

APPENDIX 2

**Town of Sullivans Island
Deed Restrictions for
Certain Accreted Lands
Dated 12 February 1991**

(as attached to the RFQ for the ALMP study)

Attachment A
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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON) TITLE TO REAL ESTATE

WHEREAS, the Lowcountry Open Land Trust (the "Grantor") is a nonprofit corporation whose purpose is to preserve and conserve natural areas; and

WHEREAS, the Grantor is the owner in fee simple of certain real property (hereinafter referred to as the "Property" which has aesthetic, scientific, educational, and ecological value in its present state as a natural area which has not been subject to development or exploitation, which property is described more on the attached Exhibit A;

WHEREAS, the parties desire to place restrictions upon the Property for the purposes of, inter alia retaining land or water areas predominantly in their natural, scenic, open or wooded condition or as suitable habitat for fish, plants, or wildlife; and

WHEREAS, "natural, scientific, educational, aesthetic, scenic and recreational resource," as used herein shall, without limiting the generality of the terms, mean the condition of the Property at the time of this grant, evidenced by:

A) The appropriate survey maps from the United States Geological Survey, showing the property line and other contiguous or nearby protected areas;

B) An aerial photograph of the Property at an appropriate scale taken as close as possible to the date hereof; and

C) On-site photographs taken at appropriate locations on the Property;

and other documentation, which documentation shall be sufficient to establish the condition of the Property as of the date hereof which documentation shall be maintained in duplicate by both the Grantor and the Grantee hereof and made available to interested members of the public upon reasonable request for purposes of enforcing the restrictions contained herein.

KNOW ALL MEN BY THESE PRESENTS THAT the Lowcountry Open Land Trust, a non-profit corporation, organized and existing under the laws of the State of South Carolina (the "Grantor"), in the state aforesaid in consideration of the sum of Ten and 00/100 (\$10.00) Dollars, and other valuable consideration, to it in hand paid at and before the sealing of these presents by the Town of Sullivan's Island, South Carolina (the "Town"/"Grantee"), in the State aforesaid the receipt whereof is hereby acknowledged, have granted, bargained, sold and released and by these Presents do grant, bargain, sell and release unto the said the Town of Sullivan's Island, South Carolina, its successors and assigns, the following described property:

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FOR DESCRIPTION OF PROPERTY SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE (THE "PROPERTY").

This conveyance is made subject to the following terms, conditions, restrictions, and covenants (hereinafter the "Restrictions"):

1. Except as otherwise provided or permitted in Paragraphs 2 and 3 hereof, the Property shall remain in its natural state, no changes shall be made to its topography or vegetation and no structures or improvements shall be erected on the Property.

2. Notwithstanding the provisions of Paragraphs 1 and 3 and subject to the limitations of Paragraph 4, the Town Council is given the unrestricted authority to trim and control the growth of vegetation for the purposes of mosquito control, scenic enhancement, public and emergency access to the Atlantic Ocean and providing views of the ocean and beaches to its citizens.

3. Notwithstanding the provisions of Paragraph 1 hereof, and subject to the limitations of this Paragraph 3 and of Paragraphs 2 and 4, the Town Council of Sullivan's Island (the "Council") shall have the right to improve, change, modify or alter the Property only if such actions are to further or effect one or more of the following enumerated public objectives or policies ("Public Policies"):

- a) Drainage
- b) Mosquito control
- c) Public walkways and emergency access to the Atlantic Ocean
- d) Beach renourishment
- e) Erosion control
- f) Vegetation management
- g) Educational programs
- h) Public safety
- i) Public health; and
- j) Scenic enhancement

Prior to taking any action affecting the Property to further or effect a Public Policy ("Public Action"), the Council shall make specific written findings of fact;

1) that the proposed Public Action is proposed solely for the purpose of furthering or effecting one or more of the enumerated Public Policies,

2) that the proposed Public Action is necessary for the health, safety or general welfare of the Town,

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3) that the benefits of the proposed Public Action outweigh the damage done to the aesthetic, ecological, scientific, or educational value of the Property in its natural state, and

4) that in making its findings of fact, the Council has given due and reasonable consideration to

i) the cumulative effect of the proposed Public Action and past Public Actions on the natural state of the Property,

ii) the alternative methods, if any, of furthering or effecting the proposed Public Policy which do not impact adversely on the natural state of the Property, and

iii) the probable results of not taking the proposed Public Action.

The above described written findings of fact must be made prior to each individual Public Action relating to the Property and shall be specific to the circumstances of the proposed Public Action and not merely conclusive in nature. In no event shall any Public Action violate the provisions of Paragraph 4 hereof.

4. In all events, the following activities, improvements and structures shall be prohibited on the Property:

a) any building or structure with a roof

b) Asphalt pavement, concrete pavement or pavement of a non-porous material

c) electrical power lines, wires, conduit, stations or pads

d) sewer lines, pipes or lift stations

e) water lines, pipes or lift stations

f) commercial activities in any way related to the buying or selling of things, goods or services.

