

*Amended*

BYLAWS OF BEAUFORT COUNTY ECONOMIC DEVELOPMENT CORPORATION

(a South Carolina nonprofit corporation)

Adopted Effective as of February 19, 2018

## **ARTICLE I**

### **NAME**

The name of this corporation is Beaufort County Economic Development Corporation (hereinafter referred to as the "Corporation").

## **ARTICLE II**

### **OFFICES**

The registered and principal offices of the Corporation shall be in the County of Beaufort, State of South Carolina. The Corporation may have such other offices, within or without the State of South Carolina, as the Board may designate and as the activities of the Corporation may require from time to time.

## **ARTICLE III**

### **GENERAL**

**Section 3.1 Organization:** The Corporation is a nonprofit corporation (i) established and operating in accordance with the provisions of Sections 501(c)(3) and 509(a)(1), (2) or (3) of the Internal Revenue Code of 1986, as amended (or the corresponding provisions of any future United States internal revenue law) ("IRC") and the Treasury Regulations thereunder and (ii) incorporated under the South Carolina Nonprofit Corporation Act of 1994 (Chapter 31, Title 33, Code of Laws of South Carolina 1976, as amended (the "Nonprofit Act")).

**Section 3.2 Fiscal Year:** The Corporation shall operate on a fiscal year basis, beginning July 1 and ending June 30. The Corporation's period of duration shall be perpetual unless terminated in accordance with Article XIV of these Bylaws.

**Section 3.3 Captions:** The headings, titles, and captions of the Articles and Sections of these Bylaws are inserted only to facilitate reference. They shall not define, limit, extend, or describe the scope or intent of these Bylaws or any provision hereof, and they shall not constitute a part hereof or affect the meaning or interpretation of these Bylaws or any part hereof.

## **ARTICLE IV PURPOSES, POWERS AND POLICIES**

**Section 4.1 General Purpose:** The Corporation is organized, and at all times shall be operated, exclusively for charitable, educational and/or scientific purposes within the meaning of IRC § 501(c)(3), and the Corporation shall have no power to engage in activities not in furtherance of such purposes. The Corporation is not a corporation organized for profit. No part of the net earnings of the Corporation shall inure to the benefit of any private shareholder or individual. No substantial part of the activities of the Corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation. The Corporation shall not participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of a candidate for public office. Notwithstanding any other provisions of these articles, the Corporation shall not carry on any activities not permitted to be carried on (i) by an organization described in IRC §§ 501(c)(3) and 509(a)(1), (2) or (3), or (ii) by an organization contributions to which are deductible under the provisions of IRC § 170(c)(2), or any other corresponding provisions of any future United States Internal Revenue Law.

**Section 4.2 Specific Purpose:** The Corporation is organized and will operate as a supporting organization exclusively for the benefit of, to perform the functions of, or to carry out the purposes of Beaufort County, South Carolina (the "County") by assisting the County in its governmental function of promoting and enhancing the economic growth and development of the County for the benefit and welfare of the citizens of the County. It is intended that the Corporation will generally lessen the burdens of County government by becoming responsible for the economic development needs of the County and work cooperatively with the County in order to carry out the aforesaid programs of economic development.

To this end, the objectives of the Corporation will further the County's overall mission to create jobs and to implement sustainable community and economic development by providing resources (i) to attract new business and industry to the area, (ii) to assist the County in business and industry retention, (iii) to assist the County in the creation and retention of jobs throughout the area, (iv) to respond to business and industry prospects and undertake related follow-up, (v) to conduct marketing and advertising of the County's qualities related to economic development, (vi) to facilitate data collection and research, (vii) to undertake prospect meetings and field trips, (viii) to engage in incentive negotiations to induce capital investment and job creation, (ix) to promote infrastructure development, (x) perform workforce development activities and (xi) to facilitate fund raising activities for the foregoing purposes.

In connection with the aforesaid purposes, the Corporation's activities may include the following: obtaining, acquiring, receiving, constructing, erecting or otherwise providing real and personal property and holding, retaining, leasing, licensing, renting, managing, investing, reinvesting, selling, or otherwise disposing of or assigning the income from and/or rights in or to real and personal property, and engaging in any and all lawful activities necessary or incident to the foregoing purposes, except as may be limited herein.

