Town of Hilton Head Island

Finance and Administration Committee Meeting

Tuesday, November 14, 2023, 1:00 PM
1 Town Center Court, Hilton Head Island, SC
Benjamin M. Racusin Council Chambers

The meeting can be viewed on the Town's YouTube Channel, the Beaufort County Channel, and Spectrum Channel 1304.

1. **Call to Order**
2. **Adoption of the Agenda**
3. **Approval of the Minutes**
   a. Regular Meeting Minutes of October 17, 2023
4. **Appearance by Citizens:** Citizens who wish to speak on the matters being discussed during the meeting may do so by submitting the Request to Speak form no later than 4:30 p.m. the day prior to the meeting.
5. **Unfinished Business**
   a. Consideration of Approval of a Sponsorship Agreement with the Heritage Classic Foundation for the RBC Golf Tournament - Josh Deputy, Deputy Town Manager
   b. Discussion of Act 57 of the 2023 South Carolina General Assembly Legislation Session, Development of Workforce Housing - Josh Gruber, Deputy Town Manager
6. **New Business**
   a. Consideration of a Resolution Approving a Memorandum of Understanding with Island Recreation Association - Josh Gruber, Deputy Town Manager
   b. Consideration of a Resolution Approving a Memorandum of Understanding with the University of South Carolina Beaufort (USCB) Inclusive of the Island Ambassador Program - Josh Gruber, Deputy Town Manager
7. **Adjournment**

FOIA Compliance: Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), the Town of Hilton Head Island will not discriminate against qualified individuals with disabilities on the basis of disability in its services, programs, or activities. Auditory accommodations are available. Any person requiring further accommodation should contact the Town of Hilton Head Island ADA Coordinator as soon as possible but no later than 48 hours before the scheduled event.

Municipal Association of South Carolina (MASC) Civility Pledge:
“I pledge to build a stronger and more prosperous community by advocating for civil engagement, respecting others and their viewpoints, and finding solutions for the betterment of my city or town.”

Town of Hilton Head Island
FINANCE AND ADMINISTRATION COMMITTEE MEETING
Tuesday, October 17, 2023, 1:00 PM
Minutes

Call to Order

Chairman Brown called the meeting to order at 1:00 PM.

Adoption of the Agenda

Ames moved to approve the agenda as presented. Becker seconded. Motion carried 4-0-0.

Approval of the Minutes- Regular Meeting Minutes of September 19, 2023

Ames moved to approve. Becker seconded. Motion carried 4-0-0.

Appearance by Citizens

Melina Tunner addressed the Committee regarding the lack of current financial statements on the Town portal, referring specifically to the memorandums that are updated on a monthly basis. The last posted results are from June of 2023.

Sandy West addressed the committee regarding her continued support for the Coastal Community Development Corporation (CCDC.) She asked what other options are available for funding the private/ public partnership.

Skip Hoagland addressed the Committee regarding his request that the Hilton Head Island/ Bluffton Chamber of Commerce contract be terminated as the Town's Designated Marketing Organization (DMO.) He continued to request a forensic audit be conducted to understand tax funds issued to the Sea Pines gated community for the dredging of Harbor Town. He asked for clarity about the Greater Island Council (GIC) organization and the members associated with it.

New Business
Consideration of Approval of a Sponsorship Agreement with the Heritage Classic Foundation for the RBC Golf Tournament - Josh Gruber, Deputy Town Manager

Gruber addressed the Committee with a request from Steve Wilmot, President of the Heritage Classic Foundation, for the Town of Hilton Head Island to consider a sponsorship agreement for this year's upcoming 2024 RBC Golf Tournament, presented by Boeing. This sponsorship agreement form has one change from previous years; the financial contribution request increased from $300,000 last year to $500,000 this year.
The additional increase request is because this PGA Tour is now considered a Signature Event. Within the agenda packet provided to the Committee, there is a copy of the sponsorship agreement with all the terms, conditions, and justification for the additional requested amount.

Gruber continued to highlight the impact of last year's event on the Island. He also explained some of the differences that would happen with this now being a Signature Event. One factor is the increase in advertising and telecast time. The Town could have the ability to influence the main video message on TV, and the community message through the local announcers. Specific aspects of the Island could be communicated to the broader public outside this area.

Committee members asked questions and made comments regarding details of the increase funding requests to the other sponsors; how was the increase determined and calculated for all sponsors involved; did the increase in cost rise because of inflation or because this is now an elevated Signature Event; questions regarding the impact of the requested $500,000 on Town's budget; where would the Town find the additional funds; is the Town's investment coming back to the community in a leveraged way; and how can the Town market towards the community assets as opposed to the tourist venue?

Chair Brown asked if there were any public comments.

Melinda Tunner addressed the Committee, asking if the Town could negotiate and request extra benefits for the increase in funding.

Skip Hoagland addressed the Committee stating that the use of public funds should be used for a specific purpose and for the benefit of all taxpayers, not just those who enjoy golf.

Chair Brown brought the matter back to the dais. **There was no action to be taken at this meeting. The item will be placed on an upcoming agenda.**

Discussion of Act 57 of the 2023 South Carolina General Assembly Legislation Session, Development of Workforce Housing - Josh Gruber, Deputy Town Manager

Gruber addressed the Committee with information about Act 57 of the 2023 South Carolina General Assembly Legislation Session in relation to the development of Workforce Housing on Hilton Head Island. He began with a detailed presentation about the State and Local Accommodation Taxes, highlighting the terms of the statutory authority, and how the Town applies those taxes.

The State Accommodation Taxes are 7% of the gross proceeds on transient rentals with 2% of that 7% collected transmitted back to the Town. In addition, the State Law allows a local government by ordinance to impose Local Accommodation Taxes, which are not to exceed 3%. The Town took that enabling legislation and adopted two ordinances for the Local Accommodation Tax revenue. The state requires these revenues be distributed in a specific manner within the municipality. Gruber went on to explain the language in the state code in terms of permissible expenditures and what the Town currently spends with this revenue money.

Gruber continued with the presentation to discuss the language added by the adoption of Act 57 regarding the development of Workforce Housing within the municipality. There are specific requirements for the Town if there is consideration of utilizing a portion of the State and Local Accommodations Taxes for Workforce Housing. Some of those procedural steps include the completion of a Housing Impact Analysis; an updated Comprehensive Plan that the Town will need to ratify; communication of both the Housing Impact Analysis and the ratified Comprehensive Plan to the Planning Commission; the solicitation of input on these items from the various stakeholders; adoption of an ordinance incorporating the Housing Impact Analysis into the Comprehensive Plan; and a budget amendment to reallocate those funds with ongoing annual financial reporting and auditing to document how these funds are used. A complete outline would be provided to the Town Council explaining the procedural steps to move forward and utilize those funds.