Notwithstanding the provisions of Paragraph 4(c), (d) and (e) the Council may allow utility easements for electrical, sewer and water lines to cross through the Property, provided no utility services are provided as a result to any improvements on the Property.

5. These Restrictions may be enforced by the Town, any property owner within the Town, or by any voter registered within the Town. Such persons may seek any appropriate remedy for any violation, including, but not limited to, injunctive relief to force a termination of the violation or to permit restoration of the area damaged by an prohibited activity. The forbearance to

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enforce the terms and provisions thereof in the event of a breach shall not be deemed a waiver of any rights granted hereunder. The Town shall not be liable to any person for any violation of these Restrictions by any person other than itself.

6. During the term of these restrictions, the Town shall cause to remain in effect an ordinance of the Town making it a violation of law for any person to violate the provisions of these Restrictions, as such Restrictions may be modified pursuant to Paragraph 8 hereof. The Town may enact ordinances and regulations affecting the Property which are more restrictive than these Restrictions or which are not inconsistent with these Restrictions.

7. If any provision of these Restrictions shall be invalid or for any reason become unenforceable, no other provision shall thereby be affected or impaired.

8. These Restrictions may be modified or repealed only upon an affirmative vote of both (a) seventy-five (75%) percent of the registered voters of the Town who vote in the referendum held pursuant to the terms hereof, and (b) one hundred (100%) percent of the members of Town Council. For purposes of these Restrictions, a registered voter in the Town shall mean any voter eligible to vote in Town elections who is registered 30 days prior to the referendum held pursuant to the terms hereof. At least 45 days prior to any referendum held pursuant to the terms hereof, the Council shall adapt reasonable regulations concerning the manner of voting hereunder. Nothing herein shall prohibit the Council from adopting regulations which allow voting by ballot on a designated day or days or by circulation of written petitions over a period of time.

9. These Restrictions shall remain in full force and effect for a period of 50 years and shall be automatically renewed and continued in effect for additional periods of 50 years each until such time as these Restrictions are repealed in accordance with the provisions of Paragraph 8 hereof. The terms of this Paragraph may be modified in accordance with the provisions of Paragraph 8 hereof.

GRANTEE'S ADDRESS: Town of Sullivan's Island
Town Hall
P. O. Box 427
Sullivan's Island, SC 29482

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said Town of Sullivan's Island, South Carolina, its Successors and Assigns forever.

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AND it does hereby bind itself and its Successors, to warrant and forever defend, all and singular the said Premises unto the said Town of Sullivan's Island, South Carolina, its Successors and Assigns, against it and its Successors, lawfully claiming, or to claim the same or any part thereof.

WITNESS its Hand and Seal, this 12 day of February, in the year of our Lord one thousand nine hundred and ~~ninety~~-one and the two hundred and fifteenth year of the sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

LOWCOUNTRY OPEN LAND TRUST

David P. R...
[Signature]

By: [Signature]
Its:
By: Mrs. A. Kidd
Its:

STATE OF SOUTH CAROLINA)
CHARLESTON COUNTY)

PERSONALLY appeared before me the undersigned witness and made oath that (s)he saw the within named LOWCOUNTRY OPEN LAND TRUST by its authorized officer(s), sign, seal and as its act and deed, deliver the within written Deed, and that (s)he with the other witness named above witnessed the execution thereof.

SWORN to before me this 12
day of February A.D. 1991

[Signature] (SEAL)
Notary Public for South Carolina
My commission expires: 4-2-96

David P. R...
(Signature of Witness)

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EXHIBIT A

All those lots, parcels and pieces of property located within the Town of Sullivan's Island, County of Charleston, State of South Carolina, being more specifically described as follows:

Parcel 1

All that real property not previously conveyed by the Board of Township Commissioners, Town Council of Sullivan's Island, the State of South Carolina or their predecessors in title, located and situated within the boundaries created by Star of the West Street, Middle Street, Station 12 Street, and the mean high water mark of the waters of the Atlantic Ocean and Charleston harbor. Said property is also shown as Parcel #1 on the below described plat attached hereto and marked Exhibit B.

Parcel 2

All that real property not previously conveyed by the Board of Township Commissioners, Town Council of Sullivan's Island, the State of South Carolina or their predecessors in title, located and situated within the boundaries created by Palmetto Street, Poe Avenue, Station 16 Street, and the mean high water mark of the waters of the Atlantic Ocean. Said property is also shown as Parcel #2 on the below described plat attached hereto and marked Exhibit B.

SPECIFICALLY SAVING AND EXCEPTING all that land now owned by the United States Government.

SPECIFICALLY SAVING AND EXCEPTING all those lots, parcels and pieces of land know as Tract A and Tract B on a plat by William Porcher, dated April 21, 1989, entitled "Plat Showing Battery Logan Owned by Sullivan's Island Board of Township Commissioners, Being Subdivided into Tract A and Tract B, Sullivan's Island, Charleston County, South Carolina" being duly recorded in the R.M.C. Office for Charleston County on the 24th day of May, 1989, in Plat Book BW, at Page 28.

