration and Transfer. The County shall cause books (herein referred to as the "registry books") to be kept at the offices of the Registrar/Paying Agent, for the registration and transfer of the Notes. Upon presentation at its office for such purpose, the Registrar/Paying Agent shall register or transfer, or cause to be registered or transferred, on such registry books, the Notes under such reasonable regulations as the Registrar/Paying Agent may prescribe.

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

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

SECTION 7. Record Date. The County hereby establishes a record date for the payment of interest or for the giving of notice of any proposed redemption of Notes, and such record date shall be the 15th day of the calendar month next preceding an interest payment date on such Notes or, in the case of any proposed redemption of Notes, such record date shall not be more than 15 days prior to the mailing of notice of redemption of Notes.

SECTION 8. Lost, Stolen, Destroyed, or Defaced Notes. In case the Notes shall at any time become mutilated, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the owner, the County shall execute and the Registrar/Paying Agent shall authenticate and deliver at the principal office of the Registrar/Paying Agent, or send by registered mail to the owner thereof at his request, risk and expense, a new Note of the same interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Note, or in lieu of or in substitution for such lost, stolen or destroyed Note. In any such event the applicant for the issuance of a substitute Note shall furnish the County and the Registrar/Paying Agent evidence or proof satisfactory to the County and the Registrar/Paying Agent of the loss, destruction, mutilation, defacement or theft of the original Note, and of the ownership thereof, and also such security and indemnity in such amount as may be required by the laws of the State of South Carolina or such greater amount as may be required by the County and the Registrar/Paying Agent. Any duplicate Note issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Note or in substitution for any allegedly lost, stolen or wholly destroyed Note shall be entitled to the identical benefits under this Ordinance as was the original Note in lieu of which such duplicate Note.

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

SECTION 9. Book-Entry-Only System. The Notes initially issued (the "Initial Notes") will be eligible securities for the purposes of the book-entry system of transfer maintained by The Depository Trust Company, New York, New York ("DTC"), and transfers of beneficial ownership of the Initial Notes shall be made only through DTC and its participants in accordance with rules specified by DTC. Such beneficial ownership must be of \$5,000 principal amount of Notes of the same maturity or any integral multiple of \$5,000.

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

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

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

If the County is unable to retain a qualified successor to DTC or the County has determined that it is in its best interest not to continue the book-entry system of transfer or that interests of the beneficial owners of the Notes might be adversely affected if the book-entry system of transfer is continued (the County undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify beneficial owners of the Notes by mailing an appropriate notice to DTC, upon receipt by the County the Initial Notes

together with an assignment duly executed by DTC, the County shall execute, authenticate and deliver to the DTC participants Notes in fully-registered form, in substantially the form set forth in Section 8 of this Ordinance in the denomination of \$5,000 or any integral multiple thereof.

Notwithstanding the foregoing, at the request of the purchaser, the Notes will be issued as one single fully-registered bond and not issued through the book-entry system.

SECTION 10. Execution of Notes. The Notes shall be executed in the name of the County with the manual or facsimile signature of the Chair attested by the manual or facsimile signature of the Clerk to County Council under a facsimile of the seal of the County which shall be impressed, imprinted or reproduced thereon. The Notes shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. The Notes shall bear a certificate of authentication manually executed by the Registrar/Paying Agent in substantially the form attached hereto as Exhibit B.

SECTION 11. Form of Notes. The Notes shall be in substantially the form attached hereto as Exhibit B.

SECTION 12. Security for Notes. For the payment of the principal of and interest, if necessary, on the Notes as they respectively mature there are hereby pledged the proceeds of the Notes and the full faith, credit and taxing power of the County. The County at its option may also utilize any other funds available therefor for the payment of the principal of and interest on the Notes.

SECTION 13. Exemption from Taxation. Both the principal of and interest on the Notes shall be exempt, in accordance with the provisions of Section 12-2-50, Code of Laws of South Carolina, 1976, as amended, from all State, county, municipal, County and all other taxes or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate and transfer taxes, but the interest thereon may be includable in certain franchise fees or taxes.

SECTION 14. Sale of Notes, Form of Notice of Sale. The Notes shall be sold at public sale. A summary Notice of Sale shall be published not less than seven days prior to the date fixed for sale, in a newspaper having general circulation in the State of South Carolina and, if deemed appropriate by the County Administrator, in a financial publication published in the City of New York, State of New York. The official Notice of Sale shall be distributed simultaneously with the distribution of the Preliminary Official Statement, if any, prepared in connection with the Notes, and shall be in the form attached hereto as Exhibit C, with such modifications as may be determined to be necessary by the financial advisor, if any, and bond counsel. The County Administrator may determine to establish a fixed date of sale in the notice or provide for the subsequent dissemination in electronic form of the date selected for such sale, in which event such subsequent notice shall be provided not less than 48 hours prior to the time and date fixed for sale. In the event a fixed date of sale is provided in the notice, such date may be modified by a subsequent notice in electronic form not less than 48 hours prior to the date fixed for the rescheduled sale.

SECTION 15. Deposit and Use of Proceeds. The proceeds derived from the sale of the Notes are to be used for the purposes set forth in Section 1(h) above, and shall be applied by the County solely to the purposes for which the Notes have been issued, except that the premium, if any, shall be placed in a sinking fund.

