

**MAYOR:**  
**John Labriola**

**TOWN ADMINISTRATOR:**  
**Stephanie Tillerson**

**TOWN ATTORNEY:**  
**Joseph Wilson**



**MAYOR PRO TEMPORE:**  
**Michael Heidingsfelder**

**COUNCIL MEMBERS:**  
**Bradley D. Belt**  
**Russell A. Berner**

**TOWN COUNCIL**  
**2023 October Fall Planning Retreat**  
**Municipal Center Council Chambers**  
**November 14, 2023, 9:00 am**

**AGENDA**

**I. Call to Order:**

**II. Opening Comments**

- Mayor Labriola

**III. Community Engagement**

- Open discussion (opportunity to hear concerns from the community).

**IV. New Discussion Items:**

- Short-Term Rental Ordinance [Tab 1]
  - Restricting the number of daytime vehicles allowed. Currently, we restrict overnight vehicles subject to the available parking confirmed on the STR business license and confirmed by staff.
  - Removing the +2-person allowance
  - CAPS in certain communities or zoning districts
  - Amend the advertisement requirements to include listing the number of beds.
- Discussion of the Traffic Mitigation Proposal presented by Councilman Heidingsfelder during the July Town Council Meeting [Tab 2]
- Discussion of Traffic Mitigation along Beachwalker Drive during the expected construction projects. [Tab 3]
- Discussion of the RFP for Zoning Ordinance Review and Rewrite [Tab 4]
- Update on ARB Workgroup Phase 2
- Discussion on General Guidelines for the Town of Kiawah Island Law Enforcement Feasibility Study Project
- Discussion of Eminent Domain for the KIRE Building

**V. Adjournment:**

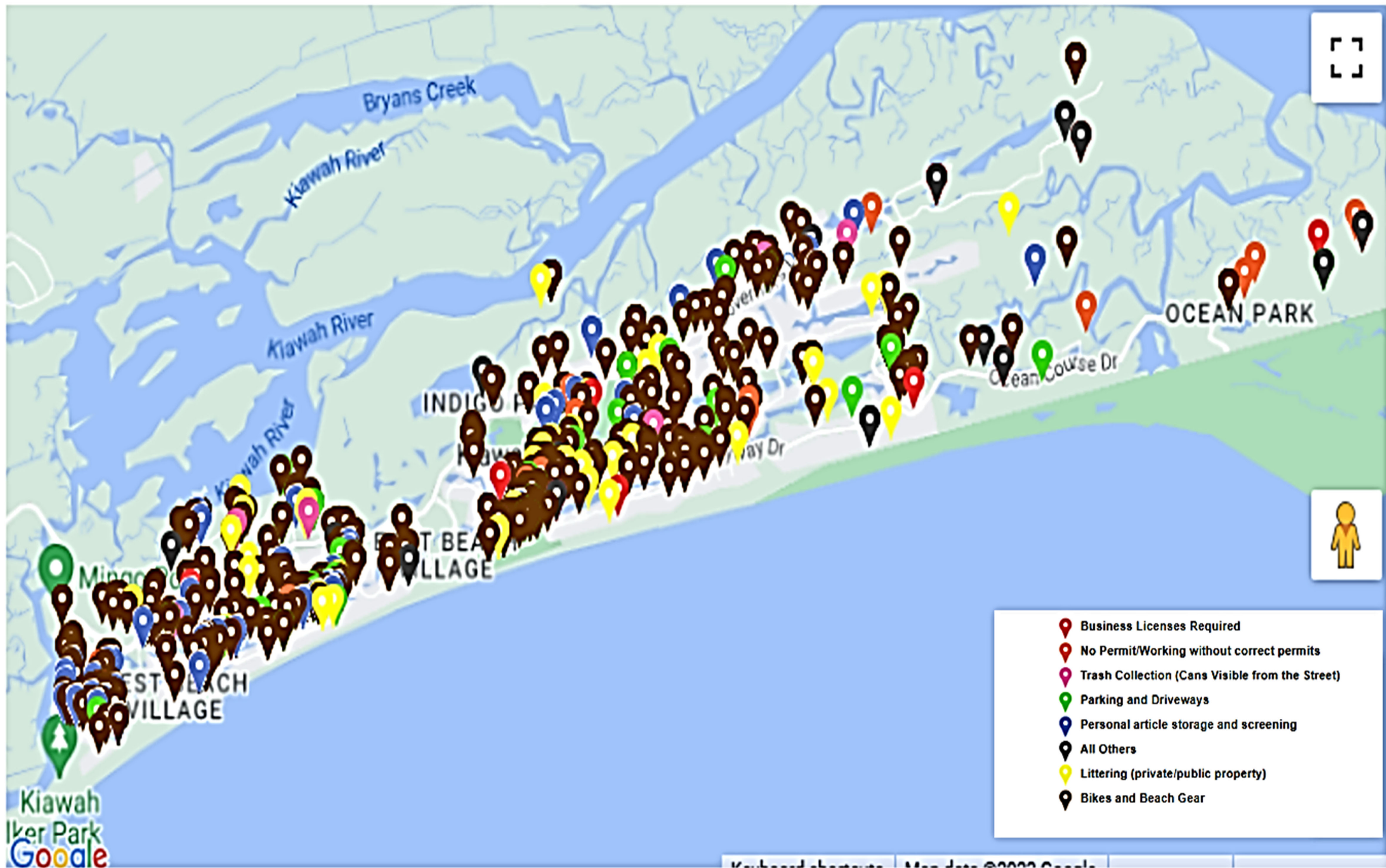


**TAB 1**

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# **TOWN COUNCIL RETREAT**

**Agenda Item**



## Short-Term Rental Inspections

Prior to scheduling a rental inspection, be advised that every bedroom will need a smoke alarm as well as any area immediately outside of it (i.e... hallway, sunrooms, common area, etc.). These areas must have a smoke alarm within 15 feet of the bedroom. If two or more bedrooms have entrances to a common room and are within 15 feet of the smoke alarm of this common room, one smoke alarm is enough. **All smoke alarms must be functioning.** For dwellings with gas appliances or fireplaces, carbon monoxide alarms shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms. Where a fuel-burning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom. Combination carbon monoxide and smoke alarms may be used instead of carbon monoxide alarms. Also, a fire extinguisher meeting the requirements as a 1-A: 10-B: C needs to be underneath the kitchen sink in all rental units.

The minimum requirements for a room to qualify as a bedroom are:

1. It must have an openable, unblocked emergency egress window (minimum 5.7 square feet of openable area and the net clear height opening shall be not less than 24 inches and the net clear width shall not be less than 20 inches); cannot be a skylight and must be not more than 44 inches above the finished floor. Windows must be easily openable without any tools or special knowledge.
2. There must be a working smoke alarm (inside the bedroom as well as within 15 ft. outside the bedroom).
3. There must be carbon monoxide alarms (applicable if there are gas appliances or a fireplace).
4. Every bedroom shall not contain less than 70 square feet and every bedroom occupied by more than one person shall contain not less than 50 square feet of floor area for each occupant thereof.



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## Sec. 12-128. Access, parking and loading regulations.

The following regulations are intended to aid in the design and location of proper access, parking, and loading areas in order to maintain safe and efficient traffic flow.

- (1) *Access/driveways.* The following regulations shall apply to all development to prevent the proliferation of poorly spaced driveways that can result in reduced safety and carrying capacity of community streets, except that the distances may be varied in accordance with section 12-163 to permit the construction of a single, safe access where no other access to a lot is possible.
  - a. Generally, any lot having access to more than one type of street shall provide access on the street designed for the lowest traffic volume.
  - b. Nonresidential properties having access to a minor and collector street may construct a single driveway on the collector street, provided that the driveway complies with the standards herein.
  - c. There shall be only one curb cut for an individual lot or parcel. Town approval shall be required for more than one curb cut to an individual lot or parcel from any street, where there is a compelling reason.
  - d. No lot or development parcel shall directly access Kiawah Island Parkway and the arterial portions of Governor's Drive and Flyway Drive.
  - e. Private residential driveways shall be a minimum of ten feet in width and provide a vertical clearance of a minimum of 13.5 feet. Nonresidential driveways shall be a minimum of 18 feet in width and provide a vertical clearance of a minimum of 13.5 feet.
- (2) *Spacing between driveways and intersections.* The centerline of driveways shall be separated from the centerline of other driveways and intersections in accordance with the following table 4D, excepting lots platted prior to adoption of the ordinance from which this article is derived and where relief is needed to protect essential natural features, such as specimen trees and dunes:

Table 4D. Driveway Separation Regulations	
Road Type	Minimum driveway separation
Arterial	Driveways prohibited
Collector	75 feet
Minor	No spacing limitation

- a. No driveway shall be permitted providing access to an arterial street if the property has access to a collector or minor street.
  - b. On minor streets, no driveway should be permitted within 60 feet of an intersection, except when relief is needed due to an existing tree, unusual lot configuration, wetlands or other topographical or geographic feature of the lot.
  - c. When channelized right turn lanes are used, the Planning Director shall determine the minimum spacing between the driveways and intersections based on AASHTO standards as modified by site-specific conditions.
- (3) *Parking and loading.* This section specifies the minimum parking and loading standards for the Town. Where strict interpretation of these standards creates a unique hardship, an individual may seek a variance pursuant to section 12-163.
  - a. Minimum parking requirements. Each use shall provide the number of parking spaces specified in table 4F in subsection (3)c of this section and comply with the following:

1. The Planning Director shall determine the number of parking spaces required for uses not referenced in table 4F in subsection (3)c of this section by first applying the standard for the most similar use or uses as listed in the table. If there is no similar use, the Planning Director may make a determination or may request that the applicant undertake a parking study.
  2. Any fraction of a parking space required under this article shall be counted as a full parking space.
  3. Handicapped spaces shall be provided as required by the Americans with Disabilities Act (ADA) standards shown below in table 4E in subsection (3)b of this section, or as requirements are amended by Federal Law.
  4. Parking requirements shall be based on gross leasable area.
  5. Off-street parking facilities shall be provided for any new building constructed and for any new use established, for any addition or enlargement of an existing building or use, or for any change of occupancy or manner of operation that would result in additional parking spaces being required; provided, however, if insufficient parking exists on a lot or parcel, then the number of spaces required to meet the needs of both the existing and new buildings or uses shall be provided.
  6. Facilities being used for off-street parking on the effective date of this article shall not be reduced in capacity to less than the number of spaces prescribed, nor shall they be altered in design or function to less than the minimum standards prescribed herein.
  7. For sites with more than one use, or for adjacent sites served by a common parking facility, the parking requirement shall be the total number of spaces required for each site or use.
- b. *Accessible parking for physically disabled persons.* Handicapped spaces shall be provided as required by the Americans with Disabilities Act (ADA) standards shown in the following table 4E:

Table 4E. Minimum Number of Accessible Spaces for Physically Disabled Persons			
Total Parking Spaces Provided	Minimum Number of Spaces		
	Accessible	Van Accessible	Car Accessible
1—25	1	1	0
26—50	2	1	1
51—75	3	1	2
76—100	4	1	3
101—150	5	1	4
151—200	6	1	5
201—300	7	1	6
301—400	8	1	7
401—500	9	2	7
501—1,000	2 percent of total spaces	1 out of every 8 accessible spaces	7 out of every 8 accessible spaces
Over 1,000	20 + 1 per each 100 spaces over 1,000		

- c. *Minimum dimensions.* All parking spaces reserved for persons with disabilities shall comply with the parking space dimension standards of this section, provided that access aisles shall be provided immediately abutting such spaces, as follows:

1. *Car accessible spaces.* Car accessible spaces shall have at least a five-foot-wide access aisle located abutting the designated parking space.
2. *Van accessible spaces.* Van accessible spaces shall have at least an eight-foot-wide access aisle located abutting the designated parking space.
3. *Proximity to main entrance.* All accessible spaces shall be in close proximity to the main entrance of the facility being served.

Table 4F. Off-Street Parking Requirements		
Type of Development		Required No. of Parking Spaces <sup>(1)</sup>
<b>Residential</b>		
	Single-family detached	2 spaces per dwelling unit (DU) <sup>(2)</sup>
	Duplex	2 spaces per dwelling unit
	Patio homes	2 spaces per 2 bedroom per dwelling unit
	Townhouses	2.5 spaces per 3 or more bedroom per dwelling unit
	Multiple-family	1.5 spaces per efficiency or 1 bedroom per dwelling unit
Hotels		1.25 spaces per room
	Guestrooms	1 space per 4 persons allowed under maximum occupancy
	Conference area (part of hotel structure)	1 space per 75 square feet of indoor seating area, plus 1 per 200 square feet of outdoor seating area
		50 percent of parking required for other uses
<b>Other uses<sup>(2)</sup></b>		
	General office	1 space per 300 square feet of GLA
	Real estate sales/leasing	1 space per 100 square feet of GLA
	Doctor/dentist office	1 space per 100 square feet of GLA
	Retail/service	1 space per 250 square feet of GLA
	Restaurant	1 space per 75 square feet of indoor seating area, plus 1 per 200 square feet of outdoor seating area
	Religious activities and public assembly	1 space per 50 square feet of assembly area
	Convention center (not accessory to hotel)	1 space per 4 persons allowed under maximum posted occupancy, plus 1 per employee in shift
	Community services	1 space per 2 employees plus 1 per company car parked on the premises
<b>Recreational</b>		
	Driving range	1.5 spaces per tee
	Golf courses	4 spaces per hole, plus 50 percent of the other uses, plus 1 space per employee on the largest shift <sup>(3)</sup>
	Tennis courts	2 spaces per court, plus 50 percent of the other uses, plus 1 space per employee on the largest shift <sup>(3)</sup>
	Marinas	3 spaces per 4 slips, plus 50 percent of the other uses <sup>(3)</sup>
	Swimming pool	1 space per 300 square feet pool and deck area
	Food and beverage	1 space per 75 square feet of indoor seating area, plus 1 space per 200 square feet of food service area
	Other recreational facilities, indoor	1 space per 300 sq. ft

	Parks (note: in addition to any other uses in this table)	1 space per 2 acres with minimum of 3 spaces
	Mixed use parking	Calculated per individual use as set forth in this table
<sup>(1)</sup> The Planning Director may determine that parking in addition to any of the parking set forth in this table is necessary in the form of overflow parking on pervious surfaces.		
<sup>(2)</sup> Single-family residences shall have adequate turnaround space along driveways so that vehicles do not need to back into or out of driveways.		
<sup>(3)</sup> Other uses may include accessory meeting rooms/convention facilities and accessory restaurants.		

d. *Parking design standards.* The following are minimum design standards, the Planning Director may require modifications to parking lot design to ensure the safety of pedestrians, bicyclists and motorists:

1. All off-street parking shall be located outside of required landscape buffer areas and behind front building lines.
2. Parking facilities constructed, or reconstructed greater than 50 percent of their original size, subsequent to the effective date of the ordinance from which this article is derived shall conform to these design standards.
3. All required parking facilities shall be maintained for the duration of the use requiring such facilities. Parking facilities shall be used exclusively for the temporary parking of passenger automobiles, motor vehicles or light trucks not exceeding one ton in capacity, and shall not be used for the sale, display or storage of merchandise, or for the storage or repair of vehicles or equipment.
4. All required parking facilities shall be located on the same site as the use for which such facilities are required.
5. On street head-in parking is prohibited.
6. Angled parking is prohibited.
7. Required parking for residential uses shall be provided within an enclosed garage.
8. Each standard parking space shall consist of an independently accessible rectangular or trapezoidal area.
9. Each parking space shall have a vertical clearance of at least 7.5 feet.
10. Each parking and loading area shall have adequate drives, aisles, and turning and maneuvering areas for access and usability, and shall at all times have access to a street or alley.
11. The minimum parking facility design standards are listed in table 4G in this subsection.
12. Where applicable, the Planning Director may require overflow parking spaces in addition to those required in table 4F in subsection (3)c of this section. All overflow parking spaces shall be of a pervious surface.
13. Required parking spaces shall not have direct access to a street or highway. Access to required parking spaces shall be provided by on-site driveways. Off-street parking spaces shall be accessible without backing into or otherwise reentering a public right-of-way.

