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CITY OF BEAUFORT
1911 BOUNDARY STREET
BEAUFORT MUNICIPAL COMPLEX
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7070

CITY COUNCIL REGULAR MEETING AGENDA

March 28, 2023

STATEMENT OF MEDIA NOTIFICATION

"In accordance with South Carolina Code of Laws, 1976, Section 30-4-80(d), as amended, all local media was duly notified of the time, date, place and agenda of this meeting."

REGULAR MEETING - Council Chambers, 2nd Floor - 7:00 PM

Please note, this meeting will be broadcasted via zoom and live streamed on Facebook. You can view the meeting at the City's page; City Beaufort SC

I. CALL TO ORDER

A. Stephen D. Murray III, Mayor

II. INVOCATION AND PLEDGE OF ALLEGIANCE

A. Mayor Pro Tem, Mike McFee

III. PROCLAMATIONS/COMMENDATIONS/RECOGNITIONS

- A. Character Education Proclamation - Kellen Smith, Beaufort Middle School
- B. Proclamation proclaiming April 2023 as Sexual Assault Awareness Month

IV. PUBLIC COMMENT

V. MINUTES

- A. Worksession - February 28, 2023
- B. Worksession and Regular Meeting - March 14, 2023
- C. Worksession - March 21, 2023

VI. NEW BUSINESS

- A. Request from Memorial Day Committee to Host Memorial Day Parade on May 29, 2023 at 10:00 AM - 11:30 AM
- B. Appointments/reappointments to Boards and Commissions
- C. Ordinance to Participate in Local Revenue Services with Municipal Association of South Carolina- 1st Reading

VII. REPORTS

- City Manager's Report
- Mayor Report
- Reports by Council Members

VIII.ADJOURN



PROCLAMATION

WHEREAS, the character education movement reinforces the social, emotional, and ethical development of students; and

WHEREAS, schools, school districts and states are working to instill important core ethical and performance values including caring, honesty, diligence, fairness, fortitude, responsibility, and respect for self and others; and

WHEREAS, character education provides long-term solutions to moral, ethical, and academic issues that are of growing concern in our society and our schools; and

WHEREAS, character education teaches students how to be their best selves and how to do their best work; and

WHEREAS, the Eleven Principles of Effective Character Education include: Promoting core ethical and performance values; Teaching students to understand, care about and act upon these core ethical and performance values; Encompassing all aspects of the school culture; Fostering a caring school community; Providing opportunities for moral action; Supporting academic achievement; Developing intrinsic motivation; Including whole-staff involvement; Requiring positive leadership of staff and students; Involving parents and community members; and assess results and strives to improve; and

WHEREAS, the Beaufort County School District's Character Education program was formed to support parents' efforts in developing good character in their children; and

WHEREAS, the purpose of the Character Education program is to integrate good character traits into the total school environment, as well as into the community; and

WHEREAS, each school's counselor identified a list of character words and definitions deemed important regardless of a person's political leanings, race, gender, or religious convictions; and

WHEREAS, the words are friendship, kindness, acceptance, courage, tolerance, respect, gratitude, compassion, citizenship, perseverance, honesty, integrity, self-control, forgiveness responsibility and cooperation; and

WHEREAS, Kellen Smith was selected as the winner by Beaufort Middle School as the student of the month.

NOW, THEREFORE, the City Council of the City of Beaufort, South Carolina, hereby proclaims February 2023 as

KELLEN SMITH AS BEAUFORT MIDDLE SCHOOL STUDENT OF THE MONTH

The City of Beaufort thereby pronounces *Honesty/Integrity* as the word for the month of February and applauds Kellen Smith, the Beaufort County School District, and Beaufort Middle School for their work and specifically honors Kellen Smith as Beaufort Middle School student of the month.

IN WITNESS THEREOF, I hereunto set my hand and caused the Seal of the City of Beaufort to be affixed this 28th day of March 2023.

STEPHEN D. MURRAY III, MAYOR

ATTEST:

TRACI GULDNER, CITY CLERK



CITY OF BEAUFORT
DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO: CITY COUNCIL **DATE:** 3/21/2023
FROM: Traci Guldner
AGENDA ITEM TITLE: Proclamation proclaiming April 2023 as Sexual Assault Awareness Month
MEETING DATE: 3/28/2023
DEPARTMENT: City Clerk

BACKGROUND INFORMATION:

Proclamation is being requested by Rose Ewing, Community Educator, Hopeful Horizons.

PLACED ON AGENDA FOR: Action

REMARKS:

ATTACHMENTS:

Description	Type	Upload Date
Proclamation	Backup Material	3/21/2023



PROCLAMATION

Whereas, Sexual Assault Awareness Month calls attention to the fact that sexual violence is a pervasive problem in all communities and has public health implications for every individual in the City of Beaufort; and

Whereas, rape, sexual assault, and sexual harassment impact our community as seen by statistics indicating that nationwide, 81% of women and 43% of men report experiencing some form of sexual harassment and/or assault in their lifetimes; and

Whereas, child sexual abuse prevention must be a priority to confront the reality that 1 in 7 girls, and 1 in 25 boys will experience sexual violence in their lifetime; and

Whereas, Hopeful Horizons, our local Children's Advocacy, Domestic Violence, & Rape Crisis organization served more than 1,200 primary victims and more than 700 secondary victims in the year 2022; and

Whereas, all people are encouraged to report and speak out against all types of violence in the community; and

Whereas, prevention of sexual violence is possible. Therefore, we must work together to increase education, awareness, and community involvement as well as support survivors in an effort to connect them with services; and

Whereas, the citizens of the City of Beaufort are encouraged to wear the color Teal (the color of sexual violence prevention) on April 5, 2023 to show support for survivors of sexual violence, abuse, and harassment.

NOW, THEREFORE, BE IT RESOLVED, that the City of Beaufort joins advocates across the United States and the State of South Carolina to proclaim the month of APRIL 2023 as

Sexual Assault Awareness Month

and urges all citizens to observe this month by becoming aware of the crisis of sexual assault, supporting those who are working towards ending it, and participating in community efforts aimed at changing the culture of violence.

Dated this 28th day of March 2023.

STEPHEN D. MURRAY III, MAYOR

ATTEST:

TRACI GULDNER, CITY CLERK



City Council Worksession
Meeting Minutes – Planning Conference Room – 1st Floor

February 28, 2023

I. CALL TO ORDER

5:00 PM

Mayor Stephen D. Murray III

Members of Council in attendance - Neil Lipsitz, Mike McFee, Mitch Mitchell, Josh Scallate and Mayor Murray.

II. DISCUSSIONS

A. Interviews of applicants for Boards and Commissions - Cultural District Advisory Board.

Council held a question-and-answer session for all applicants.

Mitzi McClure and Heidi Smith interviewed for the at-large seat.

B. Whitehall Park update.

Linda Roper, Downtown Operations and Community Services Director, started off by saying that the construction is nearing the end. A soft opening of the park is being planned. They are going to take the plywood off the connector bridge to allow foot traffic to enter into the park, but signs will be posted that the facilities are not yet operational. The City will also start to take over the maintenance of the park. No reservations will be allowed until policies are set. She stated that this is only the first phase.

Scott Marshall, City Manager, stated that the City will be setting the rules and guidelines for reserving the park and posting the fee schedule in the Fiscal Year 24 Budget.

Ms. Roper said the policies will remain similar to those of the other parks and the fees collected will go to maintaining the park. She pointed out that Beaufort County owns the park, but the City is operating and maintaining it.

C. Contributing Structure Process for Historic Preservation.

Mayor Murray gave a little background by stating that the last time the list was updated was in 1997. A couple years ago, Council thought it was time to get the list reviewed.

Curt Freese, Community and Economic Development Director, began by stating that a list of 54 recommended properties to add was made by John Milner Architects Inc., in January 2022. These properties would be added to the list of the above ground historic sites. If added, all exterior modifications must go through the Historic District Review Board for approval. All demolitions must also be approved by the Board. Presently, these structures only require staff level approval for modifications or demolitions.

Councilman Mitchell is concerned about the costs that might be incurred by the homeowner.