SECTION 16. Preliminary and Final Official Statement, if any. The County Council hereby authorizes and directs the County Administrator to prepare, or cause to be prepared, a Preliminary Official Statement to be distributed to prospective purchasers of the Notes together with the Notice of Sale of the Notes. The County Council authorizes the County Administrator to designate the Preliminary Official Statement as "near final" for purposes of Rule 15c2-12 of the Securities Exchange Commission. The County Administrator is further authorized to see to the completion of the final form of the Official Statement upon the sale of the Notes so that it may be provided to the purchaser of the Notes.

SECTION 17. Defeasance. The obligations of the County under this Ordinance and the pledges, covenants and agreements of the County herein made or provided for, shall be fully discharged and satisfied as to any portion of the Notes, and such Bond or Notes shall no longer be deemed to be outstanding hereunder when:

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

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

'Government Obligations' shall mean any of the following:

- (a) direct obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which, in the opinion of the Attorney General of the United States, is fully and unconditionally guaranteed by the United States of America;
- (b) non-callable, U. S. Treasury Securities - State and Local Government Series ("SLGS");
- (c) general obligation bonds of the State, its institutions, agencies, school districts and political subdivisions; and
- (d) a defeasance obligation as defined in Section 6-5-10 of the S.C. Code as such as may be amended from time to time.

(c) Such Note or Notes shall be defeased as provided in Section 11-14-110 of the S.C. Code as such may be amended from time to time.

SECTION 18. Tax Covenants. The County hereby covenants and agrees with the holders of the Notes that it will not take any action which will, or fail to take any action which failure will, cause interest on the Notes to become includable in the gross income of the holders of the Notes for

federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Notes. The County further covenants and agrees with the holders of the Notes that no use of the proceeds of the Notes shall be made which, if such use had been reasonably expected on the date of issue of the Notes would have caused the Notes to be “arbitrage bonds,” as defined in Section 148 of the Code, and to that end the County hereby shall:

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

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

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

SECTION 19. Notice of Public Hearing. The County Council hereby ratifies and approves the publication of a notice of public hearing regarding the Note and this Ordinance, such notice in substantially the form attached hereto as Exhibit D, having been published in The Island Packet and The Beaufort Gazette, newspapers of general circulation in the County, not less than 15 days prior to the date of such public hearing.

SECTION 20. Notice. Pursuant to Section 11-27-40, Paragraph 8, of the Code of Laws of South Carolina, 1976. In order that the Council may proceed as soon as possible to issue and deliver the Notes, the County Administrator may determine that the County avail itself of the provisions of paragraph 8 of Section 11-27-40, Code of Laws of South Carolina, 1976, as amended. If such determination is made, the notice prescribed thereby shall be provided in substantially the form attached hereto as Exhibit E.

SECTION 21. Engagement of Bond Counsel. The County Council hereby engages McNair Law Firm, P.A., as bond counsel in connection with the issuance of the Notes. The County Administrator is further authorized to execute such contract, document or engagement letter as may be necessary and appropriate to effectuate the engagement. In addition, the County Administrator is authorized to contract with other professionals, including a financial advisor, he deems appropriate in order to carry out the intent of this ordinance and the issuance of the Notes.

SECTION 22. Authorization to Execute Documents. The County Council hereby authorizes the Chair and Clerk of County Council, the County Administrator and the Chief Financial Officer of the County to execute such documents and instruments as may be necessary to effect the issuance of the Notes.

SECTION 23. General Repealer. All rules, regulations, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the Notes are, to the extent of such conflict, hereby repealed and this Ordinance shall take effect and be in full force from and after its adoption.

[Signature Page to Follow]

Adopted this \_\_\_\_ day of September, 2012.

BEAUFORT COUNTY, SOUTH CAROLINA

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Chair of County Council

(SEAL)

ATTEST:

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Clerk to County Council

First Reading: August 27, 2012  
Second Reading:  
Public Hearing:  
Third and Final Reading:

## FORM OF NOTE

UNITED STATES OF AMERICA  
 STATE OF SOUTH CAROLINA  
 BEAUFORT COUNTY  
 GENERAL OBLIGATION BOND ANTIICIPATION NOTE  
 SERIES \_\_\_\_\_

No. R-

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Issue Date</u>	<u>CUSIP</u>
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REGISTERED OWNER:

PRINCIPAL AMOUNT:         DOLLARS

KNOW ALL MEN BY THESE PRESENTS that Beaufort County, South Carolina (the "County") hereby acknowledges itself indebted, and for value received promises to pay to the registered owner hereof, the principal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) at the principal office of \_\_\_\_\_, in the City of \_\_\_\_\_, State of \_\_\_\_\_ on the \_\_\_ day of \_\_\_\_\_, 2009, and to pay interest (calculated on the basis of a 360-day year of twelve 30-day months) on said principal sum from the date hereof, at the rate of \_\_\_\_\_%, payable upon the maturity of this note. This note is not subject to prepayment prior to its maturity.

Both the principal of and interest on this note are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for the payment of public and private debts.