Table 4G. Minimum Parking Facility Design Standards



Parking Pattern (degrees)	Maneuvering Lane Width (feet)		Parking Space Dimensions (feet)		Total Width of Two Tiers of Spaces and Maneuvering Lane (feet)	
	One-Way	Two-Way	Width	Length	One-Way	Two-Way
0 (parallel)	11	18	8.5	25	28	35
30—50	12	20	9	18	48	56
54—75	13	22	9	18	49	58
76—90	N/A	24	9	18	N/A	60

- e. *Markings.* In paved parking areas, each off-street parking space shall be identified by surface markings at least four inches in width. Marking shall be visible at all times. Such markings shall be arranged to provide for orderly and safe loading, unloading, parking and storage of vehicles.
- f. *Off-street loading requirements.*
1. *Spaces required.* For every nonresidential use there shall be provided sufficient space to accommodate the maximum number of trucks that will be loading, unloading, or standing at any one time.
  2. *Size of space.* Each off-street loading space shall be of a size commensurate with the buildings to be accommodated. In no case shall required off street loading space encroach upon off street parking space required by this article.
  3. *Location.* All required off street loading spaces shall be located on the same lot as the building which they are intended to serve.
  4. *Entrances and exits.* Off-street loading entrance and exit drives shall be located at least 25 feet from any street intersection.
  5. *Loading spaces adjacent to sidewalks.* Where a loading space is adjacent to a public sidewalk or other public pedestrian way, it shall be so located, arranged, and improved with curbs or other barriers, as to provide adequate protection for pedestrians.
  6. *Maneuvering areas.* All off street loading spaces shall be provided with adequate off street maneuvering areas.

Table 4H. Loading Requirements	
Gross Floor Area (square feet)	Loading and Unloading Spaces Required
0—1,999	None
2,000—4,999	1 space at the discretion of the Planning Director
5,000—19,000	1 space
20,000—99,000	1 space, plus one space for each 20,000 square feet or portion thereof in excess of 20,000 square feet
100,000 or more	5 spaces, plus one space for each 40,000 square feet or portion thereof in excess of 100,000 square feet

- g. *Parking, loading and vehicular use area landscaping.*
1. *Parking, loading and vehicular area perimeters.* Unless otherwise expressly stated, perimeter landscaping shall be required around the outer perimeter of all off street, surface parking, loading and vehicular use areas. Parking areas for the exclusive use of

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single-family dwellings shall be exempt from these requirements. Any off-street parking, loading or vehicular use area that will be entirely screened from view by an intervening building or structure or by a buffer provided to satisfy requirements contained elsewhere in this article shall also be exempt from these (parking, loading and vehicular use area) perimeter landscaping requirements.

2. *Perimeter landscape requirements.*

- (i) A curbed perimeter landscape area at least ten feet in depth shall be provided at the perimeter of all off-street parking, loading and vehicular use areas, except where permitted driveway openings are to be provided. Where drainage or other utility easements exist along property lines, the perimeter landscape area shall be located adjacent to the easement.
- (ii) Required perimeter landscape areas shall be planted in accordance with the following minimum standards:
  - A. One canopy tree shall be provided for each 50 linear feet of parking, loading or vehicular use area perimeter. These trees may be used to satisfy the interior parking lot landscaping requirements;
  - B. A hedge or other landscape material of at least three feet in height (at maturity) shall be planted within the perimeter landscape area to provide a continuous landscape element, or a combination of trees, hedge, other durable landscape material or approved wall, fence or earth berm may be used to form the continuous landscape element;
  - C. All portions of the perimeter landscape area not planted with shrubs or trees or covered by a wall or fence barrier shall be planted in grass or ground cover; and
  - D. Parked vehicles may overhang a landscaped area if curbing is installed to prevent any damage to plants within the required perimeter landscape area. Landscaping, walls, fences and earth berms will be located to prevent their damage and/or destruction by overhanging vehicles.

3. *Interior areas landscape requirements.* The following interior parking lot landscaping requirements shall apply to all parking lots except those exclusively serving single-family residential uses.

- (i) A minimum of one landscape island shall be provided for each ten parking spaces within an off-street parking area. Required landscape islands shall have a minimum of 325 square feet, variably dependent upon the species of the canopy tree proposed by the designer. Each parking lot bay must terminate with a tree island.
- (ii) Each required landscaping island shall contain at least one canopy tree and there shall be at least one canopy tree per ten parking spaces within the off-street parking area. Double-loaded interior parking landscape islands are to be no less than ten feet wide and canopy trees planted in these islands are to be planted in line with parking stripes (between vehicles).
- (iii) Curbs, wheel stops or other approved protective barriers shall be installed around all required landscape islands, as approved by the Planning Director.
- (iv) Landscaping provided to meet the right-of-way buffer standards of this article may not be used to satisfy interior parking lot landscaping requirements.

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Canopy trees provided to meet perimeter landscaping requirements may be counted to satisfy interior parking lot landscaping requirements.

h. *Paving and drainage.*

1. For all uses except single-family dwellings, parking and loading facilities shall be surfaced and maintained with asphaltic concrete or other permanent hard surfacing material sufficient to prevent mud, dust, loose material and other nuisances. Pervious materials may be allowed as approved by the Planning Director.
2. All parking and loading facilities shall be designed, graded and provided with permanent storm drainage facilities that prevent standing water on any parking area, and do not increase the flow of water onto adjacent properties, streets or alleys.

(Code 1993, § 12A-405; Ord. No. 94-12, § 2(12A-404), 9-26-1994; Ord. No. 2005-08, § 12A-405, 10-12-2005)

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Chapter 5 Rental Applications and Regulations

The intent of these regulations is to promote public health, safety, and welfare and to discourage nuisance and behavioral issues associated with short-term rental properties in residential zoning districts, R-1, R-2, and R-3.

Sec. 14-501. – Definitions

The following words and phrases, as used in this Article, shall have the following meanings:

*An authorized agent* is an owner, the owner’s agent, or the owner’s designee who is normally available and authorized to respond to any issues arising from a short-term rental unit within two (2) hours and who is authorized to receive written notice on behalf of the owner.

*CAPS* is the maximum number of properties that may be licensed for short-term rental use, calculated as a percentage of total developed dwelling units and developable lots within each zoning district. Total properties are based on the records of the County Assessor’s Office as of December 31 of each preceding year.

*Destination or Private Vacation Clubs (“Destination Clubs”)* are classified as private and/or exclusive membership organizations or commercial businesses primarily engaged in providing short-term overnight accommodations and related services for its club members with non-ownership interest who seek alternative options to standard vacation home rentals. Destination Clubs typically own or lease properties from the owners on a long-term basis, provide those properties in a variety of locations to its members on a short-term basis, and model a membership access structure where its members purchase membership levels granting access to properties and personalized services. Properties offered by Destination Clubs to a member for less than thirty (30) days are considered STRs whether the Destination Club is an owner of record or a lessee. All references to “owners” in this Chapter apply to Destination Clubs

*Non-Conforming Use* is a use which was lawfully established and maintained, but which

does not comply with the use regulations applicable to new uses in the zoning district in which it is located; the use any of any land, building, or structure which does not conform with currently applicable use regulations, but which complied with use regulations in effect at the time the use was established.

*Owner* in the context of short-term rental means the record owner of the property or any person or entity that leases from the record owner of the property, who engages in the business of furnishing for lease or for rent, either directly or through a third-party entity, a *short-term rental unit* and who must be licensed both as a business and under this Chapter.

*Provisional Lot License (PLL)* is a license that provides the owner of a vacant developable lot (hereafter referred to as "lot") the right to obtain a STR License. The PLL is valid for 3 years from issuance and guarantees the owner the right to obtain a Rental Business License upon issuance of a Certificate of Occupancy (CO). In the event construction is in the process, but a CO has not been issued, the PLL holder may appeal the expiration of the PLL to the Town Treasurer for an extension of up to 120 days.

*Short-term rental (STR) property* means an accommodation, rented or leased for less than thirty (30) consecutive days, used in a manner consistent with the residential character of the dwelling, when the property on which the accommodation is located is assessed, for county property tax purposes, as residential property. **Exceptions:** Rental properties that are available for rent for a period not to exceed 14 calendar days in a calendar year are exempt from the provisions of this Ordinance. Hotels, motels, inns, and bed and breakfasts are not considered STRs.

Any property which is leased from its owner on a long-term lease basis (30 days or greater), then made available by the lessee for short term rental or occupancy to a different party shall be considered a short-term rental and both lessor and lessee are subject to this ordinance. Vacation time-sharing plans are not short-term rentals and are not allowed pursuant to Section 14-201 of this Code.

## Sec. 14-502. – Rental Business License Application

The town shall not grant a rental business license for a STR until the following conditions are satisfied:

- (1) An Owner or the Authorized Agent on behalf of the owner is required to obtain an annual Class 7 Rental Business License from the Town for each STR property prior to advertising or renting.
- (2) A Rental Business License application shall be completed for each STR by the owner or its authorized agent. The signed Rental Business License application shall be a legal and binding agreement acknowledging that all town ordinances and rental regulations shall be adhered to for the duration of the Rental Business License. The Rental Business License application shall be submitted, and subject to review, annually.

An owner of a lot within the R1/R2\* area (see Table 14-505.1) may apply for a Rental Business License. Upon receipt of a completed application, the Town will issue, based on the availability of such licenses, a PLL.

- (3) The annual application fee for the Rental Business License, including lot applicants, is \$500 for any property in the R1 or R2 zoning districts subject to



caps; \$200 for all other properties. In the event a license is not granted due to licenses being capped, the application fee will be suspended until such time that the application is approved, and a license is awarded. A license is nontransferable between owners. A change in ownership of the STR property shall require the new owner or its authorized agent to apply for a new license for the dwelling unit or lot, subject to license availability. The previous owner is responsible for all charges prior to the change of ownership and is responsible for properly closing his/her license with the Town of Kiawah Island.

- (4) If the applicant is someone other than an owner, the applicant shall submit a copy of the owner's written authorization of the applicant's right to apply for the rental business license. Where the property is leased to the applicant, the applicant must attach a copy of the lease.
- (5) It is the responsibility of the STR owner to report all gross income generated by each STR property, including gross income generated through a property management company, home-share platforms (such as VRBO, HomeAway, or Airbnb by way of example and not limitation), or any other source, in accord with the requirements of Sections 4-304 and 4-306 of the Town of Kiawah's Municipal Business License Ordinance. Reporting all gross income can be accomplished a) through the application submitted by a property management company reporting total gross income for the STR property, including income generated by home-share platforms and other sources, or b) if the property management company will only report gross income generated by the property management company, the STR owner must submit a separate business license application reporting gross income that has not been reported by the property management company, such as gross income generated by home-share platforms or other sources. An STR owner's failure to fully report all gross income, regardless of source, generated by a STR property is a violation of Section 14-507(a)(2) of this Chapter and Section 4-307 of the Town of Kiawah's Municipal Business License Ordinance.

### Sec. 14-503. – Permit and Operating Requirements

- (a) It shall be the sole responsibility of the STR owner directly or through his or her authorized agent to notify and educate the guests of all applicable STR rules and regulations, including all rules encompassed in Section 14-506.
- (b) No owner or his or her agent may advertise a STR property in any manner that would constitute a violation of this chapter. The property owner and his/her authorized agent shall be jointly responsible for the accuracy of advertising of all STR properties as required in 14-503(c).
- (c) The advertisement of any STR properties must include the rental business license number, the maximum number of vehicles permitted for overnight parking, number of approved bedrooms, and the maximum allowable occupancy
- (d) Prior to the issuance of a STR rental business license, all first-time STR's applying for a license or any property requesting a change in the number of bedrooms or a change in parking capacity are subject to and must pass a rental property inspection pursuant to Section 14-503 (e).

- (e) All rental properties shall remain compliant with the current edition of the International Property Maintenance Code (IPMC). All STR properties are subject at any time, with notice, to inspection for compliance to the IPMC and/or Town ordinances. Inspections will include, but not limited to:
- (1) Smoke Alarms. Smoke alarms are required in each bedroom and the hall leading to the bedroom.
  - (2) Carbon monoxide detector.
  - (3) Sprinkler System. If the residence has a fire sprinkler system, it shall be the owner's or their authorized agent responsibility to furnish documentation to the code enforcement officer that their sprinkler system received an annual inspection and is in proper working order.
  - (4) Fire Extinguishers. A fire extinguisher meeting the requirements as a 1-A: 10-B:C shall be under the kitchen sink in all rental units.
  - (5) Vehicle Parking Spaces. Verification of the number of vehicle parking spaces permitted on site as set forth in Section.14-506 (d).
  - (6) Bedroom Count. Verification of the number of bedrooms within each rental unit as set forth in Section.14-506 (c).
  - (7) Structural Elements. Decks, stairs, handrails, and guardrails including boardwalks.
  - (8) Enclosed Trash Receptacles. Trash receptacles shall be enclosed in a garage or approved screened enclosure.
  - (9) Posted Address and Contact Information and Rules and Regulations. Each rental unit shall furnish the property's address, and the owner's or authorized agent's contact information, including all other information required by Section 14-506, inside the unit in a visible place to occupants in the event an emergency.