A few weeks ago, Curtis Coltrane, the Town Attorney, sought the opinion of the Attorney General regarding the following issues concerning: the allowable percentage of revenue that may be used to develop Workforce Housing; if the action is permissible utilizing nonprofit organizations to develop Workforce Housing; if the action is permissible contracting with a for-profit entity to develop Workforce Housing; and if local government identified a lack of Workforce Housing as an impediment to economic growth and the well-being of the community, would making a donation or a grant from the local government's general fund to a nonprofit entity that develops affordable housing meet the public purpose doctrine. Gruber went on to dive into the specifics of each question to the Attorney General and how Town Council, as the local elected body, would have the ability to determine what they believe satisfies the State requirements.

Committee members asked questions and made comments regarding specific wording in Act 57 and whether the ATAX revenue money can be used with or without a home ownership component; is the local government the only entity that can use the ATAX funds for the development of Workforce Housing; can the local government set aside annual budget dollars for Workforce Housing with multiple sources of funding to allocate through a nonprofit or profit organization; is the development of Workforce Housing interpreted as brick and mortar or as part of the process; and does this language allow loans as well as grants.

Chair Brown asked if there were any public comments.

Skip Hoagland addressed the committee asking questions and making comments about whether the Workforce Housing money will come out of the 30% going to the DMO/ Chamber or would the Workforce Housing money come out of the 70% set aside for the Town operating nonprofit organizations. He stated the need to have an accounting of all the money involved.

Melinda Tunner noted the large number of workers who commute onto the Island. She would like the Committee to focus on other solutions, such as transportation, park and ride lots, buses, new roads and bridges to reduce commute time. She also suggested workable incentives to encourage developers to build affordable housing.

Chair Brown concluded by asking further questions to determine the timeline. He requested a briefing on the Attorney General's opinion at the next Finance & Administration meeting.

Adjournment

The meeting was adjourned at 2:02 PM.

The recording of this Meeting can be found on the Town's website at www.hiltonheadislandsc.gov

TOWN OF HILTON HEAD ISLAND

Finance and Administrative Committee

TO: Finance and Administrative Committee Members
FROM: Joshua Gruber, *Deputy Town Manager*
CC: Marc Orlando, *Town Manager*
DATE: November 6, 2023
SUBJECT: Consideration of Approval of a Sponsorship Agreement with the Heritage Classic Foundation for the 2024 RBC Golf Tournament

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RECOMMENDATION:

The Committee should review the proposed Sponsorship Agreement with the Heritage Classic Foundation for the 2024 RBC Golf Tournament Presented by Boeing.

BACKGROUND:

The Town has historically been a sponsor of the RBC Golf Tournament. With recent developments within the PGA TOUR, the 2024 Tournament has been designated as a "Signature Event" and will be one of eight Signature Events with limited field sizes on the 2024 PGA TOUR schedule. Each of the eight Signature Events will feature an increased $20 million purse, and five of the Signature Events, including the RBC Heritage, will feature a more limited playing but without players being cut.

On September 13, 2023 the Heritage Classic foundation wrote to the Town regarding a new Sponsorship Agreement for 2024. A copy of that correspondence is enclosed as Attachment 1. Due to the increased expenses of presenting a Signature Event, the Heritage Classic Foundation is requesting an increase in the Town's financial sponsorship from $298,509.71 in 2023 to $500,000 for this year's event. In exchange for this sponsorship, the Town will continue to receive recognition as a sponsor in many of the tournament's promotional materials. It has been estimated that the RBC Golf Tournament Presented by Boeing generates $102 million in economic impact each year. The 2023 Tournament also brought more than 101,000 event attendees to Hilton Head Island over the course of the week.

At its meeting on October 17, 2023, the Committee posed two questions to staff that required additional research. The first question was whether or not the Sponsorship requests of other entities were being increased for this year's event in addition to the Town. The second question was whether or not the Town could work with Heritage Classic Foundation on some of the television media that is provided by the CBS network during its coverage of the Tournament. Mr. Steve Wilmot, President and Tournament Director of the RBC Heritage Presented by Boeing Tournament, will be discussing those matters directly with the Committee at its meeting on November 14, 2023.

CONCLUSION:

The Committee should review the 2024 Sponsorship Agreement with the Heritage Classic Foundation, for the RBC Golf Tournament Presented by Boeing enclosed as Attachment 2, and provide a recommendation to the Town Council.

ATTACHMENTS:

1. Simon Fraser Letter of September 13, 2023
2. 2024 RBC Heritage Presented by Boeing Sponsorship Agreement

Heritage Classic Foundation
Championing charities. Lifting lives.

September 13, 2023

Mr. Marc Orlando
Town Manager
Town of Hilton Head Island
1 Town Center Court
Hilton Head Island, SC 29928

Dear Marc,

I am writing you on behalf of the Heritage Classic Foundation for a couple of reasons. First is to thank the Town of Hilton Head Island for its support over the last twelve years, monetarily and otherwise. We feel our relationship with the Town has never been better and is the envy of all other PGA TOUR tournaments. Please convey our appreciation to the Town Council and all staff.

As you know, the RBC Heritage Presented by Boeing has been selected as a PGA TOUR Signature Event in 2024. Being a Signature Event will even further increase viewership of the telecast and entice new fans and sponsors from around the country and world. Our 2023 tournament was already one of the highest-rated telecasts across the entire 2022-23 PGA TOUR season that just ended with the TOUR Championship this past August. Expectations for 2024 are set incredibly high, climbing higher every day.

Becoming a Signature Event means being tasked to provide an enhanced experience for our patrons, sponsors and PGA TOUR professionals. While we believe the tournament has been elevated for many years, there are things we expect to enhance going into 2024 which will require spending more money. We do, therefore, respectfully request the Town to consider increasing its supporting sponsorship to an amount of $500,000 for 2024. The additional funding will help provide a better experience ranging from transportation, security, and tournament operations for everyone on-site, in addition to aiding in our marketing budget which in turn benefits all of Hilton Head Island.

Again, we thank the Town for its past and continued support. Let me know if you need anything further from Steve Wilmot and the tournament staff or from me to consider this request.

We look forward to working with the Town as we prepare for the 2024 RBC Heritage Presented by Boeing, which we expect will be our best tournament to date.