**Section 4.3 Powers:** The Corporation will have such powers as are now or may hereafter be granted to corporations under the Nonprofit Act, except as may be limited by the Corporation's Articles of Incorporation or these Bylaws.

**Section 4.4 Operating Policies, Procedures and Guidelines:** The Board may adopt, amend, or restate Operating Policies, Procedures and Guidelines from time to time in order to implement the purposes of the Corporation.

## **ARTICLE V MEMBERS**

**Section 5.1 No Statutory Members:** As provided in the Corporation's Articles of Incorporation, as the same may be amended, pursuant to S.C. Code § 33-31-603, the Corporation does not have members within the meaning of S.C. Code § 33-31-140(23).

## ARTICLE VI BOARD OF DIRECTORS

**Section 6.1 General:** The Board of Directors (the "Board" or the "Directors") of the Corporation will be the governing body of the Corporation and will be vested with the ultimate authority over the management and conduct of the business and affairs of the Corporation. The standard of care applicable to the Directors is that provided in S.C. Code §§ 33-31-830 through -834. All corporate powers shall be exercised by, and all affairs of the Corporation shall be managed under the authority and direction of, the Board.

**Section 6.2 Appointment and Terms:** The number of directors constituting the Board shall be fifteen (15). The directors shall have full voting rights and be comprised of the following:

**a) Public Sector.** There shall be five (5) directors representing the public sector. The public sector representatives shall include the following:

I. The Chairman of the Beaufort County Council will serve, or he or she will appoint a Director to serve on his or her behalf. This term will coincide with the Chairmanship term, and shall be considered a two (2) year term.

II. The four (4) major communities including the Town of Hilton Head Island, City of Beaufort, Town of Bluffton, and the Town of Port Royal will be represented by their respective lead elected official or his or her appointee. Each term will coincide with the term of the lead elected official, and shall be considered a two (2) year term.

**b) Private Sector.** There shall be seven (7) directors representing the non-governmental private sector, they shall be appointed by the County Council at the recommendation of the current directors, and serve a four (4) year term. Private sector directors will be limited to serving three (3) consecutive terms. These appointees may not hold any elected office while serving as a director and must:

I. Lead private for-profit business or industry relating to key industry sectors identified by the Corporation. These industries include but are not limited to the following:

- a) Healthcare & Biomedical Supplies
- b) Labs and Software & IT
- c) Retail
- d) Tourism
- e) Culture and Entertainment
- f) Back Office
- g) Industrial Machinery
- h) Research
- i) Light Manufacturing & Assembly
- j) Logistics & Distribution

**c) Primary, Secondary, and Higher Education.** There shall be three (3) directors with two (2) representing higher education and one (1) representing primary and secondary education, grades K-12. The higher education directors shall be the President of the Technical College of the Lowcountry and the President of the University of South Carolina Beaufort, or his/her appointee. The primary and secondary education director shall be the Superintendent of the Beaufort County School District, or his/her appointee. If any education director is an appointee of one of the Presidents or the Superintendent, such appointment is subject to the Directors' approval. These directors will serve a (4) year term.



**Section 6.3 Resignation:** Any Director may resign at any time by delivering written notice to the Chairman of the Board or the Secretary. A resignation is effective when the notice is received unless the notice specifies a later effective date. If a resignation is made effective at a later date, the vacancy may be filled before the effective date if the appointment provides that the successor does not take office until the effective date.

**Section 6.4 Removal:** A Director may be removed from office by the person or body who appointed such Director, provided that a Director may only be removed for just cause and with the concurrence of the Executive Committee (provided that any member of the Executive Committee proposed for removal may not participate in deliberations or voting by the Executive Committee concerning such matter).

**Section 6.5 Vacancies:** A vacancy occurring in the Board shall be filled in the same manner as the appointment of the Director who became disabled, deceased, resigned or was removed. A Director appointed to fill a vacancy shall hold office until the end of the unexpired term that such Director is filling (and then until such Director's successor is appointed and qualifies).

**Section 6.6 Committees:**

**a) Executive Committee.** The Executive Committee, which is a committee of the board, shall consist of the Chairman, Past Chairman, Vice-Chairman and Treasurer. The appointment of such officers by the Board shall also serve as their appointment by the Board to the Executive Committee. The Chairman shall serve as the chairperson of the Executive Committee and shall preside at all of its meetings. The Executive Committee shall have general supervision of the affairs of the Corporation between its business meetings and may exercise such power of the Board between meetings of the Board, fix the hour and place of Board meetings, make recommendations to the Board and perform such other duties as are specified in these Bylaws. The Executive Committee shall be subject to the orders of the Board and none of its acts shall conflict with action taken by the Board.