## Sec. 14-504. – Rental Business License

- (a) Article 4 – Finance and Taxation, Chapter 3. - Municipal Business Licenses, regulates all business licenses. The following additional regulations apply specifically to STR business license.
- (b) A short-term Rental Business License expires annually on April 30th. License holders must renew each year and have until April 30th to renew their license without penalty. As of May 1<sup>st</sup>, if the holder of an expired license submits a renewal request, one of the following conditions shall apply:
  - (1) If the property is in an R1 or R2 zoning district, and the License Cap in Table 15-805.1 has not been reached, the license is renewable subject to a \$1000 late fee, plus all applicable fees.
  - (2) For properties in all other zones, the license is renewable subject to a \$1000 late fee, plus all applicable fees. If the property is in an R1 or R2 zoning district subject to caps, and the Town is unable to issue a STR business license solely due to the percentage

Caps established herein, (see 14-505.1), a new application can still be filed, and the applicant will be placed on a waiting list. If a permit becomes available, the Town will notify the applicant who has been on the waiting list the longest and allow him/her 7 business days to provide the Town with any and all information necessary to ensure the application is current and otherwise complies with the ordinance. If the applicant fails to respond and/or provide current information within 7 business days, the Town shall remove the applicant from the waiting list and repeat the process until a STR business license, or PLL, has been issued, or all of the applicants on the waiting list have been notified.

- (3) Late renewals (after the close of business on April 30th), are not permitted for non-conforming use properties previously holding a valid STR business license, including Destination or Vacation Clubs.
- (c) A license holder shall provide proof of accommodation tax payments for the previous year at the time of license renewal. Failure to pay all required accommodation taxes constitutes grounds to not renew a rental business license.
- (d) All fees related to STR business licenses must be paid in full at the time of application. Upon the closing of the license, the licensee is responsible for notifying the Town and properly closing their account.

## Sec. 14-505. – Short-term Rental Property Caps

Short term rental Caps are established in the R1 zoning district and identified R2 zoning districts (see Table 14-505.1 for details). The limitations and requirements of this section apply to short-term rental properties in the Town's R1 and R2\* zoning districts.

- (1) License Caps. Licenses for rental properties shall be distributed on a first-come, first-serve basis. Active licenses expire annually on April 30<sup>th</sup> of each year. Applications received after April 30<sup>th</sup> are subject to late fees as defined in Section 14-504(b)(1)(2).
  - a. Properties holding a rental business license will have first preference to renew by April 30<sup>th</sup> to maintain their license, as long as the license is in good standing with the Town.
  - b. Available licenses are subject to the percentage of rental caps allowed within the zoning district, pursuant to Table 14-505.1, Rental Property Zoning Caps.
  - c. If a license cap is reached within the R1/R2\* zoning district, the applicant will be placed on a waiting list until a license becomes available, consistent with provisions in Section 14-504(b)(3).
  - d. STR or PLL licenses are not transferable. In the event of the transfer of property ownership, including the transfer of interests in corporations or partnerships that own a licensed property, the new owner may apply for a new STR or PLL license, subject to Section 14-502 and all other provisions of this ordinance. **Exception:** Intra-family transfers of property can include the transfer of a STR or PLL license.

## ADOPTED STR ORDINANCE 11-5-19 EFFECTIVE 1-1-20

- e. A license may be subject to expiration or may not be renewed should an owner report <\$3,000 of annual rental revenue. In the event of annual revenue below \$3,000, an owner will need to demonstrate the short-term rental property was available and advertised for rental throughout the previous year.
- (2) In calculating the number of rental business licenses available in any license year, the calculation will be based on the percentages defined in Table 14-505.1

Table 14-505.1: Rental Property Zoning Caps			
Zoning District	R-1 and R-2*	All other R-2	R-3
Maximum % of STR properties allowed	20%	No Limit	No Limit
<p><i>Rental percentages are a ratio of rental licenses (including PLL's) to developed lots within the R1 zoning district, and the specific R2 zoned areas identified below. Developed lot numbers are defined from the County Assessor's Office as of December 31 of the prior calendar year.</i></p> <p><i>*R-2 districts include: Indigo Park, Ocean Oaks, Ocean Park, and Silver Moss, Osprey Point (Club Cottage Lane, Marsh Cottage Lane, and Shell Creek Landing)</i></p>			

- (3) Destination Clubs and Private Vacation Clubs are not permitted by the Town's zoning regulations in Residential Zones R1, R2, and R3 unless the Destination Club complies with the following requirements:
- a. The Destination Club obtains a STR business license;
  - b. The Destination Club pays all required State Sales Tax (8%), State (2%), County (2%) and Local Accommodation (1%) Taxes on gross receipts collected from STR's;
  - c. The Destination Club complies with all other rules and regulations applicable to STR's;
  - d. The Destination Club provides no commercial services on the subject property; and
  - e. The owner of the property obtains a business license.

Any applicable properties in R1, R2, or R3 holding a valid STR business license as of the effective date of this ordinance shall be grandfathered and included in calculating the license cap, subject to the following conditions:

- a. Residential Business Licenses expire as of April 30<sup>th</sup> of each year. The license holder has until April 30<sup>th</sup> of the following year to renew. Failure to renew by the close of business on April 30<sup>th</sup> will result in the expiration of the license. No late renewals will be permitted for non-conforming use properties, including Destination Clubs and Vacation Clubs.
- b. All grandfathered properties shall remain subject to the requirements of this Chapter as STRs.

- c. Destination Clubs and Private Vacations Clubs are permitted in Zones R2/Commercial, R3/Commercial, RST-1, RST-2, RST-1/R3, R-2(DA), R-3(DA), and RST-2(DA) are subject to the approval of uses prescribed in the Zoning Ordinance and the requirements of this Chapter as STRs.

## Sec. 14-506. - Notice of Rental Residence Rules and Regulations

- (a) The Town shall promulgate and distribute Rules and Regulations applicable to the rental of residential property to all property management companies and/or the owners. An owner or authorized agent shall furnish a copy of the rules and regulations to each rental guest. In addition, the owner (or authorized agent) shall post a copy of the rules and regulations in a visible location within each rental unit.

### (b) Local Contacts

- (1) The owner (or authorized agent) who does not reside within the Charleston Metro Area must identify an individual or individuals to serve as local contacts and be authorized and able to respond to emergency conditions or complaints affecting the property and to inquiries from all entities having jurisdiction over the rental property.
- (2) The owner (or authorized agent) must have a 24-hour contact phone number posted in a visible location within each unit
- (3) A local contact designated under subsection (1) must be present within the Charleston Metro Area and be accessible and available to respond within two hours after being notified of an emergency by a guest of the short-term rental, or by a Town employee during any 24-hour period.
- (4) If there is a change to a local contact, the owner or authorized agent must provide updated or new information to the Town of Kiawah Island Business License Department in writing within three business days.

### (c) Maximum Occupancy

The maximum occupancy for all short-term rental properties is two occupants per code-compliant bedroom. Two additional occupants are allowed per dwelling unit. *As an example, a four-bedroom rental property shall have a maximum of ten occupants.* Children under the age of 2 are not included in calculating maximum occupancy.

- (1) The number of bedrooms for purposes of determining occupancy shall be based on Charleston County Property Tax records. Should a rental business license applicant seek to claim more bedrooms than shown on Charleston County records, the owner or its agent shall contact the town code enforcement office for review and determination prior to renting the unit. Such review will consider the additional bedrooms per the building code requirements.
- (2) Temporary conversion of rooms such as dining rooms, living rooms, studies, etc., for use as bedrooms for rental purposes, is not permitted.



**(d) Parking and Driveways**

The maximum number of vehicles permitted for overnight parking for each single-family dwelling unit shall be in accordance with the number of parking spaces as defined on the rental application.

- (1) Vehicles may only be parked on permanent paved or gravel parking surfaces, as approved by the Town or other entity having jurisdiction. Parking on grass or landscaped areas is prohibited at all times.
- (2) Vehicles must be parked in a manner that permits the free passage of emergency vehicles. Overnight parking in driveways must allow emergency vehicles to within 25 feet of the residence.
- (3) If a garage is utilized to determine allowable parking, access shall be provided at all times that the short-term rental is operational.
- (4) Parking for villa units shall be in parking lots that are integral to the villa complex.
- (5) Pickups greater than one-half ton, and cargo vans greater than 12 passengers, recreation vehicles (RVs), buses, trailers, boats, and other large vehicles are prohibited from parking overnight at residential dwellings. Vehicles shall not be used for sleeping or overnight accommodations.
- (6) STR properties must comply with St. Johns Fire District requirements and applicable Architectural Review Board regulations for residential zoning districts (R-1, R-2, and R-3) which require that driveway clearance for fire trucks be a minimum of ten feet wide for straight drives and have a height clearance of 13.6 feet.

**(e) Trash Collection**

- (1) Rental dwelling units shall subscribe to back-door trash collection two times per week, including recycling service. Trash receptacles shall be stored in an enclosed garage or approved screened enclosure whereby the receptacles are not visible from the street.
  - (2) Villas shall use provided dumpsters for trash disposal. Dumpster pick-up service shall be sufficiently frequent to avoid trash overflow. Dumpsters shall be stored on an approved screened pad.
- (f)** Bicycles and beach gear shall not be visible from the street side or adjoining properties from dusk to dawn for all single-family dwellings and multi-family dwellings. These articles shall be placed in the appropriate storage location from dusk to dawn and shall not be left in a driveway, yard, or parking lot from dusk to dawn. No articles of clothing, beach towels, or other similar items shall be draped over railings or deck chairs or be visible beyond property lines at any time of day or night.
- (1) Villa complexes shall provide adequate bicycle racks for overnight bicycle storage. All other gear shall be stored indoors or in provided storage closets.
- (g)** All exterior lighting shall comply with Article 16 – Beach Management, Chapter 1. - Beach Lighting, which regulates beach lighting to protect sea turtle hatchlings.

- (h) The provisions of Subsections (d), (e), (f), and (g) herein shall apply to the STR property at all times, including when the property is in use by the owners, guests, or renters.

### Sec. 14-507. - Violation of Rental Regulations

- (a) It shall be a violation of this chapter to:

- (1) Operate a rental property without complying with the requirements of this chapter and the Town code of ordinances;
- (2) Make a misrepresentation on a short term rental business license application;
- (3) Advertise, offer, or otherwise make available, a property as being available as a rental without first complying with the requirements of this chapter; excluding properties exempt from these provisions of the rental program not exceeding 14 calendar days on an annual basis;
- (4) Expand the allowable occupancy or parking of a rental unit without obtaining a new license;
- (5) Advertise a rental property as being available for more overnight occupants than have been permitted pursuant to this chapter;
- (6) Advertise or rent separate guest houses or pool houses as an independent rental unit. Such units can be included under a rental business license issued to a single address, but it cannot be rented as a stand-alone unit;
- (7) Rent out a portion only of the rental or individual rooms of a property, to include detached homes, villas, cottages, and any other property designation. No rental business license will be issued unless the subject property is to be rented in its entirety. Owners are permitted to lock off closets or bedrooms from guest access;
- (8) Operate a commercial business in a STR property. Examples include, but are not limited to catering, telemarketing, or distribution of goods; and
- (9) Prune or otherwise alter vegetation and dunes without the required permits from the Town or other applicable jurisdiction (Kiawah Island Community Association, or the Kiawah Island Architectural Review Board).

### Sec. 14-508. – Liability

- (a) Any person violating any provision of this ordinance shall be subject to a fine of up to \$500 plus required statutory assessments or imprisonment for not more than 30 days, or both, upon conviction. Each day of violation shall be considered a separate offense. Punishment for the violation shall not relieve the offender of liability for delinquent taxes, penalties, and any other costs.
- (b) An owner may authorize an agent or property management firm to comply with the requirements of this ordinance on behalf of the owner. However, the owner shall not be relieved from any personal responsibility and personal liability for noncompliance with any applicable law, rule or regulation pertaining to the use and rental of the STR property, regardless of whether such noncompliance was committed by the owner's authorized agent, local contact person, renter, or guest of the short-term rental.

- (c) A property management firm or authorized agent shall be jointly and severally liable for any violations occurring on any of its managed STRs in the Town.

### Sec. 14-509. – Revocation or Suspension of a Short-term Rental Business License

In addition to applicable fines and penalties:

- (1) The failure of the rental business licensee to comply with any sections of this ordinance shall constitute grounds for the suspension or revocation of the license. Any action to suspend or revoke the license shall be conducted by the license official in accordance with Municipal Code, Chapter 3, Municipal Business License, Section 4-315.
- (2) Any property with three violations of this ordinance during any 12-month rolling period and found guilty by admissions or by the Municipal Judge will be considered cause for license revocation. The owner or agent may reapply for a new STR license no sooner than twelve months after revocation, subject to all provisions contained herein.

On receipt of notice of revocation or suspension, the owner (or authorized agent) shall immediately stop the operation of the short-term rental establishment. All advertisements for future short term rentals shall immediately cease. If such property is advertised or occupied by short term renters after the revocation or suspension of the STR license, fines shall be levied against the owner and agent.

### Sec. 14-510. - Appeals to Town Council

- (a) A person aggrieved by the town's decision to revoke, suspend, or deny a rental business license may appeal the decision in accordance with Municipal Code, Chapter 3, Municipal Business License, Section 4-316. Timely filing of an appeal shall stay the revocation, suspension, or denial, pending a decision on the appeal by the Town Council.



**TAB 2**

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# **TOWN COUNCIL RETREAT**

**Agenda Item**



# Kiawah Island Traffic Mitigation

## A Proposal to Better Manage Commercial Traffic on the Island

Dr. Michael Heidingsfelder

Town Council Meeting

Tuesday, July 11<sup>th</sup>, 2023



# Kiawah Island Traffic Mitigation

## Introduction



- ▶ The Town Council has talked multiple times about the **problems caused by the increased traffic volumes** along the corridor of county roads from West Ashley or Charleston towards Freshfields as well as onto the island and on the island itself.
- ▶ Both as it relates to commercial and **especially construction-related traffic** and the increased volume of cars residing on Kiawah as well as visiting Kiawah
- ▶ Most importantly, one of the frequently voiced concerns from community members at many of our regular community outreach meetings has been the perceived and factual problem of ever-increasing ...

### Traffic Congestion

- ▶ It seems to be a consensus among many on the island, that **we need to do something about this matter more decisively** ... as otherwise we will drown in traffic. And not only at the 1<sup>st</sup> Gate.
- ▶ **CONCLUSION: Something need to be done! For all of us ... and for our environment and wildlife!**

# Kiawah Island Traffic Mitigation

## Background (1)



- ▶ The recent survey by the Comprehensive Plan team among property owners and stakeholders showed that the topic of “**Traffic Flow and Congestion**” was rated as a major weakness of our island (60+% rated it as a “Great Weakness” or “Weakness”).
- ▶ As in prior years, the 2023 KICA Member Survey revealed that “**Traffic Congestion**” (20%) is one of the Top-3 concerns for the membership ... besides the questions surrounding “Amenities” (25%) and “Area Development” (23.5%).
- ▶ The highest rated concern for the members within the traffic category is the “**inbound Traffic Congestion during Weekdays**” (27%) by contractors and delivery services.
- ▶ The topic of “**inbound Traffic Congestion during weekends**” due to Resort and Vacation-rental guests” was with 22% the 3<sup>rd</sup> highest ranked concern (right after “Traffic Congestion on Johns Island”).
- ▶ Furthermore, according to the yearly traffic study on the island, between 150,000 (January) to 450,000 (e.g., July or August) vehicles cross into the 1<sup>st</sup> Gate every month ... or **up to 14,500 vehicles per day** are entering and exiting the island every day.