Kindest Regards,

Simon Fraser
Chairman
Heritage Classic Foundation

71 Lighthouse Road | Suite 4200 Hilton Head Island, SC 29928 Phone: (843) 671-2448 HeritageClassicFoundation.com

TOWN OF HILTON HEAD ISLAND BEAUFORT COUNTY, SOUTH CAROLINA

2024 RBC Heritage Presented by Boeing Sponsorship Agreement

Heritage Classic Foundation

RBC Heritage
PRESENTED BY BOEING

TOWN OF HILTON HEAD ISLAND

RBC Heritage Presented by Boeing

April 15-21, 2024

THIS AGREEMENT made this _____day of _________________, 2023, by and among HERITAGE CLASSIC FOUNDATION (hereinafter referred to as "Heritage"), a South Carolina not-for-profit corporation and the TOWN OF HILTON HEAD ISLAND (hereinafter referred to as "TOWN").

WITNESETH

WHEREAS, Heritage contracts annually with the PGA TOUR, Inc. (hereinafter sometimes referred to as "PGA TOUR") to conduct a PGA TOUR sanctioned golf tournament known as the RBC Heritage Presented by Boeing (the "Tournament") on the Harbour Town Golf Links (the "Golf Course") in Sea Pines Resort, Hilton Head Island, South Carolina, such contracts to be hereinafter referred to as the "PGA TOUR Agreement";

WHEREAS, the Tournament provides significant economic impact and publicity to the Town of Hilton Head Island and;

WHEREAS, TOWN desires to become a non-named sponsor of the Tournament under the terms and conditions set forth herein.

NOW, THEREFORE for valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the parties hereto agree as follows:

1. The above WHEREAS clauses are hereby incorporated into the body of this agreement.

2. ***DURATION***

The Agreement shall begin upon the date of signing of this agreement and concluding December 31st, 2024; provided, however, in the event Heritage enters into an agreement with a title sponsor or with a title and presenting sponsor for more than one year, then the term shall be the same as that in the title/presenting sponsor agreements but not beyond 2024.

3. ***TOURNAMENT NAME AND LOGO***

The Tournament shall be known as the "RBC Heritage Presented by Boeing." As a condition of its association with the Tournament, TOWN is hereby required to refer to the Tournament solely as the "RBC Heritage Presented by Boeing" and to only use the OFFICIAL logo as supplied by the Tournament in any promotional or advertising materials wherein the Tournament is mentioned. **Promotional materials must be approved by the Heritage Classic Foundation before they are put into use, that include OFFICIAL Tournament mention. Such materials must be sent to the Heritage for approval at least 48 hours prior to scheduled production.**

Heritage reserves the right to change the name of the Tournament and the official logo. If a change is made, TOWN agrees to refer to the Tournament by the new name and to use the new name from the date of being notified by Heritage of a change in name or official logo.

4. ***PRIVILEGES***

Heritage accepts and designates TOWN as an Official sponsor of the Tournament for the term of this agreement.

Heritage will provide or cause to be provided to TOWN the following, upon request and without cost, for the use by TOWN personnel and their guests:

a) TOWN will receive an upper tier logo placement in the Official Pairings Guide, Wednesday through Sunday of Tournament week;

b) TOWN will receive one (1) full page four (4) color ad in the Official Pairings Guide;

c) TOWN will receive a listing and link on the official website www.rbcheritage.com;

d) TOWN will receive a listing on the Tournament's Official video boards, Tuesday through Wednesday of Tournament week;

e) TOWN will receive an upper tier placement on the year-round Sponsor Board;

f) TOWN will receive a listing in the Official Media Guide;

g) TOWN will provide the Official Welcome Message on the Bus DVD's and placement of one (1) thirty (30) second commercial ad within the running time on the video boards located on the Heritage Lawn.

5. ***FEE***

TOWN agrees to pay Five Hundred Thousand Dollars ($500,000) due no later than April 1, 2024. The sponsorship fee for the Privileges listed in Item #4 above will support the operational needs of the Tournament, including but not limited to transportation and marketing. Further, this contract may be terminated and all the rights and privileges under this Agreement shall be forfeited if payment of the Sponsor fee is not paid within ten (10) days of being given written notice by Heritage that the Sponsor fee has not been paid. In addition to the forfeiture of all privileges, a default under this Agreement which is not timely cured shall also result in the forfeiture of all money paid to date as liquidated damages. Time shall be of the essence regarding the provisions of this section.

6. ***INDEMNIFICATION***

Heritage agrees to hold harmless TOWN, its subsidiaries, successors and assigns from and against all claims, damages, issues and expenses including reasonable attorneys' fees, arising out of or resulting from the Tournament or any of its related activities, provided that any such claims, damages, loss or expense (1) is attributed to bodily injury or property damage, and (2) is caused in whole or in part by any negligent act or omission of Heritage and not proximately caused in whole or in part by TOWN.

TOWN agrees to hold harmless Heritage, from and against all claims, damages, issues and expenses, including reasonable attorney's fees, arising out of or resulting from TOWN use of the Tournament facilities and the skybox/tent or its related activities, provided that any such claims, damages, loss or expense (1) is attributable to bodily injury or property damage, or claims by suppliers, guest, or third parties of TOWN; and (2) is caused in whole or in part by any negligent act or omission of TOWN and not proximately caused by Heritage. Sponsor must show proof of insurance with a Certificate of

Insurance supplied to the Tournament prior to March 31, 2024 with a minimum of $1,000,000 in Liability coverage per occurrence. The Tournament in turn will insure Sponsor under the Tournament's umbrella policy.

7. ***WARRANTIES AND REPRESENTATIONS***

(a) For the term of this Agreement, Heritage warrants and represents to TOWN:

(i) Heritage has the authority to enter into this Agreement and has obtained all permissions and consents necessary to fulfill Heritage's obligations under this Agreement;

(ii) The Tournament will be sanctioned as a scheduled event on the PGA TOUR and televised live by The Golf Channel and CBS;

(iii) Heritage has a valid cosponsor Agreement with the PGA TOUR for the Tournament;

(iv) The Tournament will be held principally to raise proceeds for charity and a substantial majority of Tournament personnel will be volunteers.

8. ***CANCELLATION OF THE TOURNAMENT***

In the event the Tournament or portions of the Tournament are cancelled due to inclement weather or other event (such as acts of God, earthquakes, tornadoes, hurricanes, malicious mischief, flood, insurrections, riots, labor disturbances, public enemy/terrorist activity, war, epidemics, pandemics, explosives, court orders or injunctions beyond the reasonable control of Heritage) during the Tournament or within thirty (30) days prior to the Tournament, Heritage shall have no obligation to refund any portion of the fee paid by TOWN to date.

Should TOWN cancel the Agreement at any time the following cancellation percentage will apply:

- Signing of Agreement to 120 Days of Tournament: 25% of Fee retained by Heritage
- Signing of Agreement to 90 Days of Tournament: 50% of Fee retained by Heritage
- Signing of Agreement to 60 Days of Tournament: 75% of Fee retained by Heritage
- Signing of Agreement to 30- 0 Days of the Tournament: 100% of Fee retained by Heritage

The cancellation percentage will also apply to multiple year Agreements.