Councilman Lipsitz, inquired about structures that might be on this contributing list, if they had already been given permission to be demolished, what will happen. Mr. Freese responded that they would be grandfathered in and would be able to proceed. Bill Harvey, City Attorney, acknowledged this fact.

Mr. Freese then went over the proposed process on approving these structures to be added. That will include notifying all property owners, having public hearings, and posting signs on the properties. He then went over allowing a property owner to opt out of being added to this contributing structure list. He stated that they contacted the State Historical Preservation Office. They recommended not to allow anyone to opt out.

Councilman Scallate stands with staff on allowing an opt out option. He would like to see if the staff is prepared to take on all these potential new additions. He wants to see the permitting process simplified first.

Mayor Pro Tem, McFee, does not wish to see a mass exodus from the area. He feels that the processes that are in place are exactly what is needed.

Mayor Murray believes that the opting out by the property owners should be at the discretion of Council. He would like to have more background information on each of the properties before decisions are made.

Lise Sundrla, Beaufort Historic District Foundation, and Mike Sutton, Vice Chair of the Historic District Review Board, both spoke on this issue.

There will be some educational sessions between Council, Staff, and the Historic District Review Board to obtain some clarity on what the decisions made will mean for property owners.

D. 2023 Community Development Block Grant (CDBG) priority needs assessment.

Carrie Gorsuch, Infrastructure Project Support Coordinator, stated that this program is designed to aid units of local government in improving economic opportunities and meeting community revitalization needs, particularly those with low to moderate income. Barbara Johnson with Lowcountry Council of Governments addressed Council on January 24, 2023, and presented the program opportunities that are available. She proceeded to go over the categories and their funding limits.

Reece Bertholf, Deputy City Manager, indicated that the last time a resolution was made was in 2020. The needs have basically remained the same in the 2023 resolution that is being presented.

Ms. Gorsuch then went over three outstanding projects and their statuses.

Spanish Moss Trail - \$200,000.00
Calhoun Street - \$750,000.00
Washington Street Park - \$250,000.00

E. Development Code text amendment meetings.

Curt Freese, Community and Economic Development Director reported that another worksession would be added on the 3rd Tuesday of each month starting March 21, 2023, to start going over amendments to the Beaufort Code. This will take place chapter by chapter. All processes will be followed to move the changes forward. These will take place until they are no longer needed.

III. EXECUTIVE SESSION

Councilman Lipsitz made a motion to go into Executive Session and seconded by Mayor Pro Tem, McFee.

- A. Pursuant to Title 30, Chapter 4, Section (70) (a) (2) of the South Carolina Code of Law: Receipt of Legal Advice - regarding pending contracts.
- B. Pursuant to Title 30, Chapter 4, Section (70) (a) (2) of the South Carolina Code of Law: Receipt of Legal Advice - regarding litigation.
- C. Pursuant to Title 30, Chapter 4, Section (70) (a) (2) of the South Carolina Code of Law: Discussion regarding the proposed sale or purchase of property.

Councilman Lipsitz made a motion to come out of Executive Session and seconded by Mayor Pro Tem, McFee.

No actions from Executive Session

IV. ADJOURN

7:16 PM

Disclaimer: This document is a summary. All City Council Worksession and Regular Meetings are recorded. Live stream can be found on the City's website at www.cityofbeaufort.org (Agenda section). Any questions, please contact the City Clerk, Traci Guldner at 843-525-7024 or by email at tguldner@cityofbeaufort.org.



City Council Worksession

Meeting Minutes – Planning Conference Room – 1st Floor

March 14, 2023

I. CALL TO ORDER

5:01 PM

JJ Kunkler, Mayor for the day, called the meeting to order.

Members of Council in attendance - Neil Lipsitz, Mike McFee, Mitch Mitchell, Josh Scallate and Mayor Murray.

II. EMPLOYEE NEW HIRE RECOGNITION

A. Fire Department.

Matthew Bowsher, Deputy Chief of Operations, introduced William Crosby, Brandon Filicky and Zack Gardner.

Scott Marshall, City Manager, recognized **Carrie Gorsuch, Infrastructure Project Support Coordinator**, for her recent completion of a Grant Writing Course through the University of South Carolina Beaufort.

III. PRESENTATIONS

A. Military Installation Resilience Project.

Stephanie Rossi, Planning Director, Lowcountry Council of Governments, stated the Military Installation Resilience Review (MIRR) is a program designed to help communities partner with local agencies to make informed decisions that respond to, address, and mitigate activities that are impairing or are likely to impair the use of the installation. This is intended to increase the value of military installations while preserving its military mission. Some of the main areas of focus on infrastructure and vulnerabilities included Hurricanes, Tidal Inundation and Coastal Flooding. These were further broken down into classification categories. Natural, Physical, Economic and Social. Out of this came three pilot projects: St. Helena's Island Wastewater Treatment Plant, Star Magnolia Subdivision on Lady's Island and the US 21 Interchange at Shell Point.

The number one pilot project is the Shellpoint US 21 Interchange. The objectives for this are Shoreline Stabilization, Flood Management, Water Quality and Habitat Restoration.

The grant amount would be \$429,082.00. The Federal portion of this would be approximately \$386,000.00. They are asking the City to provide 25 percent of the 10 percent grant match of \$42,909.00 that is required. The amount to the City would be \$10,727.00. They will be reaching out to Beaufort County to fund 50 percent of the grant match, and also the Town of Port Royal for the other 25 percent.

Because the project is budgeted for 18 months (March 2023 through August 2024), these amounts can be spread out over two fiscal year budget cycles.

The Mayor is supportive of the project.

Scott Marshall, City Manager, asked when LOCOG expected to get an official notification of the award, and when would they need to know if the City is committed to the match. Ms. Rossi responded by saying within the next few months. May 1, 2023, is their projected start date.

A copy of the presentation is attached to these minutes.

IV. EXECUTIVE SESSION

Councilman Lipsitz made a motion to go into Executive Session and seconded by Mayor Pro Tem, McFee.

- A. Pursuant to Title 30, Chapter 4, Section (70) (a) (2) of the South Carolina Code of Law: Receipt of Legal Advice - regarding pending contracts.
- B. Pursuant to Title 30, Chapter 4, Section (70) (a) (2) of the South Carolina Code of Law: Discussion regarding the purchase and sale of property.

Councilman Lipsitz made a motion to come out of Executive Session and seconded by Mayor Pro Tem, McFee.

No actions from Executive Session

V. ADJOURN

7:08 PM

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City Council Regular Meeting
Meeting Minutes – City Hall Council Chambers, 2nd Floor

March 14, 2023

I. CALL TO ORDER

7:09 PM

Mayor, Stephen D. Murray III

Members of Council in attendance - Neil Lipsitz, Mike McFee, Mitch Mitchell, Josh Scallate and Mayor Murray.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Pro Tem, Mike McFee

III. PROCLAMATIONS/COMMENDATIONS/RECOGNITIONS

A. Proclamation proclaiming March 12 - 18, 2023, as Girl Scout Week.

Motion to approve was made by Mayor Pro Tem, McFee and seconded by Councilman Lipsitz.

All were in favor, motion carried.

B. Proclamation proclaiming March 2023 as Development Disabilities Awareness Month.

Motion to approve was made by Mayor Pro Tem, McFee and seconded by Councilman Lipsitz.

All were in favor, motion carried.

IV. PUBLIC COMMENT

Jonathan Sullivan and Courtney Worrell, 303 Associates, spoke on the issue of the downtown hotel and parking garage project. A copy of their letter to Council is attached to these minutes.

Joe McDermott, a resident, would like to see the roadway near 1800 Boundary Street inspected. He mentioned that there has been some flooding during recent rains.

Dick Stewart, 2015 Boundary Street, spoke about the proposed Contributing Structures List in the Historic District. A copy of his letter to Council is attached to these minutes.

V. MINUTES

Regular Meeting - February 28, 2023.

Motion to approve was made by Councilman Lipsitz and seconded by Mayor Pro Tem, McFee.

Minutes approved as presented.