# Kiawah Island Traffic Mitigation Background (2)



- ▶ **Some interim solutions implemented by the Town** have started to provide some urgently needed relief due to:
  - ▶ the elimination of the STOP sign when exiting the island at the 1<sup>st</sup> Gate ... which has notably eliminated the usual traffic back-up at this location in the afternoons
  - ▶ The daily duty of TOKI employees guiding traffic entering the island in the morning hours has partially reduced the back-up towards the 1<sup>st</sup> Gate when approaching the island
- ▶ ... but the traffic volumes are too big to be solved by these interim measures.

# Kiawah Island Traffic Mitigation

## Actions Required



- ▶ Therefore, it could be **within the reach of the Town's jurisdiction to take some additional, more decisive actions to mitigate or limit the traffic** coming onto the island and going beyond the 1<sup>st</sup> Gate.
- ▶ Unfortunately, the long-term plan to **mitigate the traffic back-up at the 1<sup>st</sup> Gate** during the morning rush hours and the busy weekends with (for example) a roundabout is stalled. Mostly due to the **inability to agree on a fair price** with the KI Partners for the KIRE property at the entrance to the island. Without this property and the roundabout, a **traffic backup at the 1<sup>st</sup> Gate will remain a fact** every day.
- ▶ **CONCLUSION:**
  - ▶ We need to think about **short- to mid-term solutions to reduce the amount of construction-related traffic** we face onto and on the island every day.
  - ▶ We need to **continue the conversation with the Developer about the KIRE property** and an acceptable value for the land and building.
- ▶ The following pages will outline a **proposal with two concepts to accomplish the objective of reducing the construction-related traffic** onto and on the island.

# Kiawah Island Traffic Mitigation

## Proposed Plans to Reduce Traffic



- ▶ The following **two concepts** can help to reduce construction-related traffic and help to mitigate the regular traffic back-ups during peak times:

### 1. BLACKOUT

**Stop of all non-urgent construction work during peak weeks** for the island – for example around Easter, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving and Christmas to New Year.

This measure will need to be implemented and enforced in collaboration with KICA at the 1<sup>st</sup> Gate based on a Town's Ordinance.

### 2. LIMIT

**Cap the number of building permits issued per year** by the Town of Kiawah Island for new construction, alteration, renovation or remodel and major repair projects.

- ▶ Both concepts could substantially **reduce the amount of commercial and construction-related traffic** onto and on the island and **significantly improve the perceived experience** for both our residents and visitors to the island.



# Kiawah Island Traffic Mitigation

## Plan 1: Blackout Construction Work



- ▶ The proposal would be to **not allow general construction work for new building projects as well as renovation, remodel and large repair projects** on the island during peak times.
- ▶ This measure would be **very similar to other high-end resorts and gated communities** around the country who have implemented such measures years ago.
- ▶ **Exceptions could be made for urgent repair needs** like for HVACs or plumbing matters or pool cleaning and landscaping needs.
- ▶ Non-urgent contractors for general construction projects **would not be allowed onto the roadways of the island** during the following peak times (for example):
  - ▶ **Easter:** Friday before Easter to Monday after Easter
  - ▶ **Memorial Day:** Friday before Memorial Day to Tuesday after Memorial Day
  - ▶ **July 4<sup>th</sup>:** Friday the week before July 4<sup>th</sup> until Sunday after July 4<sup>th</sup>
  - ▶ **Labor Day:** Thursday before Labor Day to Tuesday after Labor Day
  - ▶ **Thanksgiving:** Friday the week before Thanksgiving until Sunday after Thanksgiving
  - ▶ **Christmas to New Year:** Starting December 22<sup>nd</sup> until January 2<sup>nd</sup>

# Kiawah Island Traffic Mitigation

## Plan 1: Blackout Construction Work



- ▶ As example, the following **peak weeks in 2023** would be defined under this proposal (start and end dates are included in the blackout) as follows:
  - ▶ **Easter – Sunday, April 9<sup>th</sup> 2023**  
Friday, April 7<sup>th</sup> to Monday, April 10<sup>th</sup> – **Total of 2 workdays**
  - ▶ **Memorial Day – Monday, May 29<sup>th</sup> 2023**  
Friday, May 26<sup>th</sup> to Tuesday, May 30<sup>th</sup> – **Total of 2 workdays**
  - ▶ **July 4<sup>th</sup> – Tuesday in 2023**  
Friday, June 30<sup>th</sup> to Sunday July 9<sup>th</sup> – **Total of 5 workdays**
  - ▶ **Labor Day – Monday, September 4<sup>th</sup> 2023**  
Friday, September 1<sup>st</sup> to Tuesday, September 5<sup>th</sup> – **Total of 2 workdays**
  - ▶ **Thanksgiving – Thursday, November 23<sup>rd</sup> 2023**  
Saturday, November 18<sup>th</sup> to Sunday, November 26<sup>th</sup> – **Total of 4 workdays**
  - ▶ **Christmas to New Year 2023**  
Starting December 23<sup>rd</sup> until January 2<sup>nd</sup> – **Total of 5 workdays**
- ▶ This would be a total of 20 regular workdays or less than 8% of total workdays per year (excl. Saturdays).

# Kiawah Island Traffic Mitigation

## Plan 2: Limit Building Permits



- ▶ The **issuing of Building Licenses by the Town of Kiawah Island** for new building projects and remodel, alteration and larger maintenance/repair projects has increased significantly over the past 3+ years.
- ▶ The **total numbers for these projects have increased steadily** between July 1st 2018 and June 30<sup>th</sup> 2023:

	2018/19	2019/2020	2020/2021	2021/2022	2022/2023
Renovations	201	363	495	560	584
New Constructions	58	55	101	136	74
<b>TOTAL</b>	<b>259</b>	<b>418</b>	<b>596</b>	<b>696</b>	<b>658</b>
Compared to 2018/19		<b>+61%</b>	<b>+130%</b>	<b>+169%</b>	<b>+154%</b>

The yearly data shown is for July 1<sup>st</sup> to June 30<sup>th</sup> in line with the regular Financial Budgets of the Town of Kiawah Island

- ▶ These **numbers do not include yet the upcoming large construction activities** for Andell West, Seafields and the MUSC Emergency Care Facility. Neither would Lower Beachwalker Drive and Upper Beachwalker Drive yet be in the above numbers.

# Kiawah Island Traffic Mitigation

## Plan 2: Limit Building Permits



- ▶ The proposal would be to **limit the total number of building licenses** issued by the Town each year to a level slightly above pre-Covid numbers or to ...

**400** (or minus 40%)

... building licenses for Renovation and New Construction projects per year.

- ▶ This measure would **reduce construction-related traffic** over the entire year.
- ▶ At the same time, this measure would also **impact the Town's budget** in terms of the **financial revenue stream** coming from building licenses:
  - ▶ 2023/24 TOKI Budget estimates 70 New Construction and 600 Renovation permits
  - ▶ New Construction Permits average 10,000 USD, Renovation permits are 830 USD
  - ▶ Assuming that the reduction of building licenses from these 670 permits in total would be reduced proportionally (-40%), we can expect:
    - ▶ 42 New Construction projects equal to 420,000 USD (minus 280,000 USD)
    - ▶ 360 Renovation projects equal to 300,000 USD (minus of 200,000 USD)
    - ▶ **480,000 USD lower revenue stream or -4% of 12.1 mn USD total revenue**

# Kiawah Island Traffic Mitigation

## Benefits of Plan 1 and 2



- ▶ The benefits from both measures for the community would be significant:
  1. **Reduced construction-related traffic by a notable number** during peak times and over the entire year onto and on the island
  2. **Less traffic congestion on the roads** leading to the island
  3. **Reduced construction noise** on the island during these peak times and over the entire year
  4. **Help protect our entire eco-system** on the island by reducing the speed of destruction of our natural resources of maritime forests, beaches, marshes and wildlife
  5. **Help reduce the carbon footprint** of our island notably ... which is one of the objectives for the Kiawah Goes Green Initiative
  6. Last but not least, the budgeting process and the estimation of **building license revenue for the Town would be much easier to predict**

# Kiawah Island Traffic Mitigation

## Problems from Plan 1 and 2



- ▶ Beside the benefits, we would also need to consider some **unfavorable “side effects” from these measures**:
  1. Many **property owners** who have spent 2+ years on planning for their new home would now potentially need to wait for the next 12 months period to start
  2. Renovation projects are often triggered or at least contain also **urgent repair and maintenance matters**, which could now be delayed by a few months if the quota has been reached and therefore could cause harm and separate problems
  3. An entire industry of **Developers/Builders/Contractors** surrounding Kiawah could be strongly opposing these measures
  4. Building projects will now **use more of Saturday’s as a semi-workday** to work on the island, which would cause traffic to increase and noise levels to go up on Saturday’s
  5. Proper **enforcement of Plan 1 measures** would require KICA to support and enforce this plan ... which could create some additional operational problems
  6. Misunderstandings and confusion if **measures are not properly communicated** to the community and all stakeholders (especially including the construction industry)

# Kiawah Island Traffic Mitigation

## Next Steps



- ▶ This proposal should be **discussed further among Council members and staff** in the coming days/weeks to finetune some of the suggestions and ensure that no legal limitations exists or laws being violated.
- ▶ **Community input** will be very vital for the following steps to ensure that all concerns are voiced and can be addressed.
- ▶ Town staff would then **propose two Ordinances** which should come before the Town Council for a 1<sup>st</sup> and 2<sup>nd</sup> reading.
- ▶ Both Ordinances could be in place towards the end of the year ...
- ▶ ... while **KICA will of course need to collaborate with TOKI** on the measures of Plan 1 as we can implement and enforce these measures only together with KICA.
- ▶ We can **consider a trial period of perhaps 6 or 12 months**, after which the Town Council will discuss the outcome of these measures and the feedback from property owners and members of the construction/renovation/repair community and revise the Ordinances accordingly.





**TAB 3**

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# **TOWN COUNCIL RETREAT**

**Agenda Item**

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
	)	
ATLANTIC PARTNERS II, LLC,	)	CASE NO. 2018-CP-10-05041
	)	
PLAINTIFF,	)	
	)	
vs.	)	<b>CONSENT ORDER APPROVING</b>
	)	<b>SETTLEMENT AGREEMENT</b>
TOWN OF SEABROOK ISLAND AND	)	
THE PLANNING COMMISSION OF	)	
THE TOWN OF SEABROOK ISLAND,	)	
	)	
DEFENDANTS.	)	
	)	

---

This matter comes before the Court on a Joint Motion to Approve Settlement seeking approval of a proposed settlement of claims which involve Plaintiff's ("Atlantic") objections to the conditions imposed by the Town of Seabrook Island in response to Atlantic's application for an encroachment permit.<sup>1</sup>

On July 16, 2018, Atlantic made application to the Town for an encroachment permit to provide access to a construction site from Seabrook Island Road. On October 5, 2018, the Town's Planning Commission granted Atlantic's application for an encroachment permit, subject to nine specific conditions.

On October 19, 2018, Atlantic took exceptions to each of the nine specific conditions imposed by the Town's Planning Commission and filed a Notice of Appeal, the instant action, in the Charleston County Court of Common Pleas against the Town pursuant to S.C. Code Ann § 6-29-1150(D)(1).

On January 24, 2019, pre-litigation mediation was conducted pursuant to S.C. Code Ann.

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<sup>1</sup> The proper Defendant in this action is the Town of Seabrook Island. The Planning Commission is a part of the Town, not a separate legal entity.

§ 6-29-1155 whereby the parties entered into a Memorandum of Understanding which set forth in general terms the resolution of the parties with respect to Atlantic's objections to the nine specific conditions imposed by the Town's Planning Commission.

After pre-litigation mediation, the parties negotiated and executed the Agreement, which has since been filed with the Court, which sets forth the terms and conditions on which the Town will grant and Atlantic will accept an encroachment permit. Town Council, the legislative governing board for the Town, approved the terms of the Agreement in public session and authorized the Mayor to enter such Agreement.

Having reviewed the proposed Agreement and the Joint Motion to Approve Settlement Agreement, the Court finds the settlement is a fair, just, and equitable resolution of this dispute, is in the best interest of all the parties, and has a rational basis in accordance with the standards of the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 in accordance with S.C. Code Ann. § 6-29-1155(G).

**IT IS THEREFORE ORDERED** that the Agreement attached as Exhibit A to this Order is hereby approved. This case shall be dismissed and each party shall be responsible for their own fees and costs.<sup>2</sup>

**IT IS SO ORDERED**

---

**Judge Bentley Price**  
**Ninth Judicial Circuit**

Charleston, SC

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

*<Consent Signature Page Follows>*

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<sup>2</sup> The Court notes Balfour Beatty Construction, LLC and BRP Kiawah, LLC were not parties to the action brought by Atlantic, but are voluntary signatories to the Agreement and are thus bound by its terms.

<Signature page for Consent Order Approving Settlement Agreement; Case No.: 2018-CP-10-05041>

**WE SO CONSENT**

WALKER GRESSETTE FREEMAN & LINTON, LLC

By: s/G. Trenholm Walker  
G. Trenholm Walker  
P.O. Box 22167  
Charleston, SC 29413  
Email: walker@wgflaw.com

*Attorney for Atlantic Partners II, LLC*

**WE SO CONSENT**

YCRLAW, LLC

By: s/Stephen L. Brown  
Stephen L. Brown  
25 Calhoun St., Ste. 400  
Charleston, SC 29401  
Email: sbrown@ycrlaw.com

*Attorney for Town of Seabrook Island  
and The Planning Commission of the  
Town of Seabrook Island*



Charleston Common Pleas

**Case Caption:** Atlantic Partners II LLC VS Seabrook Island Town of

**Case Number:** 2018CP1005041

**Type:** Order/Approval Of Settlement

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	NINTH JUDICIAL CIRCUIT
ATLANTIC PARTNERS II, LLC,	)	CASE NO. 2018-CP-10-05041
	)	
PLAINTIFF,	)	
	)	
vs.	)	<b>SETTLEMENT AGREEMENT</b>
	)	
TOWN OF SEABROOK ISLAND AND	)	
THE PLANNING COMMISSION OF	)	
THE TOWN OF SEABROOK ISLAND,	)	
	)	
DEFENDANTS.	)	

THIS AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2019, by and between Atlantic Partners II LLC, a South Carolina limited liability company (hereinafter "Atlantic"), BRP Kiawah, LLC, a real estate investment and development company (hereinafter the "Developer"), Balfour Beatty Construction, LLC, a provider of general contracting services (hereinafter, "BB"), and the Town of Seabrook Island, South Carolina (hereinafter, the "Town").