**b) Other Board Committees.** The Board may create one or more standing committees, in addition to the Executive Committee provided for in Section 6.6 a) of this Article. Such other committees of the Board shall be composed solely of individuals currently serving as duly elected Directors. Each such committee of the Board shall have (3) or more Directors, who shall be appointed by and serve at the pleasure of the Board. Further, the duties, constitution and procedures of any committee shall be prescribed by the Board. The creation of a committee of the Board and appointment of members to it must be approved by a majority of all the Directors in office when the action is taken. Any committee created and approved by the Board is considered a public body and must comply with the South Carolina Freedom of Information Act, S.C. Code §§ 30-4-10 et seq. (the "FOIA").

**c) Procedure.** The provisions of Article VII of these bylaws, which govern meetings of the Board, shall apply to committees of the Board and their members as well, except that no committee of the Board shall be required to have an annual meeting or scheduled regular meetings. To the extent specified or authorized by the Board or in these Bylaws, each committee of the Board may exercise the authority of the Board. A committee of the Board may not, however: (a) approve or recommend dissolution, merger, or the sale, pledge, or transfer of all or substantially all of the Corporation's assets; (b) elect, appoint, or remove Directors or fill vacancies on the Board or on any committee of the Board; (c) adopt, amend, or repeal the articles of incorporation or these Bylaws; or (d) otherwise act in contravention of either the Nonprofit Act § 33-31-825 or the Freedom of Information Act, S.C. Code §§ 30-40-10 et. seq. Any actions of a committee shall be reported to the Board at the next regular meeting of the Board, and must be included in the minutes of the regular Board meeting.

**Section 6.7 Accounting, Books and Records:** The Corporation shall maintain appropriate corporate and accounting records and shall have its accounts reviewed by its outside accountants at the end of each fiscal year. The Corporation's books and records shall be maintained as provided in this Section and in Section 6.9 of this Article.

- a) **Financial Reports.** The Corporation shall maintain at its principal office its financial reports as of the end of the most recent fiscal year, including at a minimum a balance sheet and a statement of operations of such year, accompanied by the report of the certifying accountant.
- b) **Corporate Records.** The Corporation shall maintain at its principal office the following written corporate records: articles of incorporation and any amendment from time to time in effect; Bylaws and any amendment from time to time in effect; minutes of all Board meetings, Committee meetings and action taken without meeting for the past three (3) years; and a current list of Directors and officers and their addresses of record; IRS Forms 990, 1023, and such additional tax information as may be required under IRC § 6104.
- c) **Minutes.** The Corporation shall maintain in writing or in a format convertible into writing the minutes of all other Board and committee meetings and actions without meeting.
- d) **Inspection Rights of Directors.** Each Director shall have the right to inspect and copy during regular business hours the corporate records and financial reports described in subparagraphs (a), (b) and (c) of this Section.

**Section 6.8 Service Without Compensation:** The Directors shall serve without compensation. Each Director may be paid per diem and mileage incidental to meetings of the Corporation, in accordance with the Operating Policies, Procedures and Guidelines of the Corporation, not to exceed standards provided by law for boards, committees, and commissions. Nothing in this Section shall prohibit the payment of reasonable compensation to an employee of the Corporation, in his or her capacity as an employee, even though such individual may also be serving as a Director.

**Section 6.9 Compliance with Freedom of Information Act and IRS Disclosure Requirements:** Business meetings of the Board and Committees of the Board shall be conducted in accordance with the South Carolina Freedom of Information Act, S.C. Code §§ 30-4-10 et seq. (the "FOIA"). Records of the Corporation shall be maintained and provided in accordance with the FOIA and IRC § 6104. The Operating Policies, Procedures and Guidelines of the Corporation shall contain such provisions, including language addressing conduct of meetings and disclosure of records, as to ensure the Corporation's compliance with the FOIA and Internal Revenue Service disclosure regulations.