VI. OLD BUSINESS

- A. An ordinance to amend the City of Beaufort FY 2023 Budget - 2nd reading.

Motion to approve was made by Mayor Pro Tem, McFee and seconded by Councilman Mitchell.

The first reading was held on February 28, 2023. No changes were made to the document since first reading.

All were in favor, motion carried.

VII. NEW BUSINESS

- A. Request from Historic Beaufort Foundation to host the annual Lafayette Soiree 2023 on Saturday, May 6, 2023, 6:00 pm - 10:00 pm, with allowance of parking on Spanish Point Road, temporary signage, and waiver of the Loud and Unseemly Noise Ordinance.

Motion to approve was made by Councilman Mitchell and seconded by Mayor Pro Tem, McFee.

Linda Roper, Downtown Operations and Community Services Director, gave an overview of the event.

Mayor Murry questioned whether or not golf carts can be driven on the streets after dark.

Mayor Pro Tem, McFee, wants to make sure the contract with the Police Department is in place, and that whether the golf carts can be driven at night is answered prior to the event.

All were in favor, motion carried.

- B. Reappointments of Bonnie Hargrove and Linda Jeffries to the Cultural District Advisory Board.

Motion to reappoint Bonnie Hargrove and Linda Jeffries was made by Mayor Pro Tem, McFee and seconded by Councilman Mitchell.

Their terms will expire June 30, 2025.

All were in favor, motion carried.

- C. Resolution in support of the H3014, Clementa C. Pinckney Hate Crimes Act.

Motion to approve was made by Mayor Pro Tem, McFee and seconded by Councilman Lipsitz.

Scott Marshall, City Manager, reported that this Bill has cleared the House and has been sent to the Senate. They have referred it to the Committee on Judiciary.

All were in favor, motion carried.

VIII. REPORTS

City Manager's Report

Announced that the Dominion Energy Tree Trimming project has concluded. He thanked Neal Pugliese for his leadership in ensuring things went as smoothly as possible.

Reported that streetlights have been installed and are now in operation on the western edge of the Commerce Park.

Mentioned that the City of Beaufort Development Code is now available on Municode Docs. It can be accessed directly through Municode or through the city's website.

Stated that the Police Department's 2022 Calendar Year Annual Report is published and available on the Police Department's Web Page.

Staff enjoyed a productive two-day Strategic Planning Workshop with Council last week. The staff is now synthesizing the results of the workshop and will draft an updated Strategic Plan for the Council's consideration.

Was delighted to attend the Old Commons Neighborhood 20th Anniversary Celebration on Saturday afternoon and learned what a special group of residents they are. The care they have for one another, and for their neighborhood was evident.

This past Saturday, we enjoyed music from the U.S. Marine Corps Band from Parris Island and the 282nd Army Band out of Fort Jackson at our Waterfront Park. It was a beautiful day, and we look forward to our next scheduled event on Sunday, April 30 when the Lowcountry Wind Symphony will be performing at 4:00 pm.

Lastly, we are looking forward to the South Coast Cyber Summit next week, on March 20- 21, 2023, at Tabby Place. There is a distinguished list of guest speakers on the schedule and the summit offers participants a chance to be educated on the latest cybersecurity issues and collaborate with others with similar interests. For more information, go to southcoastcybersummit.com.

Mayor's Report

Reported that the South Coast Cyber Summit will be held on March 20 - 21, 2023. They will be providing scholarships to all students that wish to attend. He stated there are over 200 registrants.

Starting March 24, 2023, the Beaufort Digital Corridor will be having their Tech Stars Start Up event. This will last through Sunday, March 26, 2023. He mentioned that 20 participants have signed up to date.

There will be a third worksession added each month to start going over the proposed changes to the Beaufort Development Code.

Councilman Scallate

Reported that he had attended the Economic Forecast Summit held by the Beaufort Regional Chamber of Commerce on March 2, 2023.

Mayor Pro Tem, McFee

Stated that "Dancing with our Stars" will be taking place on Saturday, March 18, 2023.

Councilman Mitchell

Urged citizens to reach out to their local legislators in support of the Clementa Pinckney Hate Crimes Act. He mentioned that we are only one of two states that do not have a Hate Crimes Bill in place.

Councilman Lipsitz

Said he enjoyed attending the 20th Anniversary celebration of the Old Commons Neighborhood Association.

The Council thanked the City Manager, staff, and our facilitators for another successful Council Retreat.

IX. ADJOURN

8:04 PM

Motion to adjourn was made by Councilman Lipsitz and seconded by Mayor Pro Tem, McFee.

All were in favor, motion carried.

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DRAFT



City Council Worksession

Meeting Minutes – Planning Conference Room – 1st Floor

March 21, 2023

I. CALL TO ORDER

5:01 PM

Stephen D. Murray, III

Members of Council in attendance - Neil Lipsitz, Mike McFee, Mitch Mitchell, Josh Scallate and Mayor Murray.

II. DISCUSSION

A. Proposed Development Code Updates.

Curt Freese, Community and Economic Development Director, started off by saying that the Form Based Code is a method of regulating development to achieve a specific urban form. He reported that the Beaufort Code won a Smart Growth America's Driehaus Award. The Master Plan also won the American Planning Association's 2016 Charter Award for Planning.

Mayor Murray encouraged citizens to go watch Victor Dover's presentation from April of last year that is on the City's Facebook page.

Mr. Freese then spoke about the Transects. These are the different types of zoning. These range from T1 - Natural, to T6 - Urban Core. We mainly utilize T1 through T5. He stated that the Form Based Code uses the existing physical form of the neighborhood as a template for future development. He then went over the updating process that will consist of an additional worksession each month on the 3rd Tuesday. Starting with Chapters 9 and 10, in April/May, and ending in September/October, with Chapters 4 and 5. These timelines are subject to be adjusted.

There will be ample opportunity for public comment throughout the process.

The following citizens addressed Council:

Linda Burg, 2005 Cuthbert Street
Paul Trask, Bladen Street
Lise Sundrla, Historic Beaufort Foundation
Dianne Farrelly, 2415 Oak Haven Street
Alan Dechovitz, 401 Battery Chase
Kathleen Laureti, 1705 Lafayette Street
Graham Trask
Ben Sellers, 2415 Oak Haven Street
Phil Cromer
Ian Scott, Beaufort Regional Chamber of Commerce
Terri Maude

A copy of the presentation is attached to these minutes.

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DRAFT



CITY OF BEAUFORT
DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO: CITY COUNCIL **DATE:** 3/21/2023
FROM: Linda Roper
AGENDA ITEM TITLE: Request from Memorial Day Committee to Host Memorial Day Parade on May 29, 2023 at 10:00 AM - 11:30 AM
MEETING DATE: 3/28/2023
DEPARTMENT: Downtown Operations

BACKGROUND INFORMATION:

This will be the standard parade route.

PLACED ON AGENDA FOR: Action

REMARKS:

Departments have been notified of the request
Will require SCDOT approval

ATTACHMENTS:

Description	Type	Upload Date
2023 Memorial Day Parade Request	Cover Memo	3/21/2023



PUBLIC ASSEMBLY AND PARADE APPLICATION

City of Beaufort – City Manager’s Office (2nd Floor)
1911 Boundary Street, Beaufort, South Carolina, 29902
p. (843) 525-7070 / f. (843) 986-5606 | www.cityofbeaufort.org
To be filed **NOT LESS** than 30 days before event

\$ PAID
CASH 3/20/23

Please Check One: Public Assembly Request Parade Request

Elijah Washington
Chairman

Name of Applicant: Memorial Day Committee

Address: P.O. Box 1961 Phone # 843-263-4620

Name of Sponsoring Organization: Memorial Day Committee

Address: P.O. Box 1961

PUBLIC ASSEMBLY: \$25.00 non-refundable application fee is applied when 50 or more in attendance

Date of Public Assembly: _____ Time Assemble will begin: _____

Location of Assembly Area: _____

Type of Public Assembly (including description of activities): Typical parade with bands and autos & groups

Description of Recording Equipment, sound amplification equipment, banners, signs, or other devices to be used: Participants will decorate cars, trucks etc

PARADE: \$25.00 non-refundable application fee is payable when the application is submitted

Date of Parade: 5/29/23

Time Parade Will Begin: 10:00 AM Parade will Terminate: 11:30 AM

Time Parade Line-Up Begins: 9:00 AM Location(s) of Line-Up Area(s): _____

Route Proposed (Giving Starting & Termination Points): _____

Approximate Number of Persons, Animals & Vehicles Constituting Parade: 800

Parade Will Occupy All of the Width of the Streets to be Traversed yes

Parade Will Occupy Only a Portion of the Width of the Streets to be Traversed _____

Interval of Space between Units in Parade: 5-6 ft

NOTE: IF THE PARADE IS DESIGNED TO BE HELD BY AND ON BEHALF OF OR FOR ANY PERSON OTHER THAN THE APPLICANT, THE APPLICANT FOR SUCH PERMIT SHALL FILE A LETTER FROM THAT PERSON WITH THE CITY MANAGER AUTHORIZING THE APPLICANT TO APPLY FOR THE PERMIT ON HIS BEHALF.