WHEREAS, Atlantic owns certain real property located within the municipal limits of the town of Kiawah Island (the "Construction Site"), and its affiliate, Kiawah Partners, is coordinating with the Developer the construction of a 200 unit community for seniors (hereinafter "SLF") on the Construction Site; and

WHEREAS, the Developer has engaged BB to construct the SLF; and

WHEREAS, On July 16, 2018, Atlantic made application to the Town for an encroachment permit to provide access ("the Encroachment") to the Construction Site from Seabrook Island Road ("SIR") which is entirely within the municipal limits of the Town; and

WHEREAS, Under the Town's ordinances, an application for an encroachment permit is referred to the Town's Planning Commission for review and approval prior to the issuance thereof; and

WHEREAS, On October 5, 2018, the Town's Planning Commission granted Atlantic's application for an encroachment permit, subject to nine specific conditions; and

WHEREAS, Atlantic took exceptions to each of the nine conditions imposed by the Planning Commission and on October 19, 2018, filed a Notice of Appeal in the Charleston County Court of Common Pleas against the Town and its Planning Commission pursuant to S.C. Code Ann. § 6-29-1150(D)(1); and

WHEREAS, On January 24, 2019, at a Pre-Litigation Mediation pursuant to S.C. Code Ann. § 6-29-1155, the parties hereto entered into a Memorandum of Understanding which sets forth in general terms the resolution of the parties with respect to Atlantic's objection to the conditions imposed by the Planning Commission; and

WHEREAS, this Settlement Agreement ("Agreement") sets forth the terms and conditions on which the Town will grant and Atlantic will accept an encroachment permit.

NOW THEREFORE, in consideration of the foregoing premises and the mutual covenants and conditions contained herein, the signatories to this Agreement agree as follows:

1. Within thirty (30) days from the date of the execution hereof, and at the sole cost and expense of Atlantic, the Town shall retain the Reveer Group, or such other consultant (under the direct charge of and sealed by a registered South Carolina Professional Engineer with expertise in traffic engineering) as shall be agreed to by the parties (the "Consultant"), to prepare a traffic impact analysis ("TIA") which shall quantify both existing traffic patterns and levels on SIR, together with the anticipated amount of traffic which will enter and leave the Construction Site ("Construction Traffic") during the construction of the SLF. The TIA shall identify the number and type of vehicles for each phase of the construction process. Atlantic will reimburse the Town for its cost and expense of retaining the Consultant within thirty (30) days of the Town's submission of an invoice therefore.

Based on the TIA, the Consultant shall prepare a Temporary Traffic Control Plan ("TTCP") which shall evaluate the potential impacts of the construction of the SLF on the traffic conditions on SIR and identify the means (in addition to those set forth herein) to mitigate such impacts and prescribe such measures as it deems reasonably necessary for the safety of users of the Bicycle Path (as that term is defined herein). The study area of the TTCP shall include both the intersection of SIR and the Encroachment, and the Kiawah-Seabrook Circle. The analysis should include a level of service ("LOS") (as that term is defined in the Transportation Research Board's Highway Capacity Manual (HCM 2000), Fourth Edition) determination for all approaches and traffic movements. The TTCP shall consider daily and seasonal variations in the amount of traffic on SIR. The TTCP shall specify those measures which BB, Atlantic and the Developer shall be required to take to ensure that during the construction period: (i) traffic on SIR traveling from the Kiawah-Seabrook Circle in the direction of the Seabrook Island Property Owners Association gate is not impaired by Construction Traffic in any significant manner, (ii) Construction Traffic exiting the Construction Site through the Encroachment



does not cause the AM or PM Peak Hour delay at any approach to the Kiawah-Seabrook Circle (as identified in Table 2 of the Thomas & Hutton Traffic Impact Analysis signed on August 23, 2018) to increase by more than two (2) seconds, and (iii) traffic moving on SIR in either direction, including traffic moving around the Kiawah-Seabrook Circle, is able to do so in a safe and efficient manner. The TTCP shall also determine acceptable gap acceptance times (which shall be expressed in number of feet) such that traffic on SIR traveling in the direction of the Kiawah-Seabrook Circle will not have to slow down to accommodate Construction Traffic which is turning right out of or left into the Encroachment and which must yield to oncoming traffic. The gap acceptance time shall be based on the largest vehicle type anticipated to be used in any phase of the construction process as identified in the TIA. The TTCP shall identify those measures as the Consultant may deem necessary or appropriate which will be necessary for BB to implement to address the safety of pedestrian and bicycle users of the bicycle and pedestrian path ("Bicycle Path").<sup>1</sup>

- A. BB shall provide the Consultant with its best estimate of the number and type of vehicles which will be used in the construction of the SLF by construction phase and such other information and documentation as the Consultant shall deem reasonably necessary for it to complete the TIA and TTCP in a prompt and professional manner.
- B. The TTCP shall be completed, and to the extent applicable, the traffic control measures identified therein implemented prior to the use of the Easement for Construction Traffic.
- C. Atlantic, the Developer and BB shall each, as identified herein, implement and adhere to the stipulations contained in this Agreement and in the TTCP.
- D. If the Consultant concludes in the TTCP that it will be necessary to place a limit on the number of construction vehicles which may enter the Construction Site through the Encroachment on a daily basis in order to ensure that the LOS at the intersection of the Encroachment and SIR is not significantly less than the current LOS, then BB shall limit the number of vehicles entering the Construction Site on a daily basis accordingly.
- E. The Consultant shall consider whether it is necessary to include in the TTCP a requirement for one or more flag persons on SIR, in addition to those provided for elsewhere herein.
- F. The Consultant shall, at Atlantic's cost and expense, periodically review the effectiveness of the TTCP together with any complaints or concerns the Town

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<sup>1</sup> When used in this Agreement, unless stated to the contrary, ("Bicycle Path") shall refer to the existing or redesigned path.

may have received from its residents regarding their interaction with Construction Traffic. Based upon such review, and after consultation with both the Town and Atlantic, BB, or the Developer as appropriate, the Consultant shall make such modifications to the TTCP as it shall in its sole and professional judgment deem appropriate. Such modifications shall be implemented as promptly as is reasonably practicable by the Developer and BB as may be required of each.

2. BB shall appoint Tim Spano as the traffic supervisor ("Traffic Supervisor") for the SLF construction project. The Traffic Supervisor's responsibilities shall include:
  - A. Implementing all of the stipulations imposed upon the Developer and BB as set forth in this Agreement and in the TTCP.
  - B. Serving as liaison to the Town with respect to all Construction Traffic issues, and in that regard shall be available both for regular meetings in person with the Town and with the Town by telephone on a 24 / 7 basis.
  - C. With the Town Administrator prior to the start of construction, meet with the Charleston County Sheriff's Office, St. Johns Fire Department and Charleston County EMS to develop contingency plans acceptable to each of these agencies to ensure that during the construction of the SLF, each agency will have uninterrupted access to and exit from the Town in the event of an emergency.
  - D. No later than noon on each Friday afternoon during the construction period, providing the Town with written updates on the scheduled work, and scheduled deliveries to the SLF for the following week and any potential SIR traffic impacts thereof.
  - E. As soon as reasonably practical, advising the Town of any incident or condition which has occurred on SIR or Bicycle Path in the vicinity of the Encroachment that may impair vehicle traffic on SIR or bicycle or pedestrian traffic using the Bicycle Path.
  - F. Assisting the Town in the preparation of periodic public information statements.

Traffic Supervisor shall at all time remain fully responsible for the discharge of the requirement of subparagraphs A through F, of this paragraph 2. Mr. Spano may temporarily delegate such responsibility to other BB supervisory personnel in those instances when Mr. Spano is not physically present on the project. Prior to such delegation of responsibility, Mr. Spano shall ensure that the BB supervisory personnel to whom the responsibility has been delegated is both fully informed of the provisions herein and the TTCP and fully capable of implementing its specific requirements. Prior to use of the Encroachment for Construction Traffic, Mr. Spano shall provide the Town Administrator with the names and cell phone numbers of no more than three (3)

supervisory personnel whom BB designates as delegates of Mr. Spano for purposes of his role as Traffic Supervisor, all of whom would have the qualifications required by the Agreement who will perform the role in those instances where Mr. Spano is not on site. Mr. Spano will identify such supervisory personnel in order as his primary, secondary, and tertiary designates, and will update the names and cell phone numbers of BB's delegates from time to time as required. If BB replaces Mr. Spano (or any successor to Mr. Spano) for any reason prior to the issuance of a Certificate of Occupancy for the SLF, it shall, within five (5) business days, appoint a successor Traffic Supervisor who shall be certified as a traffic supervisor by the American Traffic Safety Services Association ("ATSSA") or other organization recognized by the SCDOT as providers of work zone traffic control training. The name and 24/7 contact information of the successor Traffic Supervisor shall be promptly provided to the Town by BB.

3. Prior to the use of the Encroachment for Construction Traffic, BB will construct all off site road improvements on SIR leading to the SLF ("Improvement to SIR"). The Improvement to SIR shall be constructed as described in Atlantic's revised application and Final Plans<sup>2</sup> received by the Town on August 24, 2018 and as otherwise required by applicable statutes, regulations and this Agreement. Work on the Improvement to SIR will be completed within ninety (90) days after BB has first mobilized to perform the Improvement to SIR. BB shall notify the Town as soon as reasonably practicable that it has mobilized to perform the Improvement to SIR.
  - A. All work done on the Improvement to SIR shall be performed during non-peak hours on SIR as identified in the Traffic Impact Analysis prepared by Thomas & Hutton as revised in August 23, 2018 ("Non-Peak Hours").
  - B. All work on the Improvement to SIR shall be coordinated in advance with the Town.
  - C. At all times during the work on the Improvement to SIR, BB shall station a dedicated ATSSA certified flag person at the Improvement to SIR to control inbound traffic from Betsy Kerrison Parkway, and as required outbound SIR traffic heading toward the Kiawah Seabrook Circle. Should it become necessary during the work on the Improvement to SIR to close one lane, the appropriate number of flag persons shall be stationed so as to be in a position to effectively monitor and control oncoming traffic.

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<sup>2</sup> "Final Plans" shall mean the plans prepared by Thomas & Hutton dated August 7, 2018 and reviewed and conditionally approved by the Planning Commission on 10/3/2018 (Ex 1 – General Layout and Ex 2 – Staking and Signage Plan).

- D. Following completion of the construction of the Improvement to SIR, BB will repair, at its sole cost and expense, any damage to SIR caused by the work thereon and identified by the Town.
4. In addition to any of the conditions or stipulations which may be identified in the TTCP, Atlantic, the Developer and BB shall each, as may be applicable to them, implement and adhere to the following traffic control measures with respect to Construction Traffic entering to and exiting from the Construction Site through the Encroachment:
- A. Access of Construction Traffic to the Construction Site by means of the Encroachment shall be limited to vehicles with three (3) or more axles which, for this purpose, shall include two axle vehicles towing a trailer. All two-axle vehicles must enter the Construction Site through Freshfields Village. All suppliers of materials to the Construction Site will be advised by BB in advance of any delivery and in writing of all of the requirements in this Paragraph 4.
- B. In order to appropriately and uniformly spread the arrival times of Construction Traffic using the Encroachment, vehicles authorized by Paragraph 4A to enter the Encroachment will arrive at the Encroachment at intervals no closer than ten (10) minutes apart. As the traffic patterns of the various roads leading to the Construction Site are difficult to predict, the Town agrees it is appropriate to provide arriving Construction Traffic a degree of leeway. Accordingly, infrequent (which for this purpose shall mean five percent (5%) of the Construction Traffic utilizing the Encroachment as contemplated by Paragraphs 4A and 4B in any Monday through Saturday period) deviations of no more than two (2) minutes from the prescribed ten (10) minute interval shall not be considered violations for purposes of this Paragraph. BB will at all relevant times be in telephone communication with truck dispatchers to coordinate the arrival time limitation set forth in this Paragraph 4B. Suppliers must be instructed to contact the Traffic Supervisor in advance of arrival for instructions to ensure appropriate arrival times. Should there be a delay in delivery, the oncoming supplier should be directed by the Traffic Supervisor to delay its anticipated arrival time. Violation of the arrival time limitation may cause vehicles to back-up or "stack" either entering or exiting the Encroachment. BB shall undertake reasonable efforts to avoid a "stacking" of vehicles entering or exiting the Encroachment which shall include setting aside an area (i) within the Construction Site where vehicles exiting the Encroachment and (ii) use of an area north of the Freshfield's traffic circle where vehicles entering the Encroachment may temporarily park if BB were to secure such a location.
- C. BB shall employ appropriate traffic control procedures to implement the GAP acceptance times identified in the TTCP for Construction Traffic turning left into or right out of the Construction Site through the Encroachment. Such traffic

control procedures shall include construction of appropriate visual indications ("GAP Markers") at the distances indicated in the TTCP, so that drivers entering or exiting the Construction Site are able to determine when it is both safe and appropriate for them to do so such that oncoming SIR traffic will not have to slow down. The GAP Markers shall be constructed so that they are clearly visible to drivers operating vehicles entering and exiting the Construction Site through the Encroachment. Exiting traffic must come to a complete stop at the intersection of SIR and the Encroachment and yield to oncoming SIR traffic. Construction Traffic may not enter SIR when SIR traffic traveling in the direction of the Kiawah-Seabrook Circle has passed the GAP Marker. All suppliers and drivers delivering materials to the Construction Site shall be periodically reminded of the location of and requirement to adhere to the GAP Markers. The specific location, design and color of the GAP Markers must be in accordance with the recommendations in the TTCP.

- D. BB's normal work week shall be Monday through Saturday. The Town understands that in unusual and limited circumstances deliveries may be required to be made on Saturdays. Unless requested by BB and agreed to in advance and in writing by the Town (which shall only be agreed under unusual and limited circumstances), no deliveries shall be permitted to enter or exit the Construction Site through the Encroachment after 8:00 AM on Saturdays or at any time on Sundays.
- E. Other than for (i) construction of the proposed Improvement to SIR, (ii) concrete pours, (iii) Special Need work (as defined below), and (iv) any other work as may be approved by the Town in advanced in writing, no Construction Traffic shall be permitted to use the Encroachment during periods of darkness, which shall be defined for this purpose as any time from one-half hour after sunset to one half hour prior to sunrise. The term "Special Need" shall be defined as that work which is reasonably and necessarily required to address immediate fire or electrical hazards, plumbing leaks or other conditions requiring immediate attention, the delay of which would cause risk to life or health or significant damage to property. During all of the work described in (i) through (iv) of this subparagraph E, ATSSA certified flag-persons shall be appropriately stationed, and traffic control measures shall be appropriately implemented to maximize the safety of SIR vehicular traffic and pedestrians and bicyclists using the Bike Path.
- F. All concrete pours will be coordinated by the Traffic Supervisor at least twenty-four (24) hours in advance with the Town and will take place during Non-Peak Hours. As stated in subparagraph E, these concrete pours may occur during periods of darkness.