This note represents a series of general obligation bond anticipation notes (the "Notes"), issued by the County, pursuant to the authorization of Title 11, Chapter 17, Code of Laws of South Carolina 1976, as amended, in anticipation of the receipt of the proceeds to be derived from the general obligation bonds of the County to be issued pursuant to and in accordance with the provisions of the Constitution and Laws of the State of South Carolina including Article X, Section 15 of the Constitution of the State of South Carolina, 1895, as amended; Title 11, Chapter 27, Code of Laws of South Carolina, 1976, as amended; Title 59, Chapter 71, Code of Laws of South Carolina, 1976, as amended, and an ordinance duly enacted by the Beaufort County Council on \_\_\_\_\_, 2012 (the "Ordinance"). The full faith, credit and taxing power of the County and the proceeds to be derived from the sale of bonds are pledged for the payment of the principal of and interest on the Notes.

The Notes are being issued by means of a book-entry system with no physical distribution of certificates to be made except as provided in the Ordinance. One certificate registered in the name of the Securities Depository Nominee is being issued and is required to be deposited with the Securities Depository. The book-entry system will evidence positions held in the Notes by the Securities

Depository's participants, beneficial ownership of the Notes in the principal amount of \$5,000 or any multiple thereof being evidenced in the records of such Participants. Transfers of ownership shall be effected on the records of the Securities Depository on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its Participants.

\_\_\_\_\_ as Registrar/Paying Agent will recognize the Securities Depository Nominee, while the registered owner of the Notes, as the owner of the Notes for all purposes, including payments of principal of and redemption premium, if any, and interest on the Notes, notices and voting. Transfer of principal and interest payments to Participants of the Securities Depository will be the responsibility of the Securities Depository, and transfer of principal, redemption premium, if any, and interest payments to beneficial owners of the Notes by Participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The County and Registrar/Paying Agent will not be responsible or liable for such transfers of payment or for maintaining, supervision or reviewing the records maintained by the Securities Depository, the Securities Depository Nominee, its Participants or persons acting through such Participants. While the Securities Depository Nominee is the owner of the Notes, notwithstanding the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on the Notes shall be made in accordance with existing arrangements between the Registrar/Paying Agent or its successors under the Resolution and the Securities Depository.

This note and the interest hereon are exempt from all State, county, municipal, County, and all other taxes or assessments of the State of South Carolina, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate and transfer taxes but the interest on this note may be included for certain franchise fees or taxes.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions and things required by the Constitution and Laws of the State of South Carolina to exist, to happen, or to be performed precedent to or in the issuance of this note, do exist, have happened, and have been performed in regular and due time, form and manner, and the amount of this note, and the issue of which this note is one, does not exceed any constitutional or statutory limitation.

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

BEAUFORT COUNTY, SOUTH CAROLINA

(SEAL)

\_\_\_\_\_  
Chair, County Council

ATTEST:

\_\_\_\_\_  
Clerk to County Council

[FORM OF REGISTRAR/PAYING AGENTS CERTIFICATE OF AUTHENTICATION]

Date of Authentication:

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

[REGISTRAR/PAYING AGENT] as Registrar/Paying Agent

By: \_\_\_\_\_  
Authorized Officer

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

TEN COM - as tenants in common

UNIF GIFT MIN ACT -

TEN ENT - as tenants by the entireties

\_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

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

under Uniform Gifts to Minors Act \_\_\_\_\_  
(state)

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

(FORM OF ASSIGNMENT)

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

\_\_\_\_\_  
(Name and Address of Transferee)

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature Guaranteed

\_\_\_\_\_  
(Authorized Officer)

\_\_\_\_\_  
Signature must be guaranteed by a participant in the Securities Transfer Agent Medallions Program (STAMP)

\_\_\_\_\_  
Notice: The signature to the assignment must correspond with the name of the registered owner as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatever

FORM OF NOTICE OF SALE

NOTICE OF SALE

\$ \_\_\_\_\_ GENERAL OBLIGATION BOND ANTICIPATION NOTES, SERIES \_\_\_\_\_  
OF BEAUFORT COUNTY, SOUTH CAROLINA

Sealed, facsimile and electronic bids for the purchase of all but not part of the above notes (the "Notes") will be received by Beaufort County, South Carolina (the "County"), in the case of sealed and facsimile bids, at the offices of the County Administrator, \_\_\_\_\_, Beaufort, South Carolina, and in the case of electronic bids, via PARITY (as explained below) until \_\_\_\_\_ (Eastern Time) on \_\_\_\_\_, \_\_\_\_\_, 2012.

**BID SUBMISSION:** Sealed and facsimile bids must be submitted on bid forms furnished by the County. Sealed bids shall be enclosed in a sealed envelope marked on the outside "Proposal for the Purchase of the County of Beaufort County, South Carolina, \$ \_\_\_\_\_ General Obligation Bond Anticipation Notes, Series \_\_\_\_\_." Bids submitted by facsimile should be preceded by a cover sheet addressed to the Superintendent and should be sent only once to (843) \_\_\_\_\_. Electronic proposals must be submitted through i-Deal's Parity Electronic Bid Submission System ("Parity"). No electronic bids from any other providers of electronic bidding services will be accepted. Information about the electronic bidding services of Parity may be obtained from i-Deal, 1359 Broadway, 2<sup>nd</sup> Floor, New York, New York 10018, Customer Support, telephone (212) 404-8102. The County, McNair Law Firm, P.A. and Ross, Sinclair & Associates, LLC shall not be responsible for any failure, misdirection or error in the means of transmission selected by any bidder.