Parcel 3

All that real property not previously conveyed by the Board of Township Commissioners, Town Council of Sullivan's Island, the State of South Carolina or their predecessors in title, located and situated within the boundaries created by Station 16 Street, Atlantic Avenue, Station 18 Street and the mean high water mark of the waters of the Atlantic Ocean. Said property is also shown as Parcel #3 on the below described plat attached hereto and marked Exhibit B.

Parcel 4

All that real property not previously conveyed by the Board of

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Township Commissioners, Town Council of Sullivan's Island, the State of South Carolina or their predecessors in title, located and situated within the boundaries created by Station 18 Street, 17th Street, Station 18-1/2 Street and the mean high water mark of the waters of the Atlantic Ocean. Said property is also shown as Parcel #4 on the below described plat attached hereto and marked Exhibit B.

SPECIFICALLY SAVING AND EXCEPTING Lots M, N, NE, NW, and property presently owned by the United States Coast Guard, along with West Atlantic Avenue as shown on plat entitled "Town of Sullivan's Island, Charleston County, South Carolina", dated May 18, 1964, attached hereto and incorporated herein as Exhibit B.

Parcel 5

All that real property not previously conveyed by the Board of Township Commissioners, Town Council of Sullivan's Island, the State of South Carolina or their predecessors in title, located and situated within the boundaries created by Station 18-1/2 Street, Thee Street, the western boundary of the lands now leased by Charleston County School District No. 2 and the mean high water mark of the waters of the Atlantic Ocean. Said property is also shown as Parcel #5 on the below described plat attached hereto and marked Exhibit B.

Parcel 6

All that real property not previously conveyed by the Board of Township Commissioners, Town Council of Sullivan's Island, the State of South Carolina or their predecessors in title, located and situated seaward beyond the boundaries of all that real property leased under School District No. 2 of Charleston County, State of South Carolina as more specifically shown by Grant of Lease dated the 23rd day of April, 1954, and recorded in the R.M.C. Office for Charleston County in Book N58, at Page 150. Said property is also shown as Parcel #6 on the below described plat attached hereto and marked Exhibit B.

Parcel 7

All that real property not previously conveyed by the Board of Township Commissioners, Town Council of Sullivan's Island, the State of South Carolina or their predecessors in title, located and situated within the boundaries created by the eastern boundaries of the lands now leased by Charleston County School District No. 2, Pettigrew Street, Station 22 Street and the mean high water mark of the waters of the Atlantic Ocean. Said property is also shown as Parcel #7 on the below described plat attached hereto and marked Exhibit B.

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Parcel 8

All that real property not previously conveyed by the Board of Township Commissioners, Town Council of Sullivan's Island, the State of South Carolina or their predecessors in title, located and situated within the boundaries created by Station 22 Street, East Atlantic Avenue and Station 22-1/2 Street and the mean high water mark of the waters of the Atlantic Ocean. Said property is also shown as Parcel #8 on the below described plat attached hereto and marked Exhibit B.

Parcel 9

All that real property not previously conveyed by the Board of Township Commissioners, Town Council of Sullivan's Island, the State of South Carolina or their predecessors in title, located and situated within the boundaries created by Station 22-1/2 Street, Bayonne Street, Station 28 Street and the mean high water mark of the waters of the Atlantic Ocean. Said property is also shown as Parcel #9 on the below described plat attached hereto and marked Exhibit B.

Parcel 10

All that real property not previously conveyed by the Board of Township Commissioners, Town Council of Sullivan's Island, the State of South Carolina or their predecessors in title, located and situated within the boundaries created by Station 29 Street, Marshall Boulevard, Station 32 Street and the mean high water mark of the waters of the Atlantic Ocean. Said property is also shown as parcel #10 on the below described plat attached hereto and marked Exhibit B.

Parcel 11

All that real property not previously conveyed by the Board of Township Commissioners, Town Council of Sullivan's Island, the State of South Carolina or their predecessors in title, located and situated and lying seaward of those lots known and described as Lots 1 through 5, Block 16 and Lots 1 through 7, Block 17, as more specifically shown on the below described plat which is marked Exhibit B. Said property is also shown as Parcel #11 on the below described plat attached hereto and marked Exhibit B.

The above tracts of land are more specifically shown and delineated as the colored portion of a plat entitled "Sullivan's Island, Charleston County, South Carolina", dated May 18, 1964, which is attached hereto and incorporated herein by reference and marked Exhibit B.

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Being the same property conveyed to the Grantor herein by Deed of even date from the Town of Sullivan's Island which is recorded in the RMC Office for Charleston County prior to the recording of this deed but simultaneously herewith in Book _____, at Page _____.

Grantees address: P. O. Box 1293
456 King Street
Charleston, SC 29402