- G. Other than for Special Need work, Construction Traffic shall not be permitted to utilize the Encroachment on any Town Holiday. To the extent reasonably practical, all Special Need work shall be coordinated by the Traffic Supervisor with the Town in advance. Where any recognized Town holiday falls on either a Monday or Friday, except for Special Need work, Construction Traffic shall not be permitted to enter the Construction Site through the Encroachment on the holiday itself, and in the case of holidays falling on a Monday, on the immediately preceding Friday, and in the case of holidays falling on a Friday, the immediately following Monday.
- H. On any other day where anticipated traffic volumes on SIR are of a particular concern to the Town (e.g., the Bohicket Marina Bill Fish Tournament), the Town shall provide reasonable advance notice to BB in order that accommodations therefore may be made. Such accommodations shall be timely communicated to the Town Administrator.
- I. Other than for Special Need work, no Construction Traffic shall be permitted on SIR on any day when the Town Administrator has determined, and so notifies BB, that the surface thereof has become hazardous on account of weather conditions or when the Governor has declared a state of emergency for areas including either Kiawah Island or Seabrook Island.
- J. In addition to adherence to all of the stipulations set forth in the TTCP and this Agreement, entrance to and exit from the Construction Site through the Encroachment by vehicles required to carry Hazardous Material Administration hazardous material placards shall require 24 hours advanced notice to and coordination with the Town.
- K. Other than construction vehicles and equipment necessary for construction of the Improvement to SIR, no parking shall be allowed on SIR or the shoulder thereof.
- L. All Construction Traffic signs will conform to the requirements of the South Carolina Department of Transportation Procedures and Guidelines for Work Zone Traffic Control Design and shall conform to the recommendations in the TTCP.
- M. BB shall, on a basis no less frequently than daily, keep SIR in the immediate vicinity of the Encroachment clean of dirt and debris from the Construction Site and remove any dirt and debris from SIR which has been deposited by vehicles entering or exiting the Construction Site through the Encroachment.
- N. It is anticipated that the Professional Golf Association Championship will be played at Kiawah Island's Ocean Course in late May of 2021. It is likewise anticipated that the Kiawah Island Golf Resort will request an encroachment permit from the Town to allow for parking for the tournament. If the Town grants

such encroachment permit, the Encroachment shall not be used for Construction Traffic during the week (Monday through Sunday) the championship is being played.

5. It is the intent of the Developer to relocate and redesign that portion of the Bicycle Path which is the subject of the Grant of Non-Exclusive Easement between Atlantic and the Town dated February 28, 2008 ("Easement").
  - A. BB shall ensure that the existing Bicycle Path in the immediate vicinity of the Encroachment remains functional and operational until the redesigned and relocated Bicycle Path has been constructed and is available for use by the general public.
  - B. At all times when Construction Traffic is either present or anticipated on SIR, BB shall station two (2) flag-persons (each ATSSA certified), one (1) on either side of the Encroachment where the Encroachment crosses the Bicycle Path to ensure that pedestrian and bicycle traffic is protected. The flag persons shall be advised on a periodic basis that the Bicycle Path is frequently used by vulnerable users such as children, the elderly, handicapped individuals, and visitors and that they are to exercise caution accordingly.
  - C. BB will install a warning surface (e.g., rumble strips) on the Bicycle Path in order to alert the users thereof to the possibility of approaching traffic.
  - D. BB shall maintain the Bicycle Path in the immediate vicinity of the Encroachment free and clear of dirt, loose gravel and construction debris.
  - E. BB shall at all times maintain the Bicycle Path in the immediate vicinity of the Encroachment in good condition and repair. Any condition which may present an impediment or potential safety hazard to users of the Bicycle Path shall be immediately repaired by BB.
  
6. At the sole cost and expense of Atlantic, the Town will select a civil engineering firm to conduct pre and post construction analysis of SIR to determine the extent, if any, of damage to SIR from the Kiawah-Seabrook Circle to the Encroachment caused as consequence of the Construction Traffic (the "Damage"). For this purpose, the term Damage shall be interpreted in its broadest sense and shall include, but not be limited to, damage to the road's surface, subsurface and drainage facilities. The post-construction analysis, if any, shall be initiated within fifteen (15) business days after BB notifies the Town and the Developer under the construction contract that the SLF is substantially complete and shall be completed as promptly as is reasonably practicable. Copies of the analysis shall be provided to BB, Atlantic and the Developer. Atlantic will pay the cost



and expense of the civil engineering firm within thirty (30) days of being invoiced by the Town therefore.

7. Atlantic and / or the Developer will be responsible for any Damage to SIR caused as a consequence of the Construction Traffic. For this purpose, any degradation in the condition of the road identified in the pre and post construction analysis shall be presumed to have resulted as a consequence of the Construction Traffic, unless Atlantic or Developer demonstrates to the satisfaction of G. Robert George and Associates that the cause of the Damage was not the consequence of the Construction Traffic. Atlantic will post financial security to ensure the repair of any Damage. Such financial security shall be in the form of a surety bond, letter of credit (issued by a commercial bank with a Standard & Poor's credit rating of AA or better, drawable at a bank office in Charleston, South Carolina and otherwise on terms and conditions reasonably acceptable to the Town) or cash bond. The financial security shall be in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00).
8. BB shall be responsible for any violation of the TTCP, any of the terms of this Agreement or any applicable Town ordinance committed by either it, its contractors, subcontractors, independent contractors or suppliers as the case may be. The Town shall provide Atlantic, the Developer and BB (each hereinafter sometimes referred to as a "Notified Party", or collectively the "Notified Parties") with written notice of any violation of the terms hereof by any of them of the TTCP, applicable Town ordinances, or any provision of this Agreement. The first violation of any of subparagraphs 4(A), 4(B), 4(C), 4(E), 4(F), 4(J), 4(K) or 5(D) hereof shall not result in a fine, but a warning notice only. The Town shall send BB a notice of violation for the second and all subsequent violations of each of Subparagraphs 4(A), 4(B), 4(C), 4(E), 4(F), 4(J), 4(K) or 5(D) hereof, all violations of any of the other terms hereof, the TTCP or the applicable Town ordinance(s) shall be punished by a fine of up to Five Hundred Dollars (\$500.00) in the discretion of the Town judge as provided for in Section 1-7 of the Town's ordinance. Each such violation shall be considered a separate offense and other than the Town's right to revoke the Encroachment as set forth in the following Subparagraph 8(A) below, the Town shall have no other penalty or remedy for any such violation. The written notice of violation referenced in this Paragraph 8 shall include a statement that the Notified Party may contest the violation and request a hearing (which shall be conducted following the usual and customary procedures and rules of the Town's municipal court for conducting the court's business) at the next regularly scheduled session of the Municipal Court of the Town before the judge of the Municipal Court by filing a written notices thereof with the Town Administrator copied to the Town within thirty (30) days following its receipt of the written notice of violation. In the event of a decision by the municipal judge adverse to a Notified Party, such Notified Party shall have the right to appeal from the sentence or judgment of the municipal court to the Charleston County court of common pleas. Notice of the intention to appeal, setting forth the grounds for

appeal, shall be given in writing and served on the municipal judge or the municipal court clerk within ten (10) days after the judgment is rendered, or the appeal shall be deemed waived. The procedures set forth in Chapter 10 of the Town's municipal code shall apply to any such appeal.

(A) Three (3) violations within any three-month period of the same provision of either the TTCP, this Agreement, or any Town ordinance; (B) twelve (12) violations of the TTCP or the terms hereof in any twelve (12) consecutive month period; (C) any violation of the TTCP, this Agreement or the Town ordinance which solely results in personal injury or property damage of other than that of a de minimis nature or; (D) failure to pay an uncontested fine or fine levied by the Municipal Court of the Town on a timely basis may, in the sole discretion of the Town, result in revocation of the Encroachment; provided, however, if a Notified Party has appealed any adverse decision of the judge of the Municipal Court finding that a Notified Party has violated any provision of this Agreement, the TTCP or applicable Town Ordinance, then for purposes of this Section 8(A), a violation shall be deemed not to have occurred until the Notified Party has exhausted its right of appeal with respect thereto and the decision of the judge of the Municipal Court has been upheld.

For purposes of this Agreement, Atlantic, the Developer and BB each consents to be subject to the jurisdiction of the Town and acknowledges that the provisions of this Paragraph 8 shall be incorporated into an ordinance adopted by the Town.

9. In order to provide the Town with a capability to monitor the parties' compliance with the TTCP and the terms of this Agreement, Atlantic shall reimburse the Town for its purchase of equipment to monitor traffic entering and leaving the construction site through the Encroachment. Such equipment shall be capable of recording both the number of vehicles utilizing the Encroachment and the date and arrival times thereof. Atlantic shall also reimburse the Town for its purchase of a "door bell" type camera capable of recording discernable images of the arrival and departure of Construction Traffic entering and exiting the Construction Site through the Encroachment.
10. Conditions 2-9 as set forth in the Notice of Conditional Approval dated October 5, 2018 ("Notice") shall be revised and agreed to as follows:
  - A. Condition 2 of the Notice shall be revised to read as follows: "Atlantic, the Developer and their respective successors and assigns each agree to comply with all of the provisions, terms, conditions and restrictions set forth in Atlantic's July 16, 2018 Application for Encroachment Permit and the terms of this Settlement Agreement and each agree to inform their members, agents, contractors, sub-contractors as well as any person or entity utilizing the Encroachment of Such terms, conditions and restriction and the need to comply therewith. Copies of

such terms and restrictions shall be provided by Atlantic to BB and to all other persons or entities utilizing this Encroachment.”

- B. Condition 3 of the Notice shall be revised to read as follows: “Atlantic and the Developer, their assigns and successors, warrant that they will pay any and all expenses incurred by the Town as a result of expenses incurred or damages suffered by the Town and/or its residents as a result of increased storm water runoff from the SLF. Final storm water plans for the improvement within the SIR right of way shall be subject to review and approval by the Town prior to the commencement of construction activities, such approval not to be unreasonably withheld if Atlantic’s NPDES permit is reviewed and approved by SCDHEC.”
- C. Condition 4 of the Notice shall be revised to read as follows: “Atlantic, the Developer and their successors or assigns, assumes full responsibility for any accidents to persons or damage to property, including the street or road, that are caused or alleged to be caused by the construction, maintenance, use, moving, or removing of the Encroachment contemplated herein, and each agrees to indemnify and defend (with attorneys reasonably acceptable to the Town) the Town for any liability incurred or injury or damage sustained by it, together with reasonable attorneys’ fees.”
- D. Condition 5 of the Notice shall be revised to read as follows: “The Grant of Non-Exclusive Easement dated February 28, 2008 wherein Atlantic granted the Town, a “Bike and Pedestrian Easement” is hereby amended by deleting therefrom paragraph 3 in its entirety, and renumbering the following paragraphs accordingly. All other terms and conditions of such grant of easement are hereby ratified and confirmed. Nothing in this condition or the request therefore, shall be construed as a waiver of any of the immunities granted to the Town under the South Carolina Tort Claims Act. Prior to the construction of the relocated Bicycle Path, Atlantic shall grant and the Town shall accept a grant of non-exclusive easement for the relocated Bicycle Path on the same terms and conditions as the previously granted easement as modified herein.”
- E. Condition 6 of the Notice shall be revised to read as follows: “Promptly following the execution hereof, the parties will meet with John Tarkaney to get his recommendation regarding the Developer’s mitigation of the trees required to be removed to construct the entrance to the SLF. Prior to the commencement of any work on the Improvement to SIR, the Town and the Developer shall agree upon and execute a mitigation plan for the trees that shall be removed to construct the new entrance. All new trees provided for in the mitigation plan shall be planted before Atlantic or BRP Kiawah, LLC receive a certificate of occupancy from the Town of Kiawah.” Any cost or expense associated with Mr. Tarkaney’s services shall be borne by Atlantic.

- F. Condition 7 of the Notice shall be revised to read as follows: "Applicant and the Developer, their members, successors and assigns, warrant that during the construction phase they will keep the surface for the portions of the Bicycle Path in the vicinity of the Encroachment in good condition and repair. Once the SLF is operational, the Developer, its successors and assigns shall be responsible for the maintenance and repair of the Bicycle Path at the intersection of the Encroachment and the Bicycle Path."
- G. Condition 8 of the Notice is revised to read as follows: "The Developer and Atlantic shall select and locate permanent vehicular and bicycle traffic signage associated with the SIR entrance to the SLF at the sole expense of Atlantic and the Developer. The design and color of such signage shall, to the extent not inconsistent with applicable law, rule or regulation, comply with the sign ordinances of the Town. The size and color of all permanent signs posted on SIR and in the immediate vicinity of the Bicycle Path shall be consistent with other signs currently posted by the Town in these areas." The location, materials and design of all temporary and permanent signs posted on SIR and the Bicycle Path shall conform to the recommendations in the TTCP. BB will install such temporary traffic control signs on SIR and the Bicycle Path as may be required by the South Carolina Procedures and Guidelines for Work Zone Traffic Control Design and as recommended in the TTCP. The size and color of all permanent signs posted on SIR and the Bicycle Path shall be consistent with other signs posted by the Town in these areas.
- H. Condition 9 of the Notice is deleted in its entirety, and in lieu thereof, Atlantic and the Developer, for themselves, their respective members, successors and assigns each confirm the applicability of condition 2 of the Atlantic application dated July 16, 2018.<sup>3</sup>
11. This Agreement shall be construed as if each party played an equal role in its drafting and no preference or rule of construction shall be held against any party as the drafting party of the Agreement. All parties shall be responsible for their own costs and attorneys' fees in settlement of case number: 2018-CP-10-05041.
12. This Agreement was brought before Town Council for the Town of Seabrook Island on September 24, 2019 for approval pursuant to S.C. Code Ann. § 6-29-1155. By vote of 5-0, Town Council approved this Settlement Agreement and authorized the Mayor to execute it.
13. In accordance with S.C. Code Ann. § 6-29-1155(G), this Agreement will be reviewed and approved by a Circuit Court Judge for the Ninth Judicial Circuit, and found to have a

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<sup>3</sup> A copy of this condition is attached and incorporated by reference as Exhibit A.

rational basis in accordance with the standards of S.C. Code Ann. § 6-29-310, et seq before it shall be binding on the signatories.