9. ***MISCELLANEOUS***

(a) No person not a party to this Agreement shall have any equitable or other rights by virtue of this Agreement.

(b) If any term or provision of this Agreement should be determined to be invalid or unenforceable, such term or provision shall, if possible, be changed to the most minor extent necessary to make it valid and enforceable and to carry out the intent of the parties. In such event, all remaining terms and provisions of this Agreement shall remain in full force and effect with such change or without the effected term or provision, as the case may be.

(c) This Agreement constitutes the entire agreement of the parties and supersedes all prior written and all contemporaneous oral agreements, understandings, and negotiations between the parties.

(d) This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same documents.

(e) This Agreement and any rights herein granted are personal to the parties hereto, and shall not be assigned, sublicensed, encumbered, or otherwise transferred by any party without the prior written consent of the parties. Any attempt at volatile assignment, sublicense, encumbrance, or other transfer, whether voluntary or by operation of law, shall be void and of no force and effect.

(f) Failure of any party to complain of any act or omission on the part of any other party, no matter how long the same may continue, shall not be deemed to be a waiver by any party of its rights under this Agreement.

(g) This Agreement shall be binding on the parties hereto, their successors, assigns and legal representatives.

(h) Notice by any party is deemed given when personally delivered or mailed, postage prepaid, addressed to the other parties at the address appearing below.

(i) In the event either party must resort to litigation to protect or enforce its rights hereunder, the prevailing party is entitled to recover its reasonable attorney's fees and costs.

HERITAGE CLASSIC FOUNDATION	Simon Fraser, Chairman Heritage Classic Foundation Post Office Box 3244 Hilton Head Island, SC 29928

TOWN OF HILTON HEAD ISLAND

(name)____________________________________

(company)_________________________________

(address)__________________________________

(city, state, zip) ______________________________

WITNESSETH WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

WITNESSES: ***HERITAGE CLASSIC FOUNDATION***

____________________ By:______________________________________

Its: ____________________________________

Date: ________________ Date: ________________

WITNESSES: ***TOWN OF HILTON HEAD ISLAND***

_______________________ By:______________________________________

Its: ____________________________________

Date: ________________ Date: ________________

TOWN OF HILTON HEAD ISLAND

Finance and Administrative Committee

TO: Finance and Administrative Committee Members
FROM: Joshua Gruber, *Deputy Town Manager*
CC: Marc Orlando, *Town Manager*
DATE: November 6, 2023
SUBJECT: Discussion of Act 57 of the 2023 South Carolina General Assembly Legislation Session, Development of Workforce Housing

RECOMMENDATION:

The Finance and Administrative Committee should review the terms of the recently adopted Act 57 of 2023 and the corresponding regulations that will need to be satisfied in order for the Town to lawfully allocate Accommodation Tax revenues to be used in the development of qualified workforce housing.

BACKGROUND:

The Town of Hilton Head Island was instrumental in the passage of Act 57 of the 2023 South Carolina General Assembly Legislative Session. This Act allows local governments to utilize a portion of either its state or local accommodations taxes, or both, to be utilized in the development of qualified workforce housing as a tourism related expenditure.

However, the legislation that was ultimately adopted by the General Assembly contained several provisions that were not included within the draft legislation that had been proposed and supported by the Town. As such, it is important to understand that nature and applicability of these requirements from a procedural standpoint so that the Committee and ultimately Town Council is aware of what steps may have to be undertaken should it desire to utilize accommodation tax funding for this purpose.

To ensure that its interpretation of the adopted provisions of Act 57 of 2023 are consistent with what would be generally interpreted by other governmental entities, the Town sought a formal opinion from the South Carolina Attorney General regarding these items. On October 16, 2023 the Town received its responses.

ANALYSIS:

South Carolina Attorney General Opinion Questions:

1. Does Act 57 of 2023 authorize the dedication of fifteen percent of the entire amount of the state accommodation taxes received by a local government, or does it authorize the dedication of fifteen percent of the "65%" fund described in 6-4-10 (4)?

   Response: “[G]iven the design of section 6-4-10 as laid out by the Legislature and reading section 6-4-10(4)(b)(ix) in the context of the provision as a whole, a court will likely find the Legislature intended any allocations for the development of workforce housing be included in the sixty-five percent allocation allowed for ‘tourism-related expenditures.’ However, we do not believe the fifteen percent limitation is based on this amount.

   Section 6-4-10(4)(b)(ix) clearly states local governments "may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue for the purposes set forth in this item (4)(b)(ix)." A plain reading of this provision indicates the fifteen percent limitation is calculated based on the total annual local accommodations tax a local government receives, not on the amount allocated for tourism-related expenditures. As such, we believe the plain language of the statute best expresses the intent of the Legislature to base the fifteen percent limitation on the annual local accommodations tax received rather than the amount allocated for tourism-related expenditures under section 6-4-10(4)(a).”

2. May a local government allocate all or any part of the funds described in item (4)(b)(ix) to a non-profit organization to be used to develop workforce housing, so long as the non-profit organization complies with the requirements of the statutes?

   Response: “We noted whether to disburse Accommodations Tax funds to a nonprofit is ultimately the decision of the municipality or the county. However, we concluded "it is our opinion that a municipality possesses the discretion, pursuant to the State Constitution and the Accommodations Tax statute, to disburse funds to a nonprofit, nonsectarian organization to be used in furtherance of 'tourism-related expenditures' such as you describe in your letter. While the Legislature amended section 6-4-10(4) to specify that development of workforce housing is a ‘tourism-related expense,’ we believe the reasoning of our 2003 opinion applies and a local government may allocate such funds to a non-profit, nonsectarian organization so long the allocation complies with the four-part test expressed in *Nichols* and satisfies the requirements under section 6-4-10(4).”

3. Would the answer to this question change if the recipient of the grant or donation is a for-profit entity that develops affordable housing for the workforce?

   Response: “You ask whether the answer to this question changes if the entity is for-profit. We do not believe it does. We agree with the ALC's analysis finding no evidence that the Legislature intended to restrict disbursements of tourism-related expenses, including those for the development of workforce housing, to non-profit entities. Nonetheless, as we concluded regarding disbursements to non-profit entities, we stress that the local government must ensure compliance with the four-part test expressed in *Nichols* and satisfy the requirements under section 6-4-10(4)(ix).”

4. If a local government has identified the lack workforce housing as an impediment to the economic growth, health and wellbeing of its community, would making a donation or grant from the local government's general fund to a non-profit entity that develops affordable housing for the workforce meet the public purpose requirement of S. C. Const., Article X, Sec, 5 and not violate the prohibition against pledging the credit of the State set out in S. C. Const., Art. X, Sec. 11 of the South Carolina Constitution?