**GOOD FAITH DEPOSIT:** No good faith deposit will be required.

**NOTE DETAILS:** The Notes will be issued in book-entry form in the denomination of \$5,000 or any integral multiple thereof. The Notes will be dated as of \_\_\_\_\_, 2012, the expected date of delivery, and due on \_\_\_\_\_, 2009. Interest, calculated on the basis of a 360-day year of twelve 30-day months, will be payable at maturity on \_\_\_\_\_, 2009.

**REDEMPTION PROVISIONS:** The Notes are not subject to optional redemption prior to maturity.

**RATINGS:** Moody's and S&P ratings have been applied for.

**INTEREST RATES:** Bidders must specify the fixed rate of interest the Notes shall bear according to the following restrictions: (a) the interest rate may not exceed six percent (6%) and (b) the interest rate specified must be a multiple of 1/100th of one percent.

**REGISTRAR/PAYING AGENT:** Within twenty-four hours of the sale of the Notes, the County will designate a registrar/paying agent (the "Registrar/Paying Agent") for the Notes.

**BASIS OF AWARD:** The Notes will be awarded to the responsive bidder whose bid results in the lowest NET INTEREST COST (the "NIC") to the County. The NIC will be calculated as the total interest from \_\_\_\_\_, 2012 to \_\_\_\_\_, 2009, minus any premium. If two or more bids provide for the same lowest NIC, the County shall award the bid to the bidder whose bid is in the best interest of the County to be determined by the County in its sole discretion, and such determination shall be final. Any bid for less than par will be rejected. The County reserves the right to reject any and all bids and to waive informalities in any or all bids.

In order to calculate the yield on the Notes for federal tax law purposes and as a condition precedent to the award of the Notes, the successful bidder will be required to disclose to the County the price (or yield to maturity) at which the Notes will be reoffered to the public.

The Notes will be awarded or all bids will be rejected by no later than 2:00 P.M. (Eastern Time) on the day bids are opened, \_\_\_\_\_, 2012.

**SECURITY:** The full faith, credit and taxing power of the County and the proceeds derived from the sale of bonds are pledged to the payment of the principal of and interest on the Notes.

**AUTHORIZATION:** The Notes are being issued pursuant to Article X, Section 15 of the Constitution of the State of South Carolina, Title 11, Chapter 17, Code of Laws of South Carolina, 1976, as amended, the favorable results of a referendum, and a resolution duly adopted by the County Council of the County on \_\_\_\_\_, 2012.

**INTEREST AND PRINCIPAL PAYMENTS:** Payment of principal of and interest on the Notes will be made directly by the Registrar/Paying Agent to Cede & Co., as the registered owner of the Notes and nominee for The Depository Trust Company ("DTC"), on \_\_\_\_\_, 2012, in immediately available funds.

**CUSIP NUMBERS:** It is anticipated that CUSIP numbers will be printed on the Notes, but neither the failure to print such numbers on the Notes nor any error with respect thereto shall constitute cause for failure or refusal by the successful bidder to accept delivery of and pay for the Notes.

**DELIVERY AND PAYMENT:** Delivery of the properly executed Notes is expected to be made through DTC on or about \_\_\_\_\_, 2012. Payment for the Notes shall be made in immediately available funds.

**OFFICIAL STATEMENT:** The Preliminary Official Statement, dated \_\_\_\_\_, 2012, has been deemed final by the County for purposes of paragraph (b)(1) of Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") but is subject to revision, amendment and completion in a final Official Statement as provided in the Rule. Within seven (7) business days of the bid opening date, the County will deliver the final Official Statement to the successful bidder in sufficient quantity to comply with the Rule.

LEGAL OPINION AND CLOSING CERTIFICATES: The County will furnish upon delivery of the Notes: a Receipt for the Notes; a Signature and No-Litigation Certificate; a Rule 15c2-12 Certificate; a Federal Tax Certificate, and the approving opinion of McNair Law Firm, P.A., Columbia, South Carolina, as Bond Counsel, all without cost to the purchasers.

INFORMATION FROM PURCHASER: At or before delivery, the purchaser of the Notes shall provide a certificate to the County in a form acceptable to Bond Counsel stating the information necessary to enable the County to determine the issue price of the Notes as defined in Section 1273 or 1274 of the Internal Revenue Code of 1986, as amended.

ADDITIONAL INFORMATION: The Preliminary Official Statement, Official Notice of Sale and Official Bid Form of the County with respect to the Notes are available via the internet at <http://www.i-dealprospectus.com> and will be furnished to any person interested in bidding for the Notes upon request to Francenia B. Heizer, McNair Law Firm, P. A., Post Office Box 11390, Columbia, South Carolina 29211, attention: Francenia B. Heizer, Esquire, telephone (803) 799-9800, e-mail: [fheizer@mcnair.net](mailto:fheizer@mcnair.net). The Preliminary Official Statement shall be reviewed by bidders prior to submitting a bid. Bidders may not rely on this Official Notice of Sale as to the complete information concerning the Notes. For additional information, please contact the County's Bond Counsel, Francenia B. Heizer, Esquire, McNair Law Firm, P. A., Post Office Box 11390, Columbia, South Carolina 29211, telephone (803) 799-9800, e-mail: [fheizer@mcnair.net](mailto:fheizer@mcnair.net)

\_\_\_\_\_, 2012

FORM OF NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held by the County Council of Beaufort County, South Carolina (the "County"), in the \_\_\_\_\_, South Carolina, at 6:00 p.m. on Monday, \_\_\_\_\_, 2012.