14. The Applicant, Atlantic Partners II LLC, the general contractor, Balfour Beatty Construction, LLC ("BB") and the Developer, BRP Kiawah, LLC, as well as the Town, enter into this Agreement freely and voluntarily. In that each of the above-referenced parties has obligations and responsibilities under this Agreement, each shall be a signatory to and bound by its terms and conditions that specifically apply to them as well as the order of Circuit Court. Each will enter into a consent motion seeking the issuance of an order approving this Agreement and their respective obligations hereunder.
15. The rights and obligations of the parties as set forth in Paragraph 8, and any right or obligation of the parties set forth in this Agreement which either by its express terms or nature and context is intended to survive termination or expiration of this Agreement and construction of the proposed SLF, will survive any such termination or expiration and construction.
16. All required notices shall be provided in writing sent via US Mail and email as follow:

**Town of Seabrook Island:**

Town Administrator Joseph Cronin ([jcronin@townofseabrookisland.org](mailto:jcronin@townofseabrookisland.org))

Mailing Address:

2001 Seabrook Island Road  
Seabrook Island, SC 29455

**With a courtesy copy via US Mail and email**

Stephen L. Brown ([sbrown@ycrlaw.com](mailto:sbrown@ycrlaw.com))  
Attorney for the Town of Seabrook Island

Mailing Address:

25 Calhoun Street, Suite 400  
Charleston, SC 29401

**Atlantic Partners II LLC:**

Jordan Phillips ([jphillips@southstreetpartners.com](mailto:jphillips@southstreetpartners.com))  
Beth Nimmons ([BNimmons@Kiawah.com](mailto:BNimmons@Kiawah.com))  
Kiawah Partners  
1 Kiawah Island Parkway  
Kiawah Island, SC 29455



**Balfour Beatty Construction, LLC:**

Jeff Sandeen  
Balfour Beatty  
1930 Camden Road, Ste. 280  
Charlotte, NC 28203

With copy to:

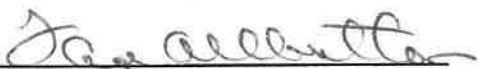
John Heuer (JHeuer@balfourbeattyus.com)  
Balfour Beatty  
1930 Camden Road, Ste. 280  
Charlotte, NC 28203


**BRP Kiawah, LLC**

Richard Ackerman ([rackerman@bigrockpartners.com](mailto:rackerman@bigrockpartners.com))  
Managing Partner  
BRP LLC  
315 South Beverly Dr  
Suite 404  
Beverly Hills Ca 90212

A copy of this Agreement shall be provided to the Town of Kiawah Island's Administrator and Mayor upon its final approval.

WHEREFORE, the parties have agreed to the terms and conditions set forth above, have acknowledged each person executing this Settlement Agreement has full authority to do so and have set their signatures on the date(s) noted below.

  
WITNESS

  
Town of Seabrook Island  
By: Ronald J. Ciancio  
Its: Mayor  
Date: 9.27.19

WITNESS

Balfour Beatty Construction, LLC  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

WITNESS

Atlantic Partners II, LLC  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

WITNESS

BRP Kiawah, LLC  
By: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

**Balfour Beatty Construction, LLC:**

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

**BRP Kiawah, LLC**

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WITNESS

\_\_\_\_\_  
 Town of Seabrook Island  
 By: Ronald J. Ciancio  
 Its: Mayor  
 Date: \_\_\_\_\_

WITNESS

\_\_\_\_\_  
 Balfour Beatty Construction, LLC  
 By: \_\_\_\_\_  
 Its: \_\_\_\_\_  
 Date: \_\_\_\_\_

WITNESS

\_\_\_\_\_  
 Atlantic Partners II, LLC  
 By: \_\_\_\_\_  
 Its: \_\_\_\_\_  
 Date: \_\_\_\_\_

WITNESS

\_\_\_\_\_  
 BRP Kiawah, LLC  
 By: Richard Ackerman  
 Its: Manager  
 Date: 9/27/2019



**Balfour Beatty Construction, LLC:**

Jeff Sandeen  
 Balfour Beatty  
 1930 Camden Road, Ste. 280  
 Charlotte, NC 28203

With copy to:

John Heuer (JHeuer@balfourbeattyus.com)  
 Balfour Beatty  
 1930 Camden Road, Ste. 280  
 Charlotte, NC 28203

**BRP Kiawah, LLC**

Richard Ackerman ([rackerman@bigrockpartners.com](mailto:rackerman@bigrockpartners.com))  
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\_\_\_\_\_  
 WITNESS

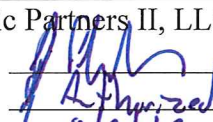
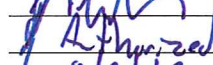
\_\_\_\_\_  
 Town of Seabrook Island  
 By: Ronald J. Ciancio  
 Its: Mayor  
 Date: \_\_\_\_\_

\_\_\_\_\_  
 WITNESS

\_\_\_\_\_  
 Balfour Beatty Construction, LLC  
 By: \_\_\_\_\_  
 Its: \_\_\_\_\_  
 Date: \_\_\_\_\_



\_\_\_\_\_  
 WITNESS

\_\_\_\_\_  
 Atlantic Partners II, LLC  
 By:   
 Its:   
 Date: 9/9/19 Agent

\_\_\_\_\_  
 WITNESS

\_\_\_\_\_  
 BRP Kiawah, LLC  
 By: \_\_\_\_\_  
 Its: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Balfour Beatty Construction, LLC:**

Jeff Sandeen  
 Balfour Beatty  
 1930 Camden Road, Ste. 280  
 Charlotte, NC 28203

With copy to:

John Heuer (JHeuer@balfourbeattyus.com)  
 Balfour Beatty  
 1930 Camden Road, Ste. 280  
 Charlotte, NC 28203

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WITNESS

WITNESS

Town of Seabrook Island

By: Ronald J. Ciancio

Its: Mayor

Date:

Balfour Beatty Construction, LLC

By: JOHN F. HEUER, JR., ESQ.Its: SVP / CLODate: September 9, 2019

WITNESS

Atlantic Partners II, LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

WITNESS

BRP Kiawah, LLC

By: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_



**TAB 4**

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# **TOWN COUNCIL RETREAT**

**Agenda Item**



## **REQUEST FOR PROPOSALS**

FOR PLANNING SERVICES FOR THE TOWN OF KIAWAH ISLAND, SOUTH CAROLINA

### **PROJECT OVERVIEW**

**Town of Kiawah Island  
Land Use Planning & Zoning Ordinance Review and Update**

### **PRE-SUBMITTAL INFORMATIONAL MEETING**

November 9, 2023 10:00 AM EST

*Attendees Must Register in Advance via link below:*

[Register for Informational Meeting](#)

*Credentials to virtual informational meeting will be emailed.*

### **PROPOSAL OPEN DATE**

October 13, 2023, 3:00 PM

### **PROPOSAL SUBMITTAL DEADLINE**

November 20, 2023, 3:00 PM EST

### **CONTACT PERSON**

John Taylor, Jr., Planning Manager  
843-768-9166 | [jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)  
Kiawah Island Municipal Center  
4475 Betsy Kerrison Parkway Kiawah Island, SC 29455

## REQUEST FOR PROPOSAL (RFP) FOR PLANNING SERVICES FOR REVIEW AND UPDATE OF THE TOWN OF KIAWAH ISLAND LAND USE PLANNING AND ZONING ORDINANCE

The selected consultant will conduct a public process with the assistance from Town staff to review and update the Town's Land Use Planning and Zoning Ordinance. It is anticipated that the consultant will work with the planning staff to review and update the Town's Land Use Planning and Zoning Ordinance. The updated zoning ordinance will streamline current zoning standards and incorporate modern community standards, processes and review procedures appropriate to Kiawah and compatible to established neighborhoods and developments. The review and update of the zoning code must consider the goals, recommendations and strategies identified within the Town's Comprehensive Plan (Kiawah Next) and other essential planning documents. The updated zoning code will recognize established neighborhoods and permitted land uses while incorporating legally sound, clear, consistent, and forward-thinking standards, definitions and procedures that align with the community's established plans and policies. The final work program will be developed together with Town staff but the scope should include but not be limited to the following:

- Review of the Town's Comprehensive Plan and Special Plans. The consultant will review various plan goals, objectives, and recommendations to ensure the updated zoning code will be consistent with recent planning documents. This should include but not limited to Kiawah Next Plan, Comprehensive Plan, Comprehensive Marsh Management Plan, Designing with Nature, 2021 Local Beach Management Plan and executed development agreements.
- Zoning Ordinance Analysis. Analysis of all zoning, subdivision and stormwater standards and procedural requirements including executed development agreements. The consultant will work closely with Town staff in producing a summary of recommended modifications to the Town's existing zoning regulations and procedures.
- Incorporate legally sound, clear, consistent, and streamlined processes, and ensure that interrelated issues are addressed with no inconsistencies or conflict among various sections of the zoning code.
- Update the subdivision regulations and zoning ordinance to meet the evolving needs of residents, property owners, businesses and visitors.
- Land Use Recommendations. Review existing land use regulations and provide recommendations for additions, deletions, and changes of all land uses including permitted by right, conditional uses and uses requiring special exception.
- Review of procedural requirements and processes. Conduct a thorough review of procedural requirements and processes to ensure that they are effective and efficient to include administrative and non-administrative reviews which are also consistent with the Town's policies and regulations of other Town departments as

well as local and state agency review processes.

- Coastal Management. Consolidation of salt marsh-related standards and critical area standards to provide a comprehensive approach to all waterfront property standards.
- Evaluation of Existing Neighborhoods, Corridors and Districts. Kiawah contains many unique areas that will justify context-sensitive regulations. Staff will work with the consultant to confirm areas included but not limited to Beachwalker Drive, West Beach Village, East Beach Village, Atlantic Beach, Freshfields Village, Night Heron Park, Resort Overlay Districts.
- Public Outreach. The consultant will develop a public outreach strategy designed to engage, inform and receive input from community stakeholders, as well as conducting regular meetings, workshops, and interaction throughout the process.
- Drafting the Document. The consultant will prepare drafts of the updated zoning ordinance, including tables and graphics, for review by staff and the Planning Commission, culminating in a final version to be presented to and considered by Town Council.
- Integration of the updated code into user-friendly formats. The consultant will work with Town staff as well as its information technology vendors to make the new code accessible and interactive with the public, as part of the existing online version of the code.
- Launch and Training. The consultant shall provide resources to assist Town staff with the implementation of the new code through a 'start-up' period not to exceed 180 days.

## **INTRODUCTION:**

The intent of this REQUEST FOR PROPOSAL, hereinafter referred to as RFP, is to obtain a qualified (licensed) person, firm, or corporation, hereinafter referred to as CONSULTANT, for the preparation of review and update of the Town of Kiawah Island's Land Use Planning and Zoning Ordinance. The Town of Kiawah Island is looking to evaluate its zoning code to parallel with the long-term established vision for the future of Kiawah Island. The Comprehensive Plan plays a critical role in establishing and implementing the vision for the future of Kiawah Island. The Town's current comprehensive plan was adopted in 2015 with recent updates in 2018 and is currently under the update process. The plan's update will include, at a minimum, comprehensive land use planning, contextual neighborhood planning, and will guide future development of the Town for the next 10 years.

Some of the factors that are important for consideration of this Land Use Planning and Zoning Ordinance update include the Town's zoning district standards, key dock location, accessory structures, land use regulations, compatibility buffers, parking standards, tree preservation, landscape standards, signage and zoning review procedures. The process will include a thorough community engagement process that will involve the Planning Commission, key stakeholders, and members of the public.

The Land Use Planning and Zoning Ordinance update will establish a framework of highly actionable items, amendments and recommendations intended to safeguard the quality of life for Kiawah Island. The CONSULTANT(S) will be responsible for preparing an outline for the contract for professional services related to this project for review and approval by the Town of Kiawah Island. To be eligible for consideration, the CONSULTANT(S) must be capable of supplying the services as noted herein and must also meet all other criteria outlined in this proposal.

## **BACKGROUND INFORMATION:**

Kiawah Island is a residential master planned community that encompasses a world class resort. The right balance of concentrated high density residential and resort land uses to low density residential land use is a priority for Kiawah. This is focused through lenses of designing with nature. The Town of Kiawah is a party to two executed development agreements to which there are limited areas of remaining developable tracts of land within the Town limits. Kiawah has a rich variety of maritime habitats and scenic natural resources that include over 10 miles of beach, a broad salt marsh with tidal creeks, freshwater wetlands, and extensive maritime forest and shrub thickets. As a result of environmentally sensitive planning, Kiawah Island has been recognized nationally for its creative balance between natural and developed areas. The ordinance update should focus on resilient planning standards.

Kiawah is made up of a diverse group of owners, including full-time residents, second homeowners, and property investors. These groups have varied viewpoints and interests that reflect their experience on Kiawah. However, all share a common goal in ensuring the long-term health of the housing market and that Kiawah remains a market leader among



master-planned residential resort communities.

Kiawah Island is unique in that all roads and infrastructure within the Island's front gate are privately owned. While the Town is not responsible for their maintenance and replacement, it is responsible for the safety and welfare of its citizens in driving these roads and impact of other infrastructure. The Town is responsible, however, for the maintenance and replacement of the two roads outside the front security gate (Kiawah Island Parkway and Beachwalker Drive).

#### **PROPOSAL SUBMITTAL DEADLINE:**

All proposals must be delivered prior to 3:00 PM EST on Monday, November 20, 2023. Proposals must be submitted in a sealed envelope plainly marked "REQUEST FOR PROPOSAL – Land Use Planning And Zoning Ordinance Update for the Town of Kiawah Island," addressed to Petra Reynolds, Town Clerk. Proposals can be mailed, or hand delivered to the Town of Kiawah Island, 4475 Betsy Kerrison Pkwy., Kiawah Island, SC 29455. The proposals shall consist of two (2) printed versions and one (1) electronic version on a USB Drive.

#### **PRE-SUBMITTAL INFORMATIONAL MEETING:**

An in-person and virtual option consultant informational meeting will be held on **Thursday, November 9, 2023 at 10:00 a.m.** at Town of Kiawah Island – Municipal Center (Council Chambers) to answer questions about the project expectations and scope. Attendees should register in advance to attend the meeting. Additional documentation will be available online. Register in advance for this meeting using the link below:

[Informational Meeting Registration Link](#)

#### **LATE AND ELECTRONIC PROPOSALS:**

Late proposals will not be accepted under any circumstances, and any proposal so received shall be returned to the proposing CONSULTANT(S) unopened. In addition, proposals sent electronically are not acceptable and will be rejected upon receipt. Each proposing CONSULTANT will be expected to allow adequate time for delivery of proposal. Sole responsibility rests with the proposing CONSULTANT(S) to see that their proposal is received on time.

#### **CONDITIONS OF PROPOSAL SUBMITTAL:**

All proposing CONSULTANT(S) shall comply with all conditions, requirements, and specifications contained herein; any departure will constitute sufficient cause for rejection of the proposal.

A duly authorized official of the proposing CONSULTANT submitting the proposal must sign the proposal.

Only one proposal will be accepted from any firm.

All price quotes must be firm for a period of ninety (90) days following the proposal due date.

The Town of Kiawah reserves the right to reject any and all proposals or any part(s) thereof; to waive any formalities or informalities contained in any proposal; and to award the proposal to the most responsive and responsible proposing CONSULTANT(S) as deemed in the best interest of the Town of Kiawah Island.

The Town of Kiawah Island will not return proposals or other information supplied to them by any proposing firm.

#### **PROPOSAL SELECTION/EVALUATION FACTORS:**

The Town of Kiawah Island's established review committee will evaluate all proposals and make a recommendation to the Planning Manager who will present the recommendation to the Town of Kiawah Island Ways and Means Committee. The Ways and Means Committee decision is in the form of a recommendation to the Town Council for final approval.