   Response: “In 2009, we summarized various prior opinions addressing the ability of local governments to allocate funds to private entities under these provisions. In each opinion, we stressed that our Constitution, pursuant to article X, section 5 and article X, section 11, requires that public funds only be used for public purposes. However, our courts recognize that public funds may be expended for the benefit of private non-profit entities without violating our Constitution, so long as the non-profit uses such funds for the performance of a public function.

   In accordance with this opinion, if the donation to the non-profit entity is for a public purpose and facilitates accomplishment of what is a public function in keeping with the local government's authority, it would likely not violate sections 5 or 11 of article X of the South Carolina Constitution. However, as we explained in our 2009 opinion, the local government must maintain some control over these expenditures to ensure the funds are used for the purposes for which they are expended.”

<u>ATTACHMENTS</u>:

1. South Carolina Attorney General Opinion of October 16, 2023

ALAN WILSON
ATTORNEY GENERAL

October 16, 2023

Curtis L. Coltrane, Esq.
Coltrane & Wilkins, LLC
Post Office Box 6808
Hilton Head Island, SC 29938

Dear Mr. Coltrane:

We received your letter requesting an opinion of this Office concerning Act 57 of 2023 and "the ability of local governments to utilize general fund money in the form of grants or donations to private entities for the development workforce housing." Your letter contains three questions, which we will address in turn.

Law/Analysis

1. Does section 6-4-10(4)(b)(ix) authorize the dedication of fifteen percent of the entire amount of the accommodations tax allocation to a local government, or does it authorize the dedication of fifteen percent of the "65%" fund described in 6-4-10(4)?

In order to provide some background to your question, we note that South Carolina law imposes a statewide seven percent sales tax on "the gross proceeds derived from the rental or charges for any rooms, campground spaces, lodgings, or sleeping accommodations furnished to transients by any hotel, inn, tourist court, tourist camp, motel, campground, residence, or any place in which rooms, lodgings, or sleeping accommodations are furnished to transients for a consideration." S.C. Code Ann. § 12-36-920(A) (Supp. 2022). Section 12-36-2630 of the South Carolina Code (2014) explains that two percent of this tax is "local accommodations tax, which must be credited to the political subdivisions of the State in accordance with Chapter 4, Title 6." Section 6-4-10 of the South Carolina Code (2014 & Supp. 2022) governs the allocation of such revenue in county areas collecting more than fifty thousand dollars from the local portion of the accommodations tax and reads as follows:

> (1) The first twenty-five thousand dollars must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.
>
> (2) Five percent of the balance must be allocated to the general fund of the municipality or county and is exempt from all other requirements of this chapter.

(3) Thirty percent of the balance must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity. To manage and direct the expenditure of these tourism promotion funds, the municipality or county shall select one or more organizations, such as a chamber of commerce, visitor and convention bureau, or regional tourism commission, which has an existing, ongoing tourist promotion program. If no organization exists, the municipality or county shall create an organization with the same membership standard in Section 6-4-25. To be eligible for selection the organization must be organized as a nonprofit organization and shall demonstrate to the municipality or county that it has an existing, ongoing tourism promotion program or that it can develop an effective tourism promotion program. Immediately upon an allocation to the special fund, a municipality or county shall distribute the tourism promotion funds to the organizations selected or created to receive them. Before the beginning of each fiscal year, an organization receiving funds from the accommodations tax from a municipality or county shall submit for approval a budget of planned expenditures. At the end of each fiscal year, an organization receiving funds shall render an accounting of the expenditure to the municipality or county which distributed them. Fees allocated pursuant to this subsection must not be used to pledge as security for bonds and to retire bonds. Also, fees allocated pursuant to this subsection must be allocated to a special fund and used only for advertising and promotion of tourism to develop and increase tourist attendance through the generation of publicity, and not used to pledge as security for bonds and to retire bonds.

(4)(a) The remaining balance plus earned interest received by a municipality or county must be allocated to a special fund and used for tourism-related expenditures. This section does not prohibit a municipality or county from using accommodations tax general fund revenues for tourism-related expenditures.

(b) The funds received by a county or municipality which has a high concentration of tourism activity may be used to provide additional county and municipal services including, but not limited to, law enforcement, traffic control, public facilities, and highway and street maintenance, as well as the continual promotion of tourism. The funds must not be used as an additional source of revenue to provide services normally provided by the county or municipality but to promote tourism and enlarge its economic benefits through advertising, promotion, and providing those facilities and services which enhance the ability of the county or municipality to attract and provide for tourists.

"Tourism-related expenditures" include:

> (i) advertising and promotion of tourism so as to develop and increase tourist attendance through the generation of publicity;
>
> (ii) promotion of the arts and cultural events;
>
> (iii) construction, maintenance, and operation of facilities for civic and cultural activities including construction and maintenance of access and other nearby roads and utilities for the facilities;
>
> (iv) the criminal justice system, law enforcement, fire protection, solid waste collection, and health facilities when required to serve tourists and tourist facilities. This is based on the estimated percentage of costs directly attributed to tourists;
>
> (v) public facilities such as restrooms, dressing rooms, parks, and parking lots;
>
> (vi) tourist shuttle transportation;
>
> (vii) control and repair of waterfront erosion, including beach renourishment;
>
> (viii) operating visitor information centers;
>
> (ix) <u>development of workforce housing, which must include programs to promote home ownership. However, a county or municipality may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue for the purposes set forth in this item (4)(b)(ix). The provisions of this item (4)(b)(ix) are no longer effective after December 31, 2030.</u>

S.C. Code Ann. § 6-4-10 & 57 S.C. Acts 2023 (emphasis added).

You ask whether section 6-4-10(4)(b)(ix) allows a local government to spend fifteen percent of the entire accommodations tax it receives under section 12-36-2630(a) on the development of workforce housing or whether it may only spend fifteen percent of the sixty-five percent of accommodations tax allocated to the special fund created under section 6-4-10(4)(a). To answer your question, we must employ the rules of statutory construction, the primary of which to effectuate the intent of the Legislature. <u>Fullbright v. Spinnaker Resorts, Inc.</u>, 420 S.C. 265, 272, 802 S.E.2d 794, 797 (2017). As you mentioned in your letter, the Legislature added section 6-4-10(4)(b)(ix) to section 6-4-10 via act 57 of 2023 to allow local accommodations tax revenue to be for the development of workforce housing. Certainly, either interpretation could serve this purpose.