Signature of Applicant: [Signature] Date: 3/20/23

OFFICE USE ONLY: Application Received By: _____ Date Received: _____ Receipt #: _____

Approved By: _____



CITY OF BEAUFORT

DEPARTMENT REQUEST FOR CITY COUNCIL AGENDA ITEM

TO: CITY COUNCIL **DATE:** 3/16/2023
FROM: Alan Eisenman, Finance Director
AGENDA ITEM TITLE: Ordinance to Participate in Local Revenue Services with Municipal Association of South Carolina- 1st Reading
MEETING DATE: 3/28/2023
DEPARTMENT: Finance

BACKGROUND INFORMATION:

The City participates in MASC's collection programs for Insurance Tax, Brokers Tax, and Telecommunication Tax. MASC is rebranding these programs as Local Revenue Services and a signed ordinance, agreement, and supplement is required by May 26, 2023.

PLACED ON AGENDA FOR: Action

REMARKS:

ATTACHMENTS:

Description	Type	Upload Date
MASC Cover Memo	Cover Memo	3/16/2023
Ordinance	Cover Memo	3/17/2023
Agreement	Cover Memo	3/16/2023
Supplement	Cover Memo	3/16/2023

Date: February 28, 2023

To: Mayors, Managers, Administrators, Clerks and
Local Revenue Service Contacts

From: Caitlin Cothran, Manager for Local Revenue Services

Re: Ordinance, Agreement, and Supplement for Local Revenue Service Programs
PROMPT ACTION REQUIRED

For many years, the Municipal Association has offered collection programs for certain business license taxes. These programs include the Insurance Tax Collection Program, the Brokers Tax Collection Program, and the Telecommunication Tax Program. The Municipal Association has collectively rebranded these programs as Local Revenue Services and has renamed the three business license programs as the Insurance Tax Program (ITP), the Brokers Tax Program (BTP), and the Telecommunication Tax Program (TTP).

In addition, by Act 176 of 2020,¹ the General Assembly standardized business licensing in the State of South Carolina. Following the adoption of this Act, the Municipal Association provided a revised model business license ordinance. Every municipality in the State has adopted a revised business license ordinance based on Act 176 and the new model ordinance.

As a result of the Local Revenue Services rebranding and the adoption of new local business license ordinances under Act 176, the Association is required to update the ordinances and agreement by which municipalities may participate in Local Revenue Services. Please note as follows:

- There are THREE attachments to this memo: (1) an ordinance to participate in Local Revenue Services, (2) an intergovernmental agreement for the programs, and (3) a program participant supplement by which a municipality elects which programs to join.
- In order to continue to participate in Local Revenue Services, **your municipality must (1) enact the attached ordinance and, (2) once the ordinance is enacted, sign the attached agreement and supplement.**
- The ordinance must be **completed where highlighted and then enacted exactly as written.**
- The agreement must be **signed exactly as written.**
- The supplement must be **completed where highlighted and then signed exactly as written.**
- The Setoff Debt Program is not affected by the attached documents, which relate only to ITP, BTP, and TTP.
- The Association must have a certified copy of your amended ordinance, together with the original signed agreement and supplement, by **May 26, 2023**. We will send you a copy of the final agreement with the Municipal Association's signature for your file. If you require an original signed agreement for your files, provide two signed agreements to the Municipal Association.

¹ The Business License Standardization Act, found at S.C. Code Sec. 6-1-400 to -420.

The new program documents will not substantially change the operation of the Local Revenue Services programs from your perspective. The Municipal Association will continue to administer and collect business license taxes within ITP, BTP, and TTP. The rates for the Municipal Association's services will remain exactly the same as they are now. Finally, distributions of collected amounts will be made in the same manner and at approximately the same times as they are now.

The substantial changes to the Local Revenue Services programs are as follows:

- The new agreement is an intergovernmental agreement among all of the participating governments, rather than a series of standalone agreements.
- Local Revenue Services will act in its own name as a division of the Municipal Association and will be governed by a committee of the Municipal Association's Board of Directors.
- The terms on which the Municipal Association is delegated the authority to resolve litigation on behalf of its members have been clarified.
- An appeals process, as required by and consistent with Act 176, has been formally adopted.

If you have questions about the attached documents, please contact Caitlin Cothran at (803) 354-4786 or ccothran@amsc.sc.

If your municipal attorney has questions about the attached documents, please direct him or her to contact Eric Shytle, General Counsel of the Municipal Association, at (803) 933-1214 or eshytle@masc.sc.

AN ORDINANCE

AUTHORIZING AND DIRECTING THE CITY OF BEAUFORT TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT RELATING TO SOUTH CAROLINA LOCAL REVENUE SERVICES; TO PARTICIPATE IN ONE OR MORE LOCAL REVENUE SERVICE PROGRAMS; TO EXECUTE AND DELIVER ONE OR MORE PARTICIPANT PROGRAM SUPPLEMENTS; AND OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Beaufort (the "Municipality") is authorized by S.C. Code Section 5-7-30 and Title 6, Chapter 1, Article 3 to impose a business license tax on gross income;

WHEREAS, under State law, certain business license taxes are applicable in a manner or at a rate that applies throughout the State ("Statewide Business License Taxes");

WHEREAS, such Statewide Business License Taxes include without limitation the business license taxes applicable to insurers under Title 38, Chapter 7 of the S.C. Code; to brokers under Title 38, Chapter 45 of the S.C. Code; and to telecommunications companies under Title 58, Chapter 9, Article 20 of the S.C. Code;

WHEREAS, the Municipal Association of South Carolina (the "Association") has previously established local revenue service programs in which the Association administers Statewide Business License Taxes on behalf of and for the benefit of participating municipalities;

WHEREAS, such local revenue service programs include a program known as the Insurance Tax Program ("ITP") that administers business license taxes applicable to insurers under Title 38, Chapter 7 of the S.C. Code; a program known as the Brokers Tax Program ("BTP") that administers business license taxes applicable to brokers under Title 38, Chapter 45 of the S.C. Code; and a program known as the Telecommunications Tax Program ("TTP") that administers business license taxes applicable to telecommunications companies under Title 58, Chapter 9, Article 20 of the S.C. Code;

WHEREAS, the Municipality currently participates in ITP, BTP, and TTP;

WHEREAS, by Act No. 176 of 2020, known as the South Carolina Business License Tax Standardization Act and codified at S.C. Code Sections 6-1-400 to -420 (the "Standardization Act"), the South Carolina General Assembly imposed additional requirements and conditions on the administration of business license taxes;

WHEREAS, following the enactment of the Standardization Act, the Municipality enacted Ordinance No. 14-21 on 9/28/2021, in order to comply with the requirements of the Standardization Act (the "Current Business License Ordinance");

WHEREAS, in connection with the enactment of the Standardization Act and the adoption of locally compliant business license ordinances, the municipalities of the State have determined that it would be advisable and prudent to update the existing local revenue service programs;

WHEREAS, in particular, the municipalities of the State have determined to establish and join