The purpose of the public hearing is to consider an Ordinance providing for the issuance and sale of General Obligation Bond Anticipation Notes of Beaufort County, South Carolina, in the principal amount of not exceeding \$5,000,000 (the "Notes"). The proceeds of the Notes will be used for the purposes of providing funds (i) to defray the costs of renovations to the Courthouse, renovations to the Coroner's Office, and renovations to the Myrtle Park County Administration Building; and (ii) to pay the costs of issuance of the Notes.

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

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

COUNTY COUNCIL OF BEAUFORT COUNTY,  
SOUTH CAROLINA

FORM OF NOTICE OF ADOPTION OF AN ORDINANCE

NOTICE OF ADOPTION OF AN ORDINANCE

Notice is hereby given that on \_\_\_\_\_, 2012, the Beaufort County Council adopted an ordinance entitled: "ORDINANCE NO. \_\_\_\_\_" (the "Ordinance").

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

By order of the Beaufort County Council, \_\_\_\_\_, 2012.

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Chair, Beaufort County Council

**Committee Reports  
September 10, 2012**

**A. COMMITTEES REPORTING**

**1. Governmental**

① Minutes from the September 4 meeting provided September 24. No action is required.

**2. Natural Resources**

① Minutes from the September 4 meeting provided September 24. Action is required. See main agenda item 8D and 8E.

**3. Public Facilities**

① Minutes are provided from the August 28 meeting. Action is required. See main agenda item 8A, 8B, and 8C. (backup)

② Airports Board Charter - Consideration of second reading approval to occur September 10, 2012 (backup)

③ Seabrook Point Special Purpose Tax District

<i>Nominate</i>	<i>Name</i>	<i>Position / Area / Expertise</i>	<i>Reappoint / Appoint</i>	<i>Votes Required</i>
09.10.12	Keith Dawkins	Seabrook Point	Appoint	6/11

**B. COMMITTEE MEETINGS**

**1. Community Services**

*William McBride, Chairman*

*Gerald Dawson, Vice Chairman*

➔ Next Meeting – Monday, October 15 at 4:00 p.m., BIV#2

**2. Executive**

*Weston Newton, Chairman*

➔ Next Meeting - To be announced.

**3. Finance**

*Stu Rodman, Chairman*

*Rick Caporale, Vice Chairman*

➔ Next Meeting – Monday, September 17 at 2:00 p.m., BIV#2

**4. Governmental**

*Jerry Stewart, Chairman*

*Laura Von Harten, Vice Chairman*

➔ Next Meeting – Monday, October 1 at 4:00 p.m., ECR

**5. Natural Resources**

*Paul Sommerville, Chairman*

*Brian Flewelling, Vice Chairman*

➔ Next Meeting – Monday, October 1 at 2:00 p.m., ECR

**6. Public Facilities**

*Herbert Glaze, Chairman*

*Steven Baer, Vice Chairman*

➔ Next Meeting – Tuesday, September 25 at 4:00 p.m., ECR

**7. Transportation Advisory Group**

*Weston Newton, Chairman*

*Stu Rodman, Vice Chairman*

➔ Next Meeting – To be announced.

## **PUBLIC FACILITIES COMMITTEE**

**August 28, 2012**

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

The Public Facilities Committee met on Tuesday, August 28, 2012 at 4:00 p.m., in the Executive Conference Room of the Administration Building, 100 Ribaut Road, Beaufort, South Carolina.

### **ATTENDANCE**

Public Facilities Chairman Herbert Glaze, Vice Chairman Steve Baer, and members Gerald Dawson, Brian Flewelling, William McBride, and Jerry Stewart were present. Non-committee member Paul Sommerville was also present.

County staff: Rob McFee, Division Director–Engineering and Infrastructure; Bob Klink, County Engineer; Joshua Gruber, County Attorney; Eric Klatt, Right-of-Way Manager; and David Coleman, Capital Improvement Projects Manager.

Public: Jeff Buckalew, Town of Hilton Head Island Engineer; Arthur O’Kelly, REA Contracting Construction Superintendent; and Steve Andrews, Andrews Engineering.

Media: Joe Crowley, Hilton Head Island-Bluffton Chamber of Commerce.

Mr. Glaze chaired the meeting.