Thus, we turn to the statute to determine which interpretation a court is likely to find correct. As our Supreme Court instructs:

> "If a statute's language is plain, unambiguous, and conveys a clear meaning[,] 'the rules of statutory interpretation are not needed and the court has no right to impose another meaning.'" Id. (quoting Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)). "On the other hand, where a statute is ambiguous, the Court must construe the terms of the statute." Wade v. Berkeley County, 348 S.C. 224, 229, 559 S.E.2d 586, 588 (2002). "A statute as a whole must receive practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers." State v. Henkel, 413 S.C. 9, 14, 774 S.E.2d 458, 461 (2015) (citation and internal quotation marks omitted). "Moreover, it is well settled that statutes dealing with the same subject matter are in *pari materia* and must be construed together, if possible, to produce a single, harmonious result." Beaufort County v. S.C. State Election Comm'n, 395 S.C. 366, 371, 718 S.E.2d 432, 435 (2011).

Id. at 272, 802 S.E.2d at 797-98.

The Legislature laid out the allocation of funds by numbering the order of the allocation (1) through (4), clearly noting that the first twenty-five thousand goes to the local government's general fund. Of the remaining balance, the Legislature instructs that five percent of that balance also goes to the local government, thirty percent goes to a special fund for advertising and promotion, and the remaining amount, which mathematically amounts to the remaining sixty-five percent after the initial twenty-five-thousand-dollar allocation, is allocated to a special fund to be used from "tourism-related expenditures." The Legislature then provides a definition of what is considered "tourism-related expenditures" in section 6-4-10(4)(b). Act 57 added to this list "development of workforce housing." Therefore, given the design of section 6-4-10 as laid out by the Legislature and reading section 6-4-10(4)(b)(ix) in the context of the provision as a whole, a court will likely find the Legislature intended any allocations for the development of workforce housing be included in the sixty-five percent allocation allowed for "tourism-related expenditures." However, we do not believe the fifteen percent limitation is based on this amount.

Section 6-4-10(4)(b)(ix) clearly states local governments "may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue for the purposes set forth in this item (4)(b)(ix)." A plain reading of this provision indicates the fifteen percent limitation is calculated based on the total annual local accommodations tax a local government receives, not on the amount allocated for tourism-related expenditures. As such, we believe the plain language of the statute best expresses the intent of the Legislature to base the fifteen percent limitation on the annual local accommodations tax received rather than the amount allocated for tourism-related expenditures under section 6-4-10(4)(a).[1]

[1] The basis for this calculation of the allowable amount for workforce housing under section 6-4-10(4)(b)(ix) does not change the amount allocated under section 6-4-10(4)(a). However, we note section 6-4-10(4)(a) specifies "[t]his

2. May a local government allocate all or any part of the fund described in section 6-4-10(4)(b)(ix) to a non-profit organization to be used to develop workforce housing, so long as the non-profit organization complies with the requirements of the statute?

Initially, we note in section 6-4-10(3), pertaining to the thirty percent allocation for advertising and promotion, the Legislature specifies that the local government must select an organization to manage and direct the expenditure of these funds and that it must be organized as a nonprofit organization. The allocation of funds for tourism-related expenditures in section 6-4-10(4) does not contain such a requirement and simply provides that such funds must be allocated to a "special fund" and must be spent within two years receipt unless certain requirements are met. Therefore, section 6-4-10(4) does not specifically allow or require the allocation of tourism-related expenditures to non-profit organizations.

In a 2003 opinion, we addressed using accommodations tax revenue allocated for tourism-related expenditures for the construction, maintenance, and operation of facilities owned by a nonprofit entity. Op. Att'y Gen., 2003 WL 21043497 (S.C.A.G. Apr. 2, 2003). We noted the fundamental rule that "the expenditure of public funds must be for a public purpose" and further explained:

> This Office has consistently recognized that "[p]ublic funds may be appropriated to a private nonprofit, nonsectarian organization if the funds are to be expended in the promotion of a valid public purpose. See Op. S.C. Atty Gen., dated July 12, 1984. This opinion is based on and supported by decisions of our Supreme Court. In Bolt v. Cobb, 225 S.C. 408, 82 S.E.2d 789 (1954), the Court recognized the validity of the appropriation of public funds for the performance of a public function through the agency of a nonprofit, nonsectarian entity, such as organizations which provide health services, welfare services, and other public purposes for which appropriations are made. Moreover, in Nichols v. South Carolina Research Authority, 290 S.C. 415, 351 S.E.2d 155 (1986), the Court established the following four part test to determine the constitutionality of a statute for financing industrial development:
>
>> The Court should first determine the ultimate goal or benefit to the public intended by the project. Second, the Court should analyze whether public or private parties will be the primary beneficiaries. Third, the speculative nature of the project must be considered. Fourth, the Court must analyze and balance the probability that the public interest will be ultimately served and to what degree.
>
> In the August 2, 1988 opinion referenced above, this Office concluded that an expenditure of accommodation tax revenues by the City of Charleston for the

section does not prohibit a municipality or county from using accommodations tax general fund revenues for tourism-related expenditures." Therefore, a local government may use the funds it receives under sections 6-4-10(1) and (2) on tourism-related expenditures including the development of workforce housing.

> protection of the facade of a privately owned building was a "tourism related expenditure" and was primarily related to a public purpose. The opinion concluded that the expenditure met the standard established by the Court in Nichols even though there would be some benefit to the private owner as the historical nature of the building promoted tourism thereby principally benefitting the public. See also Anderson v. Baehr, 265 S.C. 153, 217 S.E.2d 43 (1975). Further, in an opinion dated October 9, 1989, this Office concluded that the expenditure of Accommodations Tax monies to a non-profit corporation was permissible as a "tourism-related expenditure," so long as the organization involved was "non-sectarian in nature and nonprofit and ... perform[ed] a service which the political subdivision is authorized to perform."
>
> Additionally, the Accommodations Tax statute does not appear to prohibit disbursing funds to nonprofit, nonsectarian organizations for the purpose of constructing, maintaining, or operating facilities that are used for civic and cultural activities. Nor does it seem that the Constitution would prohibit such a disbursement. An opinion of this Office dated, April 17, 1985, noted that the South Carolina Supreme Court has approved the expenditure of public funds to procure public services from a non-profit corporation in cases such as Gilbert v. Bath, 267 S.C. 171, 227 S.E.2d 177 (1976); Elliott v. McNair, 123 S.C. 272, 115 S.E. 596 (1967); and Haesloop v. City of Charleston, 123 S.C. 272, 115 S.E. 596 (1923). Specifically, this Office noted that the case of Bolt v. Cobb, supra, holds that county funds can be used to build a hospital to be leased to a nonprofit, nonsectarian corporation, at no cost to the corporation, without infringing any constitutional provisions. The Court stated that the county was merely using the instrumentality of such a corporation to accomplish a legitimate purpose. See Op. Atty. Gen., January 6, 1970.