South Carolina Local Revenue Services (“LRS”) by intergovernmental agreement, which among other things will administer Statewide Business License Taxes on behalf of its participants, including but not limited to by continuing to offer the services provided by the ITP, BTP, and TTP;

WHEREAS, Article VIII, Section 13(A) of the South Carolina Constitution provides that “(a)ny county, incorporated municipality, or other political subdivision may agree with the State or with any other political subdivision for the joint administration of any function and exercise of powers and the sharing of the costs thereof;”

WHEREAS, the City Council of the Municipality (the “Council”) now wishes to authorize and direct the Municipality to join LRS and to participate in one or more local revenue service programs;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the City of Beaufort, as follows:

SECTION 1. Direction to Apply to and Join LRS. The form of the Local Revenue Services Agreement (the “Agreement”) pursuant to which a municipality may request to participate in LRS and, if approved, become a participant is attached hereto as Exhibit A. The City Manager (the “Executive Officer”) is hereby authorized and directed to apply to participate in LRS. If the Municipality’s application is approved by LRS, then the Executive Officer shall execute and deliver a counterpart to the Agreement in substantially the form attached hereto. The Council hereby approves the terms and conditions of and agrees to comply with the Agreement upon the execution and delivery thereof by the Executive Officer.

SECTION 2. Participation in Local Revenue Service Programs. The Council determines that, if admitted to LRS, the Municipality will participate in the ITP, the BTP, and the TTP. The Executive Officer is hereby authorized and directed to execute and deliver any required Participant Program Supplements (as such term is defined in the Agreement) as may be necessary to participate in such local revenue service programs.

SECTION 3. Business License Taxes Applicable to Insurance Companies. Notwithstanding anything in the Current Business License Ordinance to the contrary, the following provisions shall apply to insurance companies subject to Title 38, Chapter 7 of the S.C. Code.

- a) Except as set forth below, “gross premiums” for insurance companies means gross premiums written for policies for property or a risk located within the municipality. In addition, “gross premiums” shall include premiums written for policies that are sold, solicited, negotiated, taken, transmitted, received, delivered, applied for, produced or serviced by (1) the insurance company’s office located in the municipality, (2) the insurance company’s employee conducting business within the municipality, or (3) the office of the insurance company’s licensed or appointed producer (agent) conducting business within the municipality, regardless of where the property or risk is located, provided no tax has been paid to another municipality in which the property or risk is located based on the same premium.
- b) As to fire insurance, “gross premiums” means gross premiums (1) collected in the municipality, and/or (2) realized from risks located within the limits of the municipality.

- c) As to bail bonds, “gross premiums” shall exclude any amounts retained by a licensed bail bondsman as defined in Title 38, Chapter 53 of the S.C. Code for authorized commissions, fees, and expenses.
- d) Gross premiums shall include all business conducted in the prior calendar year. Gross premiums shall include new and renewal business without deductions for any dividend, credit, return premiums, or deposit.
- e) Solicitation for insurance, receiving or transmitting an application or policy, examination of a risk, collection or transmitting of a premium, adjusting a claim, delivering a benefit, or doing any act in connection with a policy or claim shall constitute conducting business within the municipality, regardless of whether or not an office is maintained in the municipality.
- f) The business license tax for insurance companies under Title 38, Chapter 7 of the S.C. Code shall be established at the rates set forth below. Declining rates shall not apply.

NAICS Code

524113 **Life, Health, and Accident.** 0.75% of Gross Premiums.

524126 **Fire and Casualty.** 2% of Gross Premiums.

524127 **Title Insurance.** 2% of Gross Premiums.

- g) License taxes for insurance companies shall be payable on or before May 31 in each year without penalty. The penalty for delinquent payments shall be 5% of the tax due per month, or portion thereof, after the due date until paid.

SECTION 4. Business License Tax Applicable to Brokers. Title 38, Chapter 45 of the S.C. Code (the “Brokers Act”) establishes a blended premium tax rate applicable to brokers of 6 percent, comprising a 4 percent State premium tax and a 2 percent municipal premium tax, each to be collected by the South Carolina Department of Insurance. Pursuant to §§ 38-45-10 and 38-45-60 of the Brokers Act, the Municipal Association of South Carolina is designated the municipal agent for purposes of administration of the municipal broker’s premium tax.

SECTION 5. Business License Taxes Applicable to Telecommunication Companies.

- a) Notwithstanding any other provisions of the Current Business License Ordinance, the business license tax for “retail telecommunications services,” as defined in S. C. Code Section 58-9-2200, shall be at the maximum rate authorized by S. C. Code Section 58-9-2220, as it now provides or as provided by its amendment. Declining rates shall not apply.
- b) The business license tax year for retail telecommunications services shall begin on January 1 of each year. The business license tax for retail telecommunications services shall be due on January 1 of each year and payable by January 31 of that year, without penalty.

The delinquent penalty shall be five percent (5%) of the tax due for each month, or portion thereof, after the due date until paid.

- c) In conformity with S.C. Code Section 58-9-2220, the business license tax for “retail telecommunications services” shall apply to the gross income derived from the sale of retail telecommunications services for the preceding calendar or fiscal year which either originate or terminate in the municipality and which are charged to a service address within the municipality regardless of where these amounts are billed or paid and on which a business license tax has not been paid to another municipality. The measurement of the amounts derived from the retail sale of mobile telecommunications services shall include only revenues from the fixed monthly recurring charge of customers whose service address is within the boundaries of the municipality. For a business in operation for less than one year, the amount of business license tax shall be computed on a twelve-month projected income.
- d) Nothing in this Ordinance shall be interpreted to interfere with continuing obligations of any franchise agreement or contractual agreement. All fees collected under such a franchise or contractual agreement shall be in lieu of fees or taxes which might otherwise be authorized by this Ordinance.

SECTION 6. No Exemption for Interstate Commerce. Properly apportioned gross income from interstate commerce shall be included in the gross income for every business subject to a business license tax.

SECTION 7. LRS to Appoint Business License Official and to Designate Appeals Board. Pursuant to the Agreement, LRS is hereby authorized to appoint one or more individuals (each, an “LRS Business License Official”) to act as the Municipality’s business license official for purposes of administering Statewide Business License Taxes. In addition, LRS is hereby authorized pursuant to the Agreement to designate an appeals board (the “Appeals Board”) for purposes of appeals arising with respect to such taxes. The LRS Business License Official so appointed and the Appeals Board so designated shall have all of the powers granted to the Municipality’s business license official and appeals board under the Current Business License Ordinance, except as may be modified by this ordinance.

SECTION 8. Appeals Process. With respect to the calculation, assessment, and collection of Statewide Business License Taxes, in lieu of the appeals process described in the Current Business License Ordinance, the following appeals process required by S.C. Code Section 6-1-410 shall apply:

- a) If a taxpayer fails or refuses to pay a Statewide Business License Tax by the date on which it is due, the LRS Business License Official may serve notice of assessment of the Statewide Business License Tax due on the taxpayer by mail or personal service. Within thirty days after the date of postmark or personal service, a taxpayer may request, in writing with reasons stated, an adjustment of the assessment. An informal conference between the

LRS Business License Official and the taxpayer must be held within fifteen days of the receipt of the request, at which time the taxpayer may present any information or documents in support of the requested adjustment. Within five days after the conference, the LRS Business License Official shall issue a notice of final assessment and serve the taxpayer by mail or personal service with the notice and provide a form for any further appeal of the assessment by the taxpayer.