**Section 6.10 Conflicts of Interest:**

- a) A conflict of interest transaction is a transaction with the Corporation in which a Director of the Corporation has a direct or indirect interest. The Executive Committee shall have the power from time to time to establish rules for the determination of whether a conflict of interest exists. A conflict of interest transaction is not voidable or the basis for imposing liability on the Director if the transaction was fair to the Corporation at the time it was entered into or is approved as provided in subsection (b).
  - a. Directors must comply with state ethics act definitions and statutes as it relates to their activity with the corporation. Where a conflict of interest exists between the by-laws and the state code, the state law will prevail.
- b) A transaction in which a Director of the Corporation has a conflict of interest may be:
  - I. authorized, approved, or ratified by the vote of the Board or a Committee of the Board if:
    - i. the material facts of the transaction and the Director's interest are disclosed or known to the Board or Committee of the Board; and
    - ii. the Directors approving the transaction in good faith reasonably believe that the transaction is fair to the Corporation; or
  - II. approved before or after it is consummated by obtaining approval of the:



- i. Attorney General; or
  - ii. the circuit court for Beaufort County in an action in which the Attorney General is joined as a party.
- c) For purposes of this section, a Director of the Corporation has an indirect interest in a transaction if:
  - i. another entity in which the Director has a material interest or in which the Director is a general partner is a party to the transaction; or
  - ii. another entity of which the Director is a director, officer, or trustee is a party to the transaction
- d) For purposes of subsection (b), a conflict of interest transaction is authorized, approved, or ratified if it receives the affirmative vote of a majority of the Directors on the Board or on the Committee who have no direct or indirect interest in the transaction, but a transaction may not be authorized, approved, or ratified under this section by a single Director. If a majority of the Directors on the Board who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum is present for the purpose of taking action under this section. The presence of, or a vote cast by, a Director with a direct or indirect interest in the transaction does not affect the validity of any action taken under subsection (b)(1) if the transaction is otherwise approved as provided in subsection (b).

**Section 6.11 Bond:** The Board may by resolution require any or all officers, agents and employees of the Corporation to give bond to the Corporation, with sufficient sureties, conditioned on the faithful performance of the duties of their respective offices or positions, and to comply with such other conditions as may from time to time be required by the Board.

## ARTICLE VII MEETINGS OF DIRECTORS

**Section 7.1 Regular Meetings:** Regular meetings of the Board shall be held periodically, at least five (5) times a year, at such date and at such time and place as the Board may fix by resolution or otherwise. All meetings of the Directors shall be subject to the Freedom of Information Act of the South Carolina Code, as amended (the "Freedom of Information Act") and shall be duly noticed in accordance therewith.

**Section 7.2 Special Meetings:** Special meetings of the Board may be called by or at the request of the Chairman or any three (3) Directors. Such meetings may be held at the time and place fixed by the person or persons calling the meeting.

**Section 7.3 Notice; Waiver of Notice of Meetings:** Regular meetings of the Board may be held without further notice to the Directors if the date, time and place of the meeting previously have been fixed by the Board; otherwise, regular meetings must be preceded by at least two (2) days' notice to each Director of the date, time and place, but not the purpose, of the meeting. Special meetings of the Board must be preceded by at least two (2) days' notice to each Director of the date, time, place and purpose of the meeting. Notice required by the foregoing provisions may be oral or written and may be communicated in person; by telephone; by facsimile transmission or other form of wire or wireless communication; or by mail or private carrier. Such notice will comply with statutory notice required by the FOIA. Oral notice is effective when communicated, if communicated in a comprehensible manner. Written notice, if in a comprehensible form, is effective at the earliest of the following: (a) when received; (b) five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed correctly addressed and with first-class postage affixed; or (c) on the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee. Written notice is correctly addressed to a Director if addressed to the Director's address shown in the Corporation's current list of Directors. Notice need not be given to any Director who waives notice by a signed writing before, during or after the meeting. Attendance of a Director at any meeting constitutes a waiver of notice of the meeting, except where a Director attends a meeting

solely for the purpose of stating objection, at the beginning of the meeting, to the transaction of any business on the ground that the meeting is not lawfully called or convened.

**Section 7.4 Actions Requiring Special Notice:** Meetings at which the following actions are to be considered shall require not less than seven (7) days prior effective written notice: (i) a transaction involving a Director conflict of interest; (ii) indemnification of officers, employees and agents; (iii) amendment of the Articles of Incorporation (the "Articles"); (iv) amendment of these Bylaws; (v) merger; (vi) sale of assets other than in the regular course of activities; (vii) vote to remove a Director; and (viii) dissolution.