### **ACTION ITEMS**

#### **1. Consideration of Contract Award / MC Riley Complex Multipurpose Field Lighting, Bluffton**

**Notification:** To view video of full discussion of this meeting please visit [http://beaufort.granicus.com/ViewPublisher.php?view\\_id=2](http://beaufort.granicus.com/ViewPublisher.php?view_id=2)

**Discussion:** On March 26, 2012, County Council approved the MC Riley Complex Multipurpose Field Lighting project with a budget of \$175,000 from Bluffton PALS Impact Fees. On August 21, 2012, Beaufort County received bids for the installation of the MC Riley Complex Multipurpose Field Lighting from the following companies:

<u>Contractors</u>	<u>Total Bid</u>
West Electrical Contractors, Newberry, SC	\$184,630
Quality Electrical Systems, Inc., Beaufort, SC	\$208,950
Engineers Estimate	\$175,000

West Electrical Contractors submitted the lowest qualified/responsible bid of \$184,630. They will be self-performing all work, and are in compliance with the County's SMBE Ordinance. There is no apparent cause for rejecting their bid.

**Motion:** It was moved by Mr. McBride, seconded by Mr. Stewart, that Public Facilities Committee approve and recommend to Council an increase of \$9,630 to the approved project budget for a total of \$184,630 and award a contract to West Electrical Contractors, Newberry, South Carolina for construction of the MC Riley Complex Multipurpose Field lighting. Funding is from Bluffton Parks and Leisure Services Impact Fees, Account #09030-54450. The vote was: YEAS - Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, and Mr. Stewart. The motion passed.

**Recommendation:** Council approve an increase of \$9,630 to the approved project budget for a total of \$184,630 and award a contract to West Electrical Contractors, Newberry, South Carolina for construction of the MC Riley Complex Multipurpose Field lighting. Funding is from Bluffton Parks and Leisure Services Impact Fees, Account #09030-54450.

## **2. Update of Policy Statement 15 – Working on Private Property**

**Notification:** To view video of full discussion of this meeting please visit [http://beaufort.granicus.com/ViewPublisher.php?view\\_id=2](http://beaufort.granicus.com/ViewPublisher.php?view_id=2)

**Discussion:** Upon the request of the property owners under Policy Statement 15, for the preservation of health safety and general welfare, public forces perform emergency repair work on private property. Our present policy statement providing staff guidance on this issue is unwieldy in practice as it attempts to establish policy for emergency work as well as road acceptance into the county system.

Mr. Rob McFee, Division Director–Engineering and Infrastructure presented the committee a proposed update of this policy for consideration.

**Motion:** It was moved by Mr. Flewelling, seconded by Mr. Dawson, that Public Facilities Committee approve the text amendments to Policy Statement 15, Working on Private Property. The vote was: YEAS - Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, and Mr. Stewart. The motion passed.

**Recommendation:** Council approve the text amendments to Statement 15, Working on Private Property.

## **3. Lease of Suites B, C, D, E, F, G, I, J and K of 58 Shelter Cove Lane by and between the Town of Hilton Head Island and Beaufort County and the Beaufort County Sheriff's Office**

**Notification:** To view video of full discussion of this meeting please visit [http://beaufort.granicus.com/ViewPublisher.php?view\\_id=2](http://beaufort.granicus.com/ViewPublisher.php?view_id=2)

**Discussion:** Mr. Joshua Gruber, County Attorney, discussed with the committee the lease of suites located at 58 Shelton Cove Lane for the Beaufort County Sheriff Department's new offices on Hilton Head Island. The new location is an upgrade with more space and the County will still be paying the same lease amount as the old location.

**Motion:** It was moved by Mr. Bear, seconded by Mr. Flewelling, that Committee approve and recommend to Council entering into the Lease of Suites B, C, D, E, F, G, I, J and K of 58 Shelter Cove Lane by and between the Town of Hilton Head Island, Beaufort County and the Beaufort County Sheriff's Office. The vote was: YEAS – Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride and Mr. Stewart. The motion passed.

**Recommendation:** Council enter into the Lease of Suites B, C, D, E, F, G, I, J and K of 58 Shelter Cove Lane by and between the Town of Hilton Head Island, Beaufort County and the Beaufort County Sheriff's Office.

#### **4. Consideration of Reappointments / Appointments**

##### **Seabrook Point Special Purpose Tax District**

**Notification:** To view video of full discussion of this meeting please visit [http://beaufort.granicus.com/ViewPublisher.php?view\\_id=2](http://beaufort.granicus.com/ViewPublisher.php?view_id=2)

**Motion:** It was moved by Mr. Dawson, seconded by Mr. McBride, that Committee approve and recommend Council nominate Mr. Keith Dawkins to serve on the Seabrook Point Special Purpose Tax District. The vote was: YEAS – Mr. Bear, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride and Mr. Stewart. The motion passed.

**Recommendation:** Council nominate Mr. Keith Dawkins to serve on the Seabrook Point Special Purpose Tax District.

### **DISCUSSION ITEMS**

#### **5. Dedication of Town of Hilton Head Island Roads to Beaufort County**

**Notification:** To view video of full discussion of this meeting please visit [http://beaufort.granicus.com/ViewPublisher.php?view\\_id=2](http://beaufort.granicus.com/ViewPublisher.php?view_id=2)

**Discussion:** Since its incorporation in 1983, the Town of Hilton Head Island (hereinafter Town) has acquired a number of private road rights-of-way. The Town's current maintenance inventory includes 49 roads totaling 11.5 miles. The rights-of-way were acquired by the Town in fee simple, the majority were from private landowners. (One was acquired from SCDOT, another from FDIC.)