- b) Within thirty days after the date of postmark or personal service, the taxpayer may appeal the notice of final assessment by filing a completed appeal form with the LRS Business License Official, by mail or personal service, and by paying to LRS in protest at least eighty percent of the business license tax based on the final assessment. The appeal must be heard and determined by the Appeals Board. The Appeals Board shall provide the taxpayer with written notice of the hearing and with any rules of evidence or procedure prescribed by the Appeals Board. The hearing must be held within thirty days after receipt of the appeal form unless continued to another date by agreement of the parties. A hearing by the Appeals Board must be held at a regular or specially called meeting of the Appeals Board. At the appeals hearing, the taxpayer and LRS have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The hearing must be recorded and must be transcribed at the expense of the party so requesting. The Appeals Board shall decide the assessment by majority vote. The Appeals Board shall issue a written decision explaining the basis for the decision with findings of fact and conclusions and shall inform the taxpayer of the right to request a contested case hearing before the Administrative Law Court. The written decision must be filed with the LRS Business License Official and served on the taxpayer by mail or personal service. The decision is the final decision of LRS on the assessment.
- c) Within thirty days after the date of postmark or personal service of LRS's written decision on the assessment, a taxpayer may appeal the decision to the Administrative Law Court in accordance with the rules of the Administrative Law Court.

SECTION 9. Repealer, Effective Date. All ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be effective on the date of final reading.

ENACTED IN REGULAR MEETING, this ____ day of _____, 20__.

Stephen D. Murray III
Mayor

ATTEST:

Traci Guldner
Clerk

First reading: _____

Final reading: _____

LOCAL REVENUE SERVICES AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____ A.D., 20____, by and among the Municipal Association of South Carolina (the "Association") and all the parties who are now or may hereafter become participants ("Participants") in South Carolina Local Revenue Services, a division of the Association ("LRS"),

WITNESSETH:

WHEREAS, certain governmental functions may be more efficiently and effectively provided in cooperation with other governments, particularly when the sharing of such functions may deliver economies of scale, avoid redundancies in staffing, facilitate intergovernmental communication and coordination, benefit the citizens and taxpayers of the State by offering single points of contact, and allow retention of highly trained and specialized staff or private contractors in situations in which it would not be cost effective for a single government to retain such professionals;

WHEREAS, Article VIII, sec. 13 of the South Carolina Constitution provides that any incorporated municipality "may agree with . . . any other political subdivision for the joint administration of any function and exercise of powers and the sharing of the costs thereof," and that "[n]othing in this Constitution may be construed to prohibit the State or any of its counties, incorporated municipalities, or other political subdivisions from agreeing to share the lawful cost, responsibility, and administration of functions with any one or more governments, whether within or without this State;"

WHEREAS, S.C. Code § 4-9-41(A) provides that any "incorporated municipality ... may provide for the joint administration of any function and exercise of powers as authorized by Section 13 of Article VIII of the South Carolina Constitution;"

WHEREAS, certain municipalities in the State have determined that it would be effective and efficient to jointly perform certain functions, including without limitation the business license functions more fully described below;

WHEREAS, LRS is a division of the Association and a committee of the board of directors of the Association and will establish or continue one or more Revenue Service Programs (as hereinafter defined); and

WHEREAS, the Participants, through action of their respective governing bodies, have elected to comply with the conditions of this Agreement and to authorize LRS to perform the functions and exercise the powers herein described;

NOW, THEREFORE, for and in consideration of the mutual covenants, promises, and obligations herein contained, which are given to and accepted by each signatory hereof to the other, the parties hereto agree as follows:

Section 1. Definitions. As used in this Agreement, the following terms shall have the meanings set forth below:

- (a) "Appeals Board" means the board created pursuant to Section 8 hereof for purposes of hearing and determining appeals under this Agreement.
- (b) "Association" means the Municipal Association of South Carolina.
- (c) "Gross Proceeds" means, with respect to any Revenue Service Program and for any period of calculation, the total amount of Impositions collected by LRS during such period.
- (d) "Imposition" means any tax, fee, rate, charge, fine, penalty, or interest charge that has been lawfully imposed by a Participant and for which a Revenue Service Program has been established. Such Impositions include, without limitation, Statewide Business License Taxes.
- (e) "LRS" means South Carolina Local Revenue Services, established by this Agreement.
- (f) "LRS Board of Directors" means the board of directors of LRS.
- (g) "LRS Business License Official" shall mean the person designated from time to time by the LRS Board of Directors to act as the business license official (as such term is used in S.C. Code §§ 6-1-400 to -420) with respect to one or more Revenue Service Programs. The LRS Board of Directors may, but need not, designate different persons as the LRS Business License Official for different Revenue Service Programs.
- (h) "Participant" means a local government that has become a participant in LRS by applying to LRS for admission and, if approved, accepting the terms of participation in LRS by ordinance and signing this Agreement in counterpart.
- (i) "Net Proceeds" means, with respect to any Revenue Service Program and for any period of calculation, the amount of Gross Proceeds that remain for distribution to Participants after the payment of operation and maintenance expenses (including, without limitation, LRS's compensation) for such period.
- (j) "Revenue Service Programs" means any one or more programs established or continued by LRS to administer, assess, collect, and enforce Impositions. Such Revenue Service Programs may include, without limitation, programs for the administration, assessment, collection, and enforcement of Statewide Business License Taxes.
- (k) "S.C. Code" means the South Carolina Code of Laws of 1976, as amended.
- (l) "State" means the State of South Carolina.
- (m) "Statewide Business License Taxes" means business license taxes that, pursuant to the S.C. Code, are applicable in a manner or at a rate that applies throughout the State. Such business license taxes include without limitation the business license taxes applicable to insurers under Title 38, Chapter 7 of the S.C. Code; to brokers under Title 38, Chapter 45 of the S.C. Code; to telecommunications companies under Title 58, Chapter 9, Article 20 of the S.C. Code; and such other business license taxes as may now or hereafter be made

applicable throughout the State in a manner or at a rate that has been established by State law.

Section 2. Authorization of LRS. The municipalities that are initial signatories hereto do hereby establish LRS and authorize it to perform the functions and exercise the powers described in this Agreement. The functions to be performed hereunder are more specifically described in Section 5 below and the powers to be exercised are more specifically described in Section 6 below. The Participants, regardless of their respective dates of admission to LRS, further agree as follows:

- (a) The functions and powers described in this Agreement would be more efficiently and effectively performed and exercised in cooperation with other governments through LRS;
- (b) The Participants shall comply with the conditions of this Agreement and, by joining LRS, shall jointly perform the functions and exercise the powers herein described by contract with LRS.

Section 3. Participation. The right to participate in LRS shall be limited to local governments within the State. A qualifying entity may become a Participant by applying to LRS for admission and, if approved, accepting the terms of participation in LRS by ordinance and signing this Agreement in counterpart. LRS shall be sole judge of whether an applicant shall be admitted as a Participant. A Participant may be suspended or expelled by the LRS Board of Directors from LRS, provided that such suspension or expulsion shall not be effective until 30 days after written notice of suspension or expulsion has been mailed to it.

Section 4. LRS Board of Directors. LRS shall be governed by a Board of Directors containing five Directors. The members of the Association's Executive Committee (comprising the President, First Vice President, Second Vice President, Third Vice President, and Immediate Past President of the Association) shall serve *ex officio* as Directors of LRS, with terms of office coterminous with their terms as officers of the Association. The President of the Association, or in his or her absence the First Vice President of the Association, shall serve as chair at meetings of the LRS Board of Directors. With respect to LRS's officers, the members of the LRS Board of Directors shall occupy the same offices as they do with respect to the Association.

Section 5. Functions of LRS. LRS may, and at the direction of and subject to the control of the LRS Board of Directors shall, establish or continue one or more Revenue Service Programs including, without limitation, for the administration, assessment, collection, and enforcement of Statewide Business License Taxes and other Impositions related to Statewide Business License Taxes. LRS's functions with respect to the Revenue Service Programs shall include, without limitation, training employees; developing resources to assist business license functions; making necessary investigations into entities or individuals subject to Impositions; developing databases for the application, calculation, allocation, and distribution of Impositions; establishing procedures for determining and calculating the amounts due as Impositions; communicating with entities or individuals subject to Impositions; collecting current and delinquent Impositions; initiating, defending, managing, resolving, and settling disputes or litigation matters that affect more than

one Participant; and acquiring, licensing, developing, improving, maintaining, and protecting software and other information technology infrastructure.