Id. We noted whether to disburse Accommodations Tax funds to a nonprofit is ultimately the decision of the municipality or the county. Id. However, we concluded "it is our opinion that a municipality possesses the discretion, pursuant to the state Constitution and the Accommodations Tax statute, to disburse funds to a nonprofit, nonsectarian organization to be used in furtherance of 'tourism-related expenditures' such as you describe in your letter." Id.

While the Legislature amended section 6-4-10(4) to specify that development of workforce housing is a "tourism-related expense," we believe the reasoning of our 2003 opinion applies and a local government may allocate such funds to a non-profit, nonsectarian organization so long the allocation complies with the four-part test expressed in Nichols and satisfies the requirements under section 6-4-10(4).

You ask whether the answer to this question changes if the entity is for-profit. We do not believe it does. While we have not addressed this question in an opinion, we found a 2005 decision by the South Carolina Administrative Law Court (the "ALC") discussing whether a municipality could disburse accommodation tax revenues to entities that were not organized as a non-profit. City of Myrtle Beach v. Tourism Expenditure Review Committee, No. 04-ALJ-30-0382-CC, 2005 WL 3308567 (Nov. 7, 2005). The ALC noted the purpose of section 6-4-10 as expressed by the Court of Appeals in Thompson v. Horry County, 294 S.C. 81, 362 S.E.2d 646 (Ct. App. 1987):

> "In our view, the statute reflects a practical recognition by the Legislature that expenditures which promote tourism will generally enlarge the economic benefits for an entire geographic area of the county without regard to municipal boundarylines.... For this reason, it makes sense to give counties some flexibility as to how and where they spend accommodations tax revenues." Id. at 648.

Id. Following the rules of statutory construction, the ALC determined:

> The Court does not find that § 6-4-10(4) is ambiguous. It contains no reference to any limitation upon the type of entity which may receive disbursements of accommodations tax revenues under that subsection; it only requires that expenditures there under be "tourism-related." Thus, the logical interpretation of the plain language of the statute is that no such limitation exists.
>
> Furthermore, our Supreme Court enunciated the Latin principal of *ital ex scripta est* ("so the law is written") in Beaty v. Richardson, 56 S.C. 173, 180, 34 S. E. 73, 76 (1899), stating that "the legislature must have intended to mean what it has plainly expressed, and consequently there is no room for construction...Where the words of a statute are plainly expressive of an intent, not rendered dubious by the context, the interpretation must conform to and carry out that intent. It matters not, in such a case, what the consequences may be." Section 6-4-10(4) is plain and clear. The application of its words will not lead to an absurd result. It is not appropriate for this Court to search for legislative intent beyond the borders of the statute. A logical interpretation is that an expenditure must be "tourism-related" but is not required to be made to a non-profit organization. In the present case, the plain language of the statute does not contain any requirement that the funds in question be disbursed to a non-profit entity. If the legislature had intended to restrict the expenditure of funds in question to non-profit corporations it could have easily done so. In fact, the legislature did restrict the expenditure of certain funds to organizations specifically organized as non-profit organizations in the section immediately preceding the section in question. Cf. S.C. Code Ann. §§ 6-4-10(3) & 6-4-10(4)(a). Petitioner correctly contends that Respondent is not authorized to create additional restrictions on the discretionary authority of local governments in connection with disbursing accommodations tax funds.

> In Thompson, supra, the Court of Appeals interpreted an earlier version of the accommodation tax statutes. That case involved taxpayers' challenge to Horry County's expenditure of accommodation tax funds in certain geographical areas. The appellate court found the legislature had prescribed two requirements for expenditures from the special fund: (1) they must be "tourism-related" and (2) they must be made "primarily in the geographical areas of the county in which the proceeds of the tax are collected where it is practical." Id. The circuit court had held most of the challenged expenditures were unlawful because, in its opinion, the Act prohibited the County from spending taxes collected in the unincorporated areas of the county. The appellate court reversed the trial court finding no such prohibition appeared in the text of the statute. Id. The appellate court further found that if the Legislature had intended to restrict the expenditure of accommodation tax funds to certain geographical areas it could have easily done so. In light of the foregoing, I conclude that Section 6-4-10(4) does not preclude disbursements of accommodations tax revenues to entities that are not organized as "non-profit." However, the Court agrees that it is reasonable for Respondent to question expenditures that result in public funds being distributed to private interests unrestrained by the limitations applicable to non-profit entities.

We agree with the ALC's analysis finding no evidence that the Legislature intended to restrict disbursements of tourism-related expenses, including those for the development of workforce housing, to non-profit entities. Nonetheless, as we concluded regarding disbursements to non-profit entities, we stress that the local government must ensure compliance with the four-part test expressed in Nichols and satisfy the requirements under section 6-4-10(4)(ix).

3. <u>May a local government allocate all or any part of the fund described in section 6-1-530(A)(7) to a non-profit organization to be used to develop workforce housing, so long as the non-profit organization complies with the requirements of the statutes?</u>

You ask this question as a sub-part to your prior question, but we find it is important to address it separately because it is part of a different statutory scheme. In addition to the state-wide accommodations tax, which includes a local component as previously discussed, South Carolina law also provides local governments with the ability to impose their own local accommodations tax of up to three percent. S.C. Code Ann. § 6-1-520 (2004). Section 6-1-530 of the South Carolina Code (2004), as amended by act 57 of 2023, addresses the use this locally imposed accommodations tax and provides as follows:

> (A) The revenue generated by the local accommodations tax must be used exclusively for the following purposes:
>
> (1) tourism-related buildings including, but not limited to, civic centers, coliseums, and aquariums;

> (2) tourism-related cultural, recreational, or historic facilities;
>
> (3) beach access, renourishment, or other tourism-related lands and water access;
>
> (4) highways, roads, streets, and bridges providing access to tourist destinations;
>
> (5) advertisements and promotions related to tourism development;
>
> (6) water and sewer infrastructure to serve tourism-related demand; or
>
> (7) development of workforce housing, which must include programs to promote home ownership. However, a county or municipality may not expend or dedicate more than fifteen percent of its annual local accommodations tax revenue for the purposes set forth in this item. The provisions of this item are no longer effective after December 31, 2030.

Similar to section 6-4-10(4), this provision does not expressly restrict a local government from allocating its local accommodations tax revenue to a non-profit entity. Therefore, we similarly conclude that if the expenditure satisfies the public purpose requirement as well as the Nichols factors and the requirements set forth in section 6-1-520(A)(7), we believe it is within the local governments discretion to allocate funds to a non-profit, nonsectarian entity.