Based on a staff recommendation, the Town is requesting that Beaufort County accept 31 of these roads (7.15 miles paved; 0.54 miles unpaved) for ongoing maintenance and improvements (e.g., paving).

Mr. Jeff Buckalew, Town Engineer, stated that the offer of dedication is a continuation of a past initiative where the Town has acquired or been dedicated private roads and then we have given them to Beaufort County for perpetual maintenance. Mr. Buckalew explained the Town does not have a Public Works Department or the equipment and personnel to maintain the roads.

Beaufort County's geographical information system (GIS) effective May 2012, shows that the County maintained 239.6 miles of roadway with 22.3 (9.3%) of those roadway miles on Hilton Head Island. The additional roads added will equal 7.4 miles (12%). The Town provides 52% of the County tax base.

**Motion:** It was moved by Mr. McBride, seconded by Mr. Flewelling, that Public Facilities Committee not accept these roads at this time due to the long-term costs associated and existing conditions of the roads. The vote was: YEAS - Mr. Baer, Mr. Dawson, Mr. Flewelling, Mr. Glaze, Mr. McBride, and Mr. Stewart. The motion passed.

**Status:** Public Facilities Committee did not accept these roads at this time due to the long-term costs associated and existing conditions of the roads

#### **6. New Policy Statement 17 – Policy for Acceptance of Private Road**

**Notification:** To view video of full discussion of this meeting please visit [http://beaufort.granicus.com/ViewPublisher.php?view\\_id=2](http://beaufort.granicus.com/ViewPublisher.php?view_id=2)

**Discussion:** A new proposed Policy Statement 17, Policy for Acceptance of Private Road, establishes a separate and concise procedure for accepting private roads into the County system.

**Status:** This item will be discussed at the next meeting

#### **7. Off-Agenda Item / Federal Aid Resurfacing Match Program**

**Notification:** To view video of full discussion of this meeting please visit [http://beaufort.granicus.com/ViewPublisher.php?view\\_id=2](http://beaufort.granicus.com/ViewPublisher.php?view_id=2)

**Discussion:** Mr. Rob McFee, Division Director–Engineering and Infrastructure, gave an overview of the match program set in place by SCDOT in July 2011, in which local jurisdictions would have available monies for road resurfacing of federal aid routes. SCDOT, through the Federal Highway Administration, would match the amounts dollar for dollar. They would also manage, design and inspect all projects.

Local monies available to offer from the County would be the \$10 motorized vehicle fee (TAG funds). TAG funds are used for the dirt road paving program. Projects 45 and 46 are moving slow due to the right-of-way requirements.

TAG funds currently have \$1.3 million available, with approval, to resurface federal aid routes that qualify through Act 114. State Act 114 deals with the priority ranking of roads. Mr. McFee advised the committee that the match program would be a good investment for the County.

**Status:** This item will be discussed at the next meeting.

DRAFT

2012 /

AN ORDINANCE TO AMEND THE BEAUFORT COUNTY CODE OF ORDINANCES, CHAPTER 6, AIRPORTS AND AIRCRAFT, ARTICLE II, AIRPORTS BOARD, SECTION 6-28, MEMBERSHIP; SECTION 6-29, ELECTION OF OFFICERS AND TERMS OF OFFICE; AND SECTION 6-30, POWERS AND DUTIES.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

\_\_\_\_\_  
Joshua A. Gruber, Staff Attorney

ATTEST:

\_\_\_\_\_  
Suzanne M. Rainey, Clerk to Council

First Reading: August 13, 2012

Second Reading:

Third and Final Reading:

**COUNTY COUNCIL OF BEAUFORT COUNTY  
CHARTER FOR  
AIRPORTS BOARD (BCAB)**

**SECTION 6-26 PURPOSE**

To assist the County Council of Beaufort County by providing technical, financial, business, and marketing advice that helps to ensure and promote public aviation facilities and services that are safe, economically self-sufficient, and sensitive to the needs of the community.

**SECTION 6-27 GOALS**

- (a) The operational goal of the BCAB is to ensure safe, secure airport facilities;
- (b) The administrative goal of the BCAB is to provide County Council with accurate, timely advice that has been vetted and approved at public meetings of the BCAB; and,
- (c) The financial goal of the BCAB is to operate County airports without undue subsidies from the Beaufort County General Fund.

**SECTION 6-28 MEMBERSHIP**

- (a) The BCAB will consist of 11 (eleven) members who are committed to the purpose and goals of the BCAB and who have the business and professional experience to help ensure the success and the enhancement of both Beaufort County airports;
- (b) In the appointment of candidates, Council will give due consideration to balancing BCAB membership by considering the *preferred qualifications* stated in paragraph (d) of this section, as well the geographical, racial, and gender characteristics of all BCAB candidates;
- (c) Because of the need for diverse backgrounds and professional experience for this Board, membership thereof shall be as follows:

One member nominated by the Board of the Beaufort Chamber of Commerce;

Two members who reside ~~or who own a business~~ in *close proximity* to the Beaufort County Airport;

One member who is an active pilot and aircraft owner based at the Beaufort County (Lady's Island) Airport;

One member nominated by the Town Council of the Town of Hilton Head Island;

Two members who reside ~~or who own a business~~ in *close proximity* to the Hilton Head Island Airport;