**Section 7.5 Quorum, Manner of Acting Voting:** At any meeting of the Board, a majority of the number of Directors in office immediately before a meeting begins will constitute a quorum for the transaction of the business of the Corporation. The Directors present at a meeting may continue to meet notwithstanding the withdrawal of enough Directors so that there is less than a quorum but no fewer than two (2) members of the Board.

At any meeting of the Directors, a Director will be entitled to vote on any issue where no conflict exists for that Director. Each member of the Board present will have one vote. Proxy voting is not permitted for the transaction of any business of the Corporation. If a quorum is present when a vote is taken, the affirmative vote of a majority of the Directors present is the act of the Board. A Director who is present at a meeting of the Board, or a Committee of the Board of which he or she is a member, when corporate action is taken is deemed to have assented to the action taken unless: (a) he objects, at the beginning of the meeting or promptly upon his arrival, to holding the meeting or transacting specified affairs at the meeting; or (b) he votes against or abstains from the action taken.

**Section 7.6 Informal Action by Directors:** Action taken without a meeting will be deemed action of the Board if all members of the Board execute a written consent thereto, and the consent is filed with the corporate records of the Corporation.

**Section 7.7 Presence at/Participation in Meetings:** Any or all Directors may participate in any meeting of the Board or meeting of any Committee through the use of conference telephone or any means of communication by which all Directors participating in the meeting may hear each other simultaneously during the meeting, and participation by such means will constitute presence in person at that meeting.

## **ARTICLE VIII OFFICERS**

**Section 8.1 Number:** The officers of the Corporation shall consist of a Chairman, a Vice-Chairman, a Treasurer, a Secretary and such other officers as the Board may from time to time elect, to the extent provided or allowable by the laws of the State of South Carolina.

**Section 8.2 Election and Term:** The officers of the Corporation shall be elected bi-annually by the Board for two (2) year terms. Elections will be held every second year by the 15<sup>th</sup> of December. Such elections may be held at any regular or special meeting of the Board. Each officer shall hold no more than one office and shall hold such office for a period of two (2) years or until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualifies. The election of an officer shall not in and of itself create any contractual right to continued employment for such officer.

**Section 8.3 Removal:** Any officer or agent elected or appointed by the Board may be removed by the Board whenever in its judgment the best interests of the Corporation would be served thereby; and such removal shall be without prejudice to the contract rights, if any, of the person so removed.

**Section 8.4 Chairman:** The Chairman shall be the chief voluntary officer of the Corporation and he or she shall preside at all meetings of the Board at which he or she shall be present, and shall represent the Corporation generally



in the community. The Chairman may sign, with any other proper officer of the Corporation authorized by the Board, any deeds, mortgages, bonds, contracts, or other instruments which the Board has authorized to be executed, except where required or permitted by law to be otherwise signed and executed and except where the signing and execution thereof shall be delegated by the Board to some other officer or agent; and, in general, he or she shall perform all duties incident to the office of chairman (or president) and such other duties as may be prescribed by the Board from time to time.

**Section 8.5 Vice Chairman:** In the absence of the Chairman, the Vice-Chairman, unless otherwise determined by the Board, shall perform the duties of the Chairman and, when so acting, shall have all the powers and be subject to all the restrictions upon the Chairman. The Vice-Chairman shall perform such other duties as may be assigned from time to time by the Chairman or the Board.

**Section 8.6 Treasurer:** The Treasurer shall (a) have custody of all funds and securities belonging to Corporation and receive, deposit or disburse the same under the direction of the Board; (b) keep full and accurate accounts of the finances of the Corporation in books provided for that purpose; (c) cause such returns, reports and/or schedules as may be required by the Internal Revenue Service and the state taxing authorities to be prepared and filed in a timely manner; (d) cause a true balance sheet of the Corporation as of the close of each fiscal year and true statements of activity, functional expenses and cash flows for such fiscal year, all in reasonable detail, to be prepared and submitted to the Board; and (e) in general, perform all duties incident to the office of treasurer and such other duties as may be assigned from time to time by the Chairman or the Board.