Section 6. Powers of LRS. LRS shall have the following powers:

- (a) adopt bylaws for the regulation of its affairs and the conduct of its business and prescribe rules and policies and promulgate regulations in connection with the performance of its functions and duties;
- (b) adopt an official seal and alter it at its pleasure;
- (c) maintain an office at a place it determines;
- (d) sue and be sued in its own name and plead and be impleaded;
- (e) require documentation of amounts due from taxpayers, including without limitation by requiring reconciliation reports in which the taxpayer provides sufficient information to verify whether revenues of the taxpayer are appropriate for exclusion as non-municipal revenues and to determine the proper allocation of Impositions among Participants;
- (f) receive, administer, and comply with the conditions and requirements of a gift, grant, or donation of property or money;
- (g) acquire by purchase, lease, gift, or otherwise, or obtain options for the acquisition of, any property, real or personal, improved or unimproved, including an interest in land less than the fee thereof in conformity with state law;
- (h) sell, lease, exchange, transfer, mortgage, or otherwise dispose of, or grant options for any such purposes with respect to, any real or personal property or interest therein in conformity with state law;
- (i) make and execute contracts, agreements, or other undertakings with such agents, service contractors, persons, firms, corporations, and attorneys as it deems appropriate to perform its functions and exercise its powers;
- (j) acquire, license, develop, improve, maintain, and protect software and other information technology infrastructure;
- (k) employ professionals, support staff, attorneys, appraisers, financial advisors, and other consultants and employees as required in the judgment of LRS and fix and pay their compensation from funds available to LRS for that purpose;
- (l) transact any lawful business that will aid the purposes and functions of LRS;
- (m) make payments or donations, or do any other act, not inconsistent with law, that furthers the business and affairs of LRS; and
- (n) do all things necessary or convenient, not inconsistent with law, to further the activities and affairs of LRS

Section 7. Attorney-in-Fact Designation; Dispute Resolution and Conduct of Litigation. Each Participant hereby appoints LRS and its designees as its agent and attorney-in-fact to act on its behalf with respect to Impositions. As agent and attorney-in-fact, LRS shall be fully empowered to initiate, defend, manage, resolve, and settle any disputes or litigation (whether in its own name or in the name of the Participants) relating to Impositions owing or payable to one or more Participants; to pay all expenses, costs, and judgments that might be incurred against LRS when acting on behalf of its Participants for communication, investigation, negotiation, enforcement, defense, or settlement with respect to Impositions; and to take all other actions as may be necessary to administer, collect, investigate, enforce, and implement the Revenue Service Programs. Each Participant, pursuant to Rule 17 of the S. C. Rules of Civil Procedure and Rule 17 of the Federal Rules of Civil Procedure, specifically acknowledges the standing of LRS to prosecute a civil action for collection in its behalf and hereby ratifies any such action that LRS may commence.

The LRS Board of Directors may, by majority vote, authorize a third party (including without limitation the Association) to act as attorney-in-fact to the same extent as set forth in this section on behalf of the Participants.

LRS's authority to initiate, defend, manage, resolve, and settle disputes and litigation shall be subject to the following terms and conditions:

- (a) If, with respect to any particular dispute, a proposed compromise or settlement would reduce the amount asserted by LRS to be payable to an individual Participant by more than ten percent (10%) of the total amount remitted by LRS to such Participant in the immediately preceding year for the relevant Revenue Service Program, then, notwithstanding subsections 7(b) and 7(c) below, LRS shall be required to secure the written consent of such Participant before compromising or settling such dispute with respect to such Participant. Otherwise, LRS shall be entitled to compromise or settle such dispute on behalf of each Participant without further authorization by such Participants beyond that contained herein.
- (b) Any proposed compromise or settlement that would result in a reduction of \$100,000 or less from the amount originally claimed to be due and owing by LRS may be approved or denied by LRS without separate approval by the LRS Board of Directors. The LRS Board of Directors shall, by appropriate action from time to time, designate one or more staff members or contractual counterparties who are authorized to compromise or settle such disputes.
- (c) Any proposed compromise or settlement that would result in a reduction of more than \$100,000 from the amount originally claimed to be due and owing by LRS must be approved or denied by the LRS Board of Directors.

- (d) Any proposed compromise or settlement that would result in a waiver of penalties, interest, late charges, or other amounts owing due to late payment of an Imposition must be approved or denied by the LRS Board of Directors.

Section 8. Appeals Process. The Participants acknowledge that, pursuant to local ordinances, regulations, and rules, each Participant has its own procedures by which matters relating to the calculation, assessment, and collection of business license taxes may be appealed. With respect to Impositions subject to this Agreement, however, each Participant has enacted a local ordinance by which appeals relating to such Impositions are excluded from the otherwise applicable local ordinance. Each Participant agrees that the appeals process described in this Section shall apply to all appeals relating to Impositions subject to this Agreement. Each Participant hereby consents to the adoption of the appeals process described in this Section; specifically declares its intention that such appeals process shall be deemed an exception to its otherwise applicable local ordinances, regulations, and rules; and agrees that it has or will approve such appeals process by appropriate local action.

- (a) There is hereby created a board for purposes of hearing appeals pursuant to this Section (the "Appeals Board"). The Appeals Board shall contain three members. The President of the Association, the Executive Director of the Association, and the President of the South Carolina Business Licensing Officials Association ("BLOA") shall each serve *ex officio* as members of the Appeals Board, with terms of office coterminous with their terms as officers of the Association or BLOA, as appropriate. The President of the Association, or in his or her absence the Executive Director of the Association, shall serve as chair at meetings of the Appeals Board.
- (b) With respect to the calculation, assessment, and collection of Impositions, the following appeals process, as required by Section 6-1-410, shall apply.
 - (1) If a taxpayer fails or refuses to pay an Imposition by the date on which such Imposition is due, the LRS Business License Official may serve notice of assessment of the Imposition due on the taxpayer by mail or personal service. Within thirty days after the date of postmark or personal service, a taxpayer may request, in writing with reasons stated, an adjustment of the assessment. An informal conference between the LRS Business License Official and the taxpayer must be held within fifteen days of the receipt of the request, at which time the taxpayer may present any information or documents in support of the requested adjustment. Within five days after the conference, the LRS Business License Official shall issue a notice of final assessment and serve the taxpayer by mail or personal service with the notice and provide a form for any further appeal of the assessment by the taxpayer.
 - (2) Within thirty days after the date of postmark or personal service, the taxpayer may appeal the notice of final assessment by filing a completed appeal form with the LRS Business License Official, by mail or personal service, and by paying to LRS

in protest at least eighty percent of the business license tax based on the final assessment. The appeal must be heard and determined by the Appeals Board. The Appeals Board shall provide the taxpayer with written notice of the hearing and with any rules of evidence or procedure prescribed by the Appeals Board. The hearing must be held within thirty days after receipt of the appeal form unless continued to another date by agreement of the parties. A hearing by the Appeals Board must be held at a regular or specially called meeting of the Appeals Board. At the appeals hearing, the taxpayer and LRS have the right to be represented by counsel, to present testimony and evidence, and to cross-examine witnesses. The hearing must be recorded and must be transcribed at the expense of the party so requesting. The Appeals Board shall decide the assessment by majority vote. The Appeals Board shall issue a written decision explaining the basis for the decision with findings of fact and conclusions and shall inform the taxpayer of the right to request a contested case hearing before the Administrative Law Court. The written decision must be filed with the LRS Business License Official and served on the taxpayer by mail or personal service. The decision is the final decision of LRS on the assessment.

- (3) Within thirty days after the date of postmark or personal service of LRS's written decision on the assessment, a taxpayer may appeal the decision to the Administrative Law Court in accordance with the rules of the Administrative Law Court.

Section 9. LRS May Be Separately Organized. Hereafter, the LRS Board of Directors may determine, for corporate governance, recordkeeping, and operational purposes, that LRS should be established as a separate entity, either under the South Carolina Nonprofit Corporation Act, currently codified at Title 33, Chapter 31 of the S.C. Code, or otherwise. If the LRS Board of Directors so determines, it may take all such actions as may be necessary to organize LRS as a separate entity without further approval by the Participants, provided that such organization shall not otherwise vary or modify the terms of this Agreement except to the extent necessary to reflect the new organizational structure of LRS.