One member who is an active pilot and aircraft owner based at the Hilton Head Island Airport;

One member who is an active or recently retired commercial airline pilot, preferably with commuter-airline experience;

Two members who also meet the qualifications stated in paragraph (d) below;

(d) Given the unique nature of the BCAB, all candidates and nominees should have documented training or professional experience in areas such as those listed below:

- Accounting or Financial Management
- Airport Management or Fixed Base Operations Management
- Business Management or Business Aviation
- General Aviation, Aviation Electronics, or Aeronautical Engineering
- Engineering, Construction Management
- Federal or State Aviation Agency Experience
- Law Enforcement, Security, or the Practice of Law
- Planning, Public Relations, Marketing, or Advertising

(e) Council will make known the need of specific vacancies and request assistance from the local media in notifying citizens of qualifications for each vacancy; and,

(f) For the purposes of this Charter, “*close proximity*” is defined as any residential unit, neighborhood, or gated community within a ~~four (4)~~ **three (3)** mile radius of the center of the airport runway(s).

## **SECTION 6-29 ELECTION OF OFFICERS AND TERMS OF OFFICE**

Election of officers and committee chairpersons will be conducted annually, with elections held at the first BCAB meeting ~~of the new fiscal year; beginning July 1~~ **after April 1** of each year.

(a) Officers will be elected to one-year terms and limited to two consecutive terms;

(b) The BCAB chairperson will be elected annually, is limited to two consecutive terms, and shall rotate between members from South of the Broad and North of the Broad;

(c) Committee chairpersons will be appointed to a one-year term, with no term limits, by nomination of the BCAB chair and a confirmation vote (simple majority) of BCAB members; and,

(d) ~~Proximity members will be appointed for a term of one year;~~ **All Board members** ~~and others~~ will be appointed for a term of two-years, with reappointment subject to the requirements stated in Beaufort County Code of Ordinances, Chapter 2, Article V, Division 1, Section 2-193, Membership.

## SECTION 6-30 POWERS AND DUTIES

(a) The role of the BCAB is to provide advice and recommendations to County Council; in that role, the BCAB will have the assistance of the Airports Director in all matters pertaining to its Purpose and Goals as stated in Sections I and II of this Charter.

**(b) In addition, the BCAB Agenda will include develop and deliver to the Airports Director a summary report of its annual planning planned, annual activities on a quarterly basis; of suggested agenda items for future research and discovery;**

(c) Meet at the call of the Chairman or the Airports Director and will normally hold scheduled monthly meetings;

(d) Deliver to the Airports Director; within 45 calendar days of each meeting, a copy of approved meeting minutes that include the diversity of opinions expressed, and any BCAB recommendation(s);

(e) Promote aviation and public understanding of its economic value to the community, and serve as liaison to organizations designated by the County Administrator;

(f) Recommend aviation service and facilities goals for Beaufort County;

(g) Recommend preparing and updating Airport Master Plans and recommend to Council the adoption of completed plans and amendments;

(h) Recommend actions necessary to maintain adequate growth space, airspace clear zones and noise buffers around County airports;

(i) Monitor the financial operations and performance of the Airports with regards to significant aspects of the Profit and Loss statements, balance sheet, and capital plan, including revenues, expenses, credit, and performance relative to the annual budget;

(j) Recommend matters related to the planning and construction of new facilities;

(k) In cooperation with the Airports Director, maintain ongoing contact with the FAA, the South Carolina Aeronautics Commission and other appropriate agencies, to solicit their support in achieving County aviation goals, reporting the results of those activities ~~quarterly, as stated in paragraph (b) above;~~ **to County Council and/or its appropriate committee(s) in a manner prescribed by the County Administrator Council;**

(l) Report to County Council via the Airports Director the anticipation and results of discussions with the FAA, the state of South Carolina, the local municipalities, or other aviation authorities that could impact zoning, capacity, construction, or grants to County airports;

(m) Recommend rules and regulations for each County airport that promote operating safety, security of private equipment, and fair allocation of County aviation resources;

(n) Monitor the performance of fixed-base operators and other commercial entities operating at County Airports and advise the County Council, County Administrator, and Airports Director of required corrective action to enforce performance standards;

(o) Review and recommend rates and charges for the use of airport facilities, and review and recommend other charges to improve the airports financial operating performance within the guidelines of good business practices;

(p) Participate in the screening and selection of the Airport's Director at the discretion of the County Administrator and with the guidance of the Director of Personnel; and,

(q) At the request of the County Administrator, the BCAB will pursue other studies, recommendations or assistance as the need arises in the pursuit of quality service and facilities and may, if deemed necessary by the BCAB Chair, establish ad hoc committees in this regard.

(r) This revised Charter will take effect ~~as soon as practical but not later than March 31, 2009 2012.~~ **upon approval by a vote of Beaufort County Council.**

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

COUNTY COUNCIL OF BEAUFORT COUNTY

By: \_\_\_\_\_  
Wm. Weston J. Newton, Chairman

APPROVED AS TO FORM:

\_\_\_\_\_  
Joshua A. Gruber, Staff Attorney

ATTEST:

\_\_\_\_\_  
Suzanne M. Rainey, Clerk to Council

First Reading: August 13, 2012

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