**Section 8.7 Executive Director:** The Executive Director shall be a full-time employee of the Corporation and shall be selected and employed directly by the Board. Subject to the control of the Board, the Executive Director will have overall responsibility for the routine management of the affairs of the Corporation. The executive director shall report to the Board and shall work closely with the Chairman of the corporation. Duties of the executive director shall include: (a) representing the Corporation in the community; (b) overseeing the projects of the Corporation; (c) supervising the staff and the administrative functions of the Corporation; (d) attending meetings of the Board; and (e) in general, performing such other duties as may be assigned from time to time by the Chairman or the Board or such other duties that may be necessary or in the best interest of the Corporation. The Board may approve reasonable compensation and benefits for the executive director in accordance with Section 8.9 below. The executive director may not be elected to serve on the Board but may simultaneously hold one or more of the offices of the Corporation. The executive director shall report to the Board and the Board shall review the performance of the executive director on a periodic basis; the staff of the Corporation shall report to the executive director and the executive director shall review the performance of the staff on a periodic basis.

**Section 8.8 Secretary:** The Secretary shall cause to be kept a correct record of all the proceedings of the meetings of the Board. He or she shall attend to the giving of notices, oversee custody of the corporate seal and records, and affix the seal to all instruments required to be executed under seal as authorized by the Board. He or she shall perform such other duties as are incident to the office of Secretary, and shall have such other powers and duties as may be conferred upon him or her by the Board or these Bylaws.

**Section 8.9 Compensation:** Salaries and benefits to employees of the Corporation shall be paid by the Corporation. The Executive Director may be paid reasonable compensation for his or her duties, which compensation shall be determined by the Board or duly authorized Committee as follows:

- a) The Board or Committee determining compensation shall be composed of persons who are unrelated to and not subject to the control of the Executive Director,
- b) The Board or Committee determining compensation shall contemporaneously obtain and rely upon appropriate data as to the comparability of the compensation package; and

- c) There shall be adequate contemporary documentation for the basis of the Board's or Committee's determination.

The Corporation may reimburse officers for such expenses incurred incidental to the conduct of the business and affairs of the Corporation as may be reasonable and authorized by the Board.

## **ARTICLE IX TRANSACTIONS**

**Section 9.1 Contracts:** The Board may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument on behalf of the Corporation and such authority may be general or confined to specific instances.

**Section 9.2 Loans:** Unless authorized by a resolution of the Board, no loans shall be contracted on behalf of the Corporation and no evidences of indebtedness shall be issued in its name. Such authority may be general or confined to specific instances.

**Section 9.3 Deposits:** All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board may select.

**Section 9.4 Gifts:** The Board may accept on behalf of the Corporation any contribution, gift, bequest or devise for the general purposes or for any special purpose of the Corporation.

## **ARTICLE X LIABILITY, INDEMNIFICATION, INSURANCE**

**Section 10.1 Liability:** To the extent not inconsistent with the South Carolina Code, no Director or officer of the Corporation will be liable to the Corporation or to any other person for loss or damage suffered by the Corporation on account of any action taken or omitted to be taken as a Director or an officer in good faith and in a manner he or she reasonably believed to be in the best interests of the Corporation if the Director or officer exercised the same degree of care and skill as an ordinarily prudent person in a like position would have exercised under similar circumstances.

To the extent permitted by South Carolina law, no Director or officer of the Corporation will be personally liable for monetary damages for breach of any duty to the Corporation. However, this provision will not eliminate or limit the liability of a Director or officer: (1) for any breach of the Director's or officer's duty of loyalty to the Corporation; (2) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (3) for any transaction from which the Director or officer derived an improper personal benefit; or (4) under S.C. Code Sections 33-31- 831 (conflict of interest), 33-31-832 (loans or guarantees), and 33-31-833 (unlawful distributions).

All Directors and officers of the Corporation will be immune from suit arising from the conduct of the affairs of the Corporation; provided, however, such immunity will be removed when the conduct amounts to willful, wanton, or gross negligence.

**Section 10.2 Indemnification:** To the extent not inconsistent with the South Carolina Code, every person (and the heirs and personal representatives of such person) who is or was a Director or an officer of the Corporation will be indemnified by the Corporation, to the maximum extent permitted by law, against all liability and reasonable expense that may be incurred by him or her in connection with any claim, action, suit or proceeding (other than a proceeding in which such person will have been adjudged to be liable to the Corporation) by reason of the fact that he or she is or was a Director or an officer of the Corporation. The Corporation will also reimburse any such Director or officer for the reasonable cost of the settlement of any action, suit, or proceeding if such will be found, by a



majority of the disinterested members of the Board, to be in the best interest of the Corporation that such settlement be made and that such Director or officer was not guilty of negligence, misconduct, or nonfeasance in the performance of his or her duties as a Director or officer.