Section 10. Participation in a Revenue Service Program. A Participant may elect to participate in a Revenue Service Program by signing and delivering a separate supplement to this Agreement with respect to such Revenue Service Program (each, a "Participant Program Supplement"). The Participant Program Supplements shall be substantially identical within each Revenue Service Program. The form of the Participant Program Supplement is attached hereto as Appendix A.

Section 11. Collection of Impositions; Distributions; Payment for Services; Prohibition on Lobbying Activity.

- (a) LRS shall collect, subject to the Participant Program Supplements, all Impositions subject to this Agreement.

- (b) The Participants will compensate LRS for its services. Initially, such compensation shall be in the amount of four percent of Gross Proceeds collected for the benefit of each Participant within each Revenue Service Program, subject to any volume discount approved from time to time by the LRS Board of Directors, together with any interest earned on funds held on deposit prior to disbursement. The Participants acknowledge that this amount represents operating expenses payable to LRS for services rendered. For accounting and recordkeeping purposes, LRS will apply this rate to each Participant separately within each Revenue Service Program. Hereafter, and notwithstanding Section 13 below, the LRS Board of Directors by majority vote may amend the compensation method by giving notice to all participating Participants at least ninety days prior to the effective date of such amendment. Such amendment shall become effective after the ninety-day notice period with respect to each Participant without further action by such Participant, provided that such Participant may withdraw from participation at any time within ninety days after notice of the amendment is provided.
- (c) LRS will regularly, and not less than once in each calendar quarter, distribute the Net Proceeds to Participants.
- (d) No funds or personnel of LRS may be used or employed to influence any election; support or oppose any partisan organization; support or oppose the enactment, repeal, or modification of any federal or state legislation; or seek to influence any federal or state local government officials in the discharge of their official functions.

Section 12. Fiscal Year. LRS shall operate on a fiscal year from 12:01 a.m. January 1 of each year to 12:00 midnight December 31 of the succeeding year (the “LRS Year”). Application for participation, when approved in writing by LRS shall constitute a continuing contract for each succeeding LRS Year unless cancelled by LRS.

Section 13. Amendment. This Agreement may be amended by an agreement executed by those Participants constituting a majority of the Participants in LRS during the current LRS Year. In lieu of this amendment procedure, the Participants hereby appoint a 4/5 majority (i.e., at least four Directors) of the LRS Board of Directors agents to make any amendments to this Agreement that would not fundamentally alter the contemplated arrangement. Written notice of any amendment proposed for adoption by the LRS Board of Directors shall be mailed to each Participant not less than 30 days in advance. Written notice of amendments finally adopted by the LRS Board of Directors shall be mailed to each Participant not more than 30 days after adoption.

Section 14. Terms Applicable on Admission. Any entity that formally applies to participate in LRS and is accepted by LRS shall thereupon become a party to this Agreement and be bound by all of the terms and conditions hereof. A Participant may withdraw from participation by delivery of written notice of withdrawal at least 90 days prior to the end of an LRS Year, to be effective as of the end of such LRS Year.

Section 15. Term; Dissolution. LRS has been established with the bona fide intention that it shall be continued in operation indefinitely and that the contributions to LRS shall continue for an indefinite period. However, the LRS Board of Directors reserves the right at any time to terminate LRS by a written instrument to that effect executed by at least four-fifths (4/5) of the members of the LRS Board of Directors. Such written termination notice shall be delivered to each Participant no less than 120 days prior to the effective date of termination. In the event of such termination, Participant contributions shall cease as of the date of termination and the assets then remaining in the fund shall continue to be used and applied, to the extent available, for the (a) payment of claims arising prior to such termination and (b) payment of reasonable and necessary expenses incurred in such termination. Any monies or other assets thereafter remaining in LRS shall be distributed pro rata to the Participants in LRS as of the day of termination. In no event shall any such assets be returned or distributed to any individual. Upon such termination, the LRS Board of Directors shall continue to serve for such period of time and to the extent necessary to effectuate termination of LRS.

[signatures appear on following page]

IN WITNESS WHEREOF, the Participants listed below acknowledge their participation in LRS and acceptance of obligations thereunder, by the due execution hereof, following appropriate governmental body approval, by its mayor or other duly authorized official. Further, LRS has caused these presents to be signed by its President and attested by its Vice President.

MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

B. Todd Glover, Executive Director

**LOCAL REVENUE SERVICES, A DIVISION OF THE
MUNICIPAL ASSOCIATION OF SOUTH CAROLINA**

Mayor Rick Osbon, President of LRS

ATTEST:

Mayor Barbara Blain-Bellamy, Vice President of LRS

PARTICIPANT SIGNATURE PAGE

CITY OF BEAUFORT, SOUTH CAROLINA

Name: Scott Marshall
Title: City Manager

ATTEST:

Name: Traci Guldner
Title: City Clerk of Beaufort

APPENDIX A: FORM OF PARTICIPANT PROGRAM SUPPLEMENT

WHEREAS, the City of Beaufort (the "Municipality") has applied for and been approved to participate in South Carolina Local Revenue Services ("LRS");

WHEREAS, the Municipality has executed a counterpart of the Local Revenue Services Agreement (the "Agreement") by and among itself and all other participants in LRS;

WHEREAS, capitalized terms used and not otherwise defined herein have the meaning given to such terms in the Agreement;

WHEREAS, pursuant to the Agreement, LRS has established Revenue Service Programs for Statewide Business Licenses and other Impositions; and

WHEREAS, the Municipality now desires to agree to participate in one or more Revenue Service Programs;

NOW, THEREFORE, the Municipality hereby agrees with LRS as follows:

Section 1. Participation in Revenue Service Programs. The Municipality hereby elects and agrees to participate in the following Revenue Service Programs: ITP / BTP / TTP.

Section 2. Term. This Participant Program Supplement is effective until December 31, 2023, and shall continue from year-to-year thereafter until terminated by either party upon notice delivered in writing given at least 90 days prior to the next upcoming December 31.

Section 3. Payment for Services. The Municipality agrees that it will compensate LRS for its services as set forth in the Agreement. Initially, such compensation shall be in the amount of four percent of Gross Proceeds collected for the benefit of the Municipality within each Revenue Service Program, subject to any volume discount approved from time to time by the LRS Board of Directors, together with any interest earned on funds held on deposit prior to disbursement. The Municipality acknowledges that this amount represents operating expenses payable to LRS for services rendered. For accounting and recordkeeping purposes, LRS will apply this rate to the Municipality separately within each Revenue Service Program.

Section 4. Expenses; Fund Accounting. (a) The rate for services established herein shall be inclusive of all administrative expenses of LRS, except legal expenses incurred in connection with the services rendered. Legal expenses incurred by LRS are not included in the base rate and shall be prorated to all Participants in direct relationship to the disbursements of the Revenue Service Program to which the legal expenses relate.

(b) LRS will deposit all funds received in an appropriate account for which accurate records will be maintained. Business license taxes collected for the Municipality, less the service charge herein agreed to, will be disbursed to the Municipality on or before March 1 of each calendar year and thereafter as remaining collections permit.

Section 5. Special Provisions for BTP. (a) Pursuant to Title 38, Chapter 45 of the South Carolina Code of Laws (the "Brokers Insurance Statute"), the Municipality designates the Municipal

Association of South Carolina as the municipal agent to act on behalf of the municipality for the purposes of the Brokers Insurance Statute.

(b) The Brokers Insurance Statute governs the receipt from the South Carolina Department of Insurance ("DOI") and distribution to the Municipality of all municipal premium taxes from brokers for non-admitted surplus lines insurance. Upon receipt of the taxes from the DOI, LRS will deposit all funds received in an appropriate account for which accurate records will be maintained. Taxes will be disbursed to the Municipality, less the service charge herein agreed to, as collections permit.

PARTICIPANT PROGRAM SUPPLEMENT

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CITY OF BEAUFORT, SOUTH CAROLINA

Name: Scott Marshall
Title: City Manager

ATTEST:

Name: Traci Guldner
Title: City Clerk of Beaufort