4. Would making a donation or grant from the local government's general fund to a non-profit entity that develops affordable housing for the workforce (i.e., Habitat for Humanity or similar) meet the public purpose requirement of article X, section 5 of the South Carolina Constitution?

5. Would making a donation or grant from the local government's general fund to a non-profit entity that develops affordable housing for the workforce (i.e., Habitat for Humanity or similar) violate the prohibition against pledging the credit of the State set out in article x, section 11 of the South Carolina Constitution?

We find it useful to address these questions together. Article X, section 5 of the South Carolina Constitution (2009) provides:

> No tax, subsidy or charge shall be established, fixed, laid or levied, under any pretext whatsoever, without the consent of the people or their representatives lawfully assembled. Any tax which shall be levied shall distinctly state the public purpose to which the proceeds of the tax shall be applied.

Article X, section 11 of the South Carolina Constitution (2009) provides in pertinent part:

> The credit of neither the State nor of any of its political subdivisions shall be pledged or loaned for the benefit of any individual, company, association, corporation, or any religious or other private education institution except as permitted by Section 3, Article XI of this Constitution . . . .

In 2009, we summarized various prior opinions addressing the ability of local governments to allocate funds to private entities under these provisions. Op. Att'y Gen., 2009 WL 3658276 (S.C.A.G. Oct. 6, 2006).

> In each opinion, we stressed that our Constitution, pursuant to article X, section 5 and article X, section 11, requires that public funds only be used for public purposes. Ops. S.C. Atty. Gen., July 28, 2008; March 20, 2007; January 11, 2006. However, our courts recognize that public funds may be expended for the benefit of private non-profit entities without violating our Constitution, so long as the non-profit uses such funds for the performance of a public function. See Gilbert v. Bath, 267 S.C. 171, 227 S.E.2d 177 (1976) (finding a grant by Florence County to a private, non-profit corporation for the purpose of building a hospital served a public function of Florence County); Bolt v. Cobb, 225 S.C. 408, 82 S.E.2d 789 (1954) (determining that Anderson County could issue general obligation bonds for the benefit of the Anderson County Hospital Association, a non-profit corporation, because it provided "a public, corporate function").

Id. In that opinion, we cited a 1983 opinion further explaining that should a local government transfer funds to a private entity, it must maintain oversight to ensure the constitutionality of the appropriation. Id.

> "The appropriation of public funds to these private entities is, in effect, an exchange of value which results in the performance by those entities of a public function for the state. Cromer v. Peoria Housing Authority, 78 N.E.2d 276, 284 (Ill. 1948). Generally, however, some public control is also required on those expenditures by the private entities in order for the constitutionality of the appropriation to be upheld. O'Neill v. Burns, 198 So.2d 1, 4 (Fla. 1967); Dickman v. Defenbacher, supra; State v. City of New Orleans, 24 So. 666, 671 (La. 1898). In our opinion, such control could be accomplished, at least in part, by including in each such appropriations act the provision set out in § 135 of the 1983-84 General Appropriations Act, which requires those private organizations to submit to certain accounting and review procedures by the State."

Id. (quoting Op. Att'y Gen., 1983 WL 182057 (S.C.A.G. Nov. 16, 1983)).

In accordance with this opinion, if the donation to the non-profit entity is for a public purpose and facilitates accomplishment of what is a public function in keeping with the local government's authority, it would likely not violate sections 5 or 11 of article X of the South Carolina Constitution. However, as we explained in our 2009 opinion, the local government must maintain some control over these expenditures to ensure the funds are used for the purposes for which they are expended.

Conclusion

Based on the analysis provided above, the plain language of section 6-4-10(4)(b)(ix) indicates the Legislature's intent for the fifteen percent limitation on expenditures of accommodation tax revenue on the development of workforce housing to be based on fifteen percent of the annual local accommodations tax revenue allocated to the local government under section 6-4-10, rather than the amount of funds allocated just for tourism-related expenditures. We are also of the opinion that a local government can allocate funds for the development of workforce housing to non-profit and for-profit entities so long as the expenditure satisfies the four-part test expressed by our Supreme Court in Nichols v. South Carolina Research Authority, 290 S.C. 415, 351 S.E.2d 155 (1986) and the expenditure complies with the requirements set forth in section 6-4-10(4)(b)(ix). We also come to the same conclusion regarding the expenditure of accommodation tax revenues imposed by the local government pursuant to section 6-1-520 of the South Carolina Code. Lastly, we believe a donation or grant to a non-profit entity for the development of workforce housing from a local government's general fund is permissible under sections 5 and 11 of article X so long as the donation or grant serves a public purpose and the funds are used in the performance of a public function which is within the authority of the local government and the local government maintains some level of control to ensure the funds are used for the purposes for which they were allocated.

Sincerely,

Cydney Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:

Robert D. Cook
Solicitor General

TOWN OF HILTON HEAD ISLAND

Finance and Administrative Committee

TO:	Finance and Administrative Committee Members
FROM:	Joshua Gruber, *Deputy Town Manager*
CC:	Marc Orlando, *Town Manager*
DATE:	November 6, 2023
SUBJECT:	Consideration of a Resolution Approving a Memorandum of Understanding with the Island Recreation Association

RECOMMENDATION:

The Committee should review the proposed Memorandum of Understanding with the Island Recreation Association and provide comments on any suggested modifications to this document. Once finalized, the Committee should make a recommendation to the Town Council on the adoption of this updated Memorandum of Understanding.

BACKGROUND:

The Town of Hilton Head Island ("Town") and the Island Recreation Association ("Association") executed a Memorandum of Understanding on July 18, 2018. This document provided for the Association's programming, oversight, and management of most Town-owned recreational/park facilities and the corresponding compensation that the Town would provide both directly and indirectly for this purpose. The term of this agreement was for a period of time from the date of execution until September 30, 2023.

Representatives from the Town and the Association met over the course of the last several months and began discussing the terms necessary to be included within a new Memorandum of Understanding. Based upon these conversations, a new document has been prepared that incorporates all comments and feedback that have been received to date. A copy of the Town's updated Memorandum of Understanding is enclosed at Attachment 1.

At its October 2023 meeting, the Association's Board of Directors unanimously approved the draft Memorandum of Understanding as currently presented.

CONCLUSION:

The Committee should review the new Memorandum of Understanding between the Town and the Island Recreation Association and provide any comments or other feedback that it may have on this document. Once finalized, the Committee should forward the Memorandum to the Town Council with a recommendation that it be adopted.

ATTACHMENTS:

1. Draft Memorandum of Understanding between the Town of Hilton Head Island and the Island Recreation Association
2. Resolution Approving a Memorandum of Understanding with the Island Recreation Association

STATE