**Section 10.3 Scope of Indemnification:** The rights of indemnification provided in this Article will be in addition to any rights to which any such Director or officer may otherwise be entitled. Irrespective of the provisions of this Article, the Board may at any time and from time to time, approve indemnification of Directors, officers, employees or other persons to the full extent permitted by the State of South Carolina, whether on account of past or future transactions.

**Section 10.4 Insurance:** The Board may purchase insurance covering the Corporation's liabilities and obligations under this Article and insurance protecting the Corporation's Directors, officers and employees.

## **ARTICLE XI REGULATION**

**Section 11.1 General:** The regulation of the business and conduct of the affairs of the Corporation shall conform to federal, state and local income tax laws and any other applicable federal and state law, including, but not limited to, the Nonprofit Act. In the interpretation of these Bylaws, wherever reference is made to the United States Code (U.S.C.), the United States Internal Revenue Code, Internal Revenue Laws or Treasury Regulations thereunder, the Nonprofit Act, the South Carolina Code or any other statute, or to any section thereof, such reference shall be construed to mean such code, act, laws, statutes, or section thereof, and the regulations thereunder, as the case may be, as heretofore or hereafter amended or supplemented or as superseded by laws or regulations covering equivalent subject matter.

**Section 11.2 Governing Law:** These Bylaws are executed and delivered in the State of South Carolina and they shall be governed by, construed and administered in accordance with the laws of the State of South Carolina.

**Section 11.3 Parliamentary Procedure:** The provisions of the latest edition of *Robert's Rules of Order* shall serve as the basic guide to fair and orderly procedure in meetings of the Corporation. In the event that any of the provisions of *Robert's Rules of Order* conflict with the Bylaws, the provisions of the Bylaws prevail.

## **ARTICLE XII AMENDMENTS**

**Section 12.1 Amendments:** These Bylaws may be amended or restated from time to time in accordance with the provisions of S.C. Code § 33-31-1020; provided, however, in accordance with S.C. Code § 33-31-1030 any such amendments or restatements must be approved by the Beaufort County Council prior to adoption by the Board of Directors of the Corporation.

**Section 12.2 Conflicts:** In the event that any of the provisions of these Bylaws, as amended or restated, conflict with any of the provisions of prior Bylaws, the provisions of the amended Bylaws control. In the event that any provisions of these Bylaws, as amended, conflict with applicable law, applicable law will control.

## **ARTICLE XIII SEAL**

The Board may adopt a seal for the Corporation.

**ARTICLE XIV  
DISSOLUTION**

**Section 14.1 General:** The Corporation may be dissolved and its business and affairs terminated, and such dissolution shall be in accordance with the provisions of Chapter 31 of Title 33 of the Code of Laws 1976, as amended, and § 1.501(c)(3)-1(b)(4) of the United States Treasury Regulations.

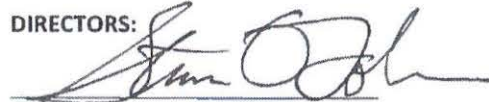
**Section 14.2 Distribution:** All of the property of the Corporation is irrevocably committed to the public purposes of the County; and upon dissolution of the Corporation and after all its liabilities, obligations and expenses have been discharged, all of its assets shall be conveyed or distributed in conformity with the Articles of Incorporation of the Corporation. All remaining assets of the Corporation shall be conveyed or distributed to or for the benefit of Beaufort County, or to such of one or more organizations as may be designated and unanimously approved by the Board and the County Council as long as the designated/approved organization at the time of conveyance or distribution qualifies as an organization described in §§ 501(c)(3) and 170(c)(2) of the Internal Revenue Code or any corresponding provision of any future Federal tax code.

[SIGNATURE PAGE TO FOLLOW]



IN WITNESS WHEREOF, we, being the initial Directors of Beaufort County Economic Development Corporation adopt these Bylaws of the Corporation and subscribe our names, effective as of \_\_\_\_\_, 2018.

DIRECTORS:

  
Steve Fobes

  
Stephen Murray

  
Van Willis

  
Lisa Sulka

  
David Bennett

  
Rich Gough

  
Mike Alsko