The CONSULTANT(S) selected for the award will be chosen on the basis of the apparent greatest benefit to the Town of Kiawah Island, and not necessarily on the basis of the lowest price. Following notification of the successful CONSULTANT, it is expected that a contract will be executed between the parties dependent upon and subject to the availability of specific funding for these professional services.

Proposals shall be evaluated by the review committee on the basis of the following criteria:

- ☐ Relevant Experience of Firm (30 pts)
- ☐ Relevant Experience and Accessibility of Project Team (30 pts)
- ☐ Understanding of the Issues and Community Needs (20 pts)
- ☐ Public Process & Timeline (10 pts)
- ☐ Clarity of Presentation / Proposal (10 pts)

The outlined criteria specifically include responsiveness to the needs of the Town of Kiawah Island, both in cost of services and in scope of the services offered; responsibility of the proposing CONSULTANT, and its experience in dealing with municipal governments, specifically on projects of similar scope and nature; the degree to which the proposal meets or exceeds the terms of the RFP; and the proposed fee structure shall be based on the services to be provided.

All CONSULTANT(S) who submit a proposal may be requested to meet with the Town to review their proposal prior to being recommended and or formally selected.

## **PROPOSAL ELEMENTS AND FORMAT:**

Proposals submitted shall contain all information as requested herein and any additional information necessary to summarize the overall benefit of the proposal to the Town of Kiawah Island. Proposals shall include the following:

A cover letter shall be provided stating the name, physical and email address and telephone number of the CONSULTANT(S)'s contact person and must bear the signature of the person having the authority to issue the proposal for the CONSULTANT(S) and bind the firm in a formal contract with the Town of Kiawah Island.

A project response that defines the methods and means by which the proposing CONSULTANT(S) will perform the services outlined in the RFP.

A project schedule that indicates the dates at which each task is expected to be complete, deliverables are to be available for review, critical milestones will be met, community engagement activities are to take place and more as seen necessary by the CONSULTANT(S)

Evidence that the CONSULTANT(S) has worked on similar projects.

A statement of qualifications which will include a list of those individuals who will be working on the project either as employees/principals or as employees of a subcontractor who will work on the project under the supervision of the CONSULTANT(S).

A list of references for which services have been provided by the proposing CONSULTANT(S) for municipal governmental agencies for projects of this or similar type. Include contact names, addresses, and telephone numbers.

A project budget which details the cost for completing the scope of work. The CONSULTANT(S) should submit a budget describing categorical costs necessary to complete the proposal and indicate the approximate percentage of available funding estimated to be required for each task. This should include material costs and a not to exceed figure as well as all other costs that may be incurred for the delivery of services requested. Respondents should be prepared to provide a detailed budget in a timely fashion should they be selected. The Town has budgeted \$100,000 for this project.

Any other information deemed necessary by the proposing CONSULTANT(S) that you feel will assist the review committee in the evaluation of your proposal.

Please provide two (2) printed copies and one (1) electronic (USB Drive) of the proposal.

Submittal of a proposal shall be taken as prima facie evidence that the CONSULTANT(S) has full knowledge of the scope, nature, quality, and quantity of work to be performed, and the detailed requirements and conditions under which the work is to be performed.

## **PROJECT DELIVERABLES:**

The CONSULTANT(S) will develop a scope of work for the Land Use and Zoning Ordinance review and update, identifying strengths, weaknesses, and areas for improvement. Assess the ordinance's compatibility with state and federal laws, as well as its alignment with the long-term vision of the community.

The CONSULTANT(S) should define deliverables in terms of the stages at which deliverables will be provided as well as the type of deliverables to be expected. The CONSULTANT(S), if selected for the project, will be responsible for development or production of all materials needed for meetings and presentations, unless otherwise determined in coordination with the Town's Planning Manager, including graphics, images, tables, documents and more.

As a final product, the CONSULTANT(S) shall, at minimum, provide:

- ❑ A single, bound, full-color, hard copy document
- ❑ A high-resolution, print-ready, fully bookmarked digital version of the final product, including any appendices, maps, or other attachments in PDF format
- ❑ A lower resolution version of the same document suitable for placement on the Town's website or other resources
- ❑ All original files in editable format, including graphics and GIS files (to include but limited to .docx, .ppt, .shp, .gdb, and .mxd files)

## **PROPOSAL EXPECTATIONS:**

Involving and engaging the community's residents, property owners, and key stakeholders is a critical component to the success of the update. The engagement process will educate the public and stakeholders on the purpose and importance of the zoning ordinance and will give participants a chance to meaningfully engage at stages throughout the review and update. The Town expects the CONSULTANT(S) to:

Engage in meaningful and relevant dialogue – The community should feel that the dialogue has been meaningful and relevant to Kiawah Island's quality of life.

The perspectives and participation of a broad range of community members, neighborhood types and stakeholders should be equitably represented in the process and resulting documents.

Provide clear understanding of Kiawah's development history and land use patterns and its evolution connection to executed development agreements.

Consider creative outreach and engagement opportunities as focused work sessions, pop up events, interactive online tools, community workshops, project website, and social media.

Clearly review and define zoning standards which establish an responsible hierarchy of residential densities and commercial resort activity ensuring compatibility of all land uses.

Provide recommendations for updated zoning standards and regulations considering the existing standards, existing land use patterns and future land use patterns.

#### **GENERAL REQUIREMENTS OF THE SUCCESSFUL PROPOSING FIRM:**

The successful proposing CONSULTANT(S), and its employees, will operate as an independent contractor and will not be considered employees of the Town of Kiawah Island.

#### **INQUIRIES AND CORRECTIONS:**

All inquiries relating to this request shall be addressed to:

John Taylor, Jr., Planning Manager  
Town of Kiawah Island  
4475 Betsy Kerrison Pkwy.  
Kiawah Island, SC 29455  
(843) 768-9979  
[jtaylor@kiawahisland.org](mailto:jtaylor@kiawahisland.org)

#### **ADDITIONAL EXHIBITS**

A – Comprehensive Plans

B – Land Use Planning and Zoning Ordinance

C – Planning & Zoning Resources (Maps, Process Flow Charts, Boards & Commissions)

D – Executed Development Agreements

E – Designing with Nature (Kiawah Island Architectural Review Board Standards & Guidelines)

F – Comprehensive Marsh Management Plan

G – Annexation Policy Plan and Procedures Manual

#### **RIGHT TO REFUSE PROPOSALS**

The Town of Kiawah Island reserves the right, without prejudice, to reject any and all proposals or any part(s) of any proposal.

## OFFEROR'S CHECKLIST

*NOTE: These items are the criteria on which your proposal will be evaluated.*

Please make sure that the following items are included with your submittal:

- ☐ Submittal Form **(Required)**
- ☐ Non-Collusion Oath **(Required)**
- ☐ Documentation of Insurance Coverage **(Required)**
- ☐ Copy of Business License (If applicable)
- ☐ Minority/Women Owned Business Certification (Preferred but not required)

**NOTE: IN ADDITION TO THE ABOVE, THE FOLLOWING ITEMS MUST ALSO BE INCLUDED OR ADDRESSED IN YOUR SUBMITTAL:**

- ☐ Organization Information **(Required)**
- ☐ Personnel List (i.e. names of persons to be used in this engagement) **(Required)**
- ☐ References **(Required)**
- ☐ All Inclusive Cost **(Required)**

***You do not have to submit the Offeror's Checklist. This list is included for your convenience. However, all required information must be provided. Failure to submit the required items may deem your submittal to be non-responsive.***

DATE: \_\_\_\_\_, 2023

**ORGANIZATIONAL INFORMATION**

NAME OF OFFEROR: \_\_\_\_\_

BUSINESS ADDRESS: \_\_\_\_\_

\_\_\_\_\_

**BY SUBMITTING THIS PROPOSAL, THE UNDERSIGNED OFFEROR REPRESENTS:**

1. The offeror has carefully examined specifications for the Services;
2. The offeror is familiar with all the conditions surrounding the performance of the Services;
3. If awarded the Contract, the offeror will provide all labor, material, supplies and equipment necessary to execute the Services in accordance with the Contract Documents;
4. understands the Town reserves the right to reject any or all responses which does not meet the proposal requirements, or all proposals in the event the Project is canceled, postponed, or if it is in the best interest of Town of Kiawah Island;
5. If awarded the Contract, will enter and execute a contract as required in the Invitation to Bid;
6. The Offeror is legally able to enter into and perform a contract, if awarded;
7. The Offeror is current on all taxes and fees owed to the Town;
8. The Offeror has provided proof of insurance as required by the Town.



**I. PERSONNEL:**

Provide a list of personnel that will be committed to this engagement and their job function.

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**II. REFERENCES / EXPERIENCE:**

**At least three (3) references for similar work performed are required; however, you may provide as many as five (5) references.**

1. COMPANY NAME: \_\_\_\_\_  
Contract Title: \_\_\_\_\_  
Contract Period: From \_\_\_\_\_ To \_\_\_\_\_  
Geographic Area Served \_\_\_\_\_  
Scope of Work: \_\_\_\_\_  
Contracting Office: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

**REFERENCES / EXPERIENCE (Continued):**

2. COMPANY NAME: \_\_\_\_\_  
Contract Title: \_\_\_\_\_  
Contract Period: From \_\_\_\_\_ To \_\_\_\_\_  
Geographic Area Served \_\_\_\_\_  
Scope of Work: \_\_\_\_\_  
Contracting Office: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_
3. COMPANY NAME: \_\_\_\_\_  
Contract Title: \_\_\_\_\_  
Contract Period: From \_\_\_\_\_ To \_\_\_\_\_  
Geographic Area Served \_\_\_\_\_  
Scope of Work: \_\_\_\_\_  
Contracting Office: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

**REFERENCES / EXPERIENCE (Continued):**

4. COMPANY NAME: \_\_\_\_\_  
Contract Title: \_\_\_\_\_  
Contract Period: From \_\_\_\_\_ To \_\_\_\_\_  
Geographic Area Served \_\_\_\_\_  
Scope of Work: \_\_\_\_\_  
Contracting Office: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

5. COMPANY NAME: \_\_\_\_\_  
Contract Title: \_\_\_\_\_  
Contract Period: From \_\_\_\_\_ To \_\_\_\_\_  
Geographic Area Served \_\_\_\_\_  
Scope of Work: \_\_\_\_\_  
Contracting Office: \_\_\_\_\_  
Contact Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Email: \_\_\_\_\_

**III. COST:**

In compliance with Request for Proposals, the undersigned hereby proposes to provide all materials, equipment, and labor, except as otherwise provided noted, for the Comprehensive Plan Update for the following cost:

<b><i>All-inclusive Project Cost</i></b>
\$

**NAME OF COMPANY:** \_\_\_\_\_

By: \_\_\_\_\_  
Signature
Print Name

Title: \_\_\_\_\_ (i.e., Owner, Partner, Corporate Officer, etc.)

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Business Fax Number: \_\_\_\_\_

Is your firm a \_\_\_\_\_ Corporation, \_\_\_\_\_ Sole Proprietorship, or \_\_\_\_\_ Partnership?

If incorporated, please list state of incorporation: \_\_\_\_\_

FEIN or SSN: \_\_\_\_\_

**BUSINESS LICENSE:**

The Offeror is not required to have valid business licenses to submit a Proposal. However, Offeror's must possess a valid Business License for business undertaken within the corporate limits of the Town of Kiawah Island.

Does your business have a valid **Town of Kiawah Island** Business License?

\_\_\_ Yes \_\_\_ No If yes, list the number \_\_\_\_\_

Contact (843) 768-9166 with any questions. If no, a business license must be obtained upon award of the contract.

**INSURANCE:**

The successful offeror, at his own expense, shall keep in force and at all times and maintain during the term of any contract resulting from this RFP the insurance requirements as outlined below.

GENERAL LIABILITY: \$1,000,000 combined single limit per occurrence for bodily injury, property damage, and personal injury with a \$2,000,000 general aggregate limit.

AUTOMOBILE LIABILITY: \$1,000,000 combined single limit per accident for bodily injury and property damage.

WORKERS' COMPENSATION: Statutory limits are required by South Carolina state law, and employer's liability limits of \$100,000 per accident.

The successful offeror shall provide acceptable Insurance Certificate(s) and Endorsement(s) to the Town no later than at the execution of any contract resulting from this RFP. The Town reserves the right to receive any additional documentation or information verifying insurance coverage as the Town deems necessary. The Town may contact the successful offeror's insurance agent(s) or carrier(s) directly concerning any insurance issues.

The Town of Kiawah Island must be advised immediately of any changes in required coverage(s).

## **INDEMNIFICATION**

Except for expenses or liabilities arising from the negligence of the Town, the offeror hereby expressly agrees to indemnify and hold the Town of Kiawah Island harmless against any and all expenses and liabilities arising out of performance or default of any resulting contract as follows:

The offeror expressly agrees to the extent that there is a causal relationship between its negligent, reckless or intentionally wrongful action or inaction, or the negligent, reckless or intentionally wrongful action or inaction of any of its employees or any person, firm or corporation directly or indirectly employed by the offeror, and any damage, liability, injury, loss or expense (whether in connection with bodily injury or death or property damage or loss) that is suffered by the Town and its employees or any member of the public, to indemnify and save the Town and its employees harmless against any and all liabilities, penalties, demands, claims, lawsuits, losses, damages, costs, and expenses arising out of the performance or default of any resulting contract from this RFP. Such costs are to include any defense, settlement, or reasonable attorneys' fees incurred by the Town or its employees. This promise to indemnify shall include bodily injuries or death occurring to offeror's employees and any person directly or indirectly employed by the offeror (including without limitation any employee of any subcontractor), the Town's employees, the employees of any other independent contractors, or occurring to any member of the public. When the Town submits notice, offeror shall promptly defend any aforementioned action. This obligation shall survive the suspension or termination of this Agreement. The limits of insurance coverage required herein shall not serve to limit this obligation to indemnify. The recovery of costs and fees shall extend to those incurred in the enforcement of this indemnity.

## **MINORITY/WOMEN-OWNED ENTERPRISE:**

Are you a Minority or Woman-Owned business? \_\_\_\_ Yes \_\_\_\_ No

If so, are you certified? \_\_\_\_ Yes \_\_\_\_ No

If you are certified, you must furnish a copy of your certificate with your submittal.

## NON-COLLUSION OATH

COUNTY OF: \_\_\_\_\_

STATE OF: \_\_\_\_\_

Before me, the Undersigned, a Notary Public, for and in the County and State aforesaid, personally appeared \_\_\_\_\_ and made oath that the Offeror herein, his agents, servants, and/or employees, to the best of his knowledge and belief, have not in any way colluded with anyone for and on behalf of the Offeror, or themselves, to obtain information that would give the Offeror an unfair advantage over others, nor have they colluded with anyone for and on behalf of the Offeror, or themselves, to gain any favoritism in the award of the contract herein.

SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2023

\_\_\_\_\_  
Authorized Signature for Offeror

Please print Offeror's name and address:

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

\_\_\_\_\_  
NOTARY PUBLIC FOR THE STATE OF \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

Print Name: \_\_\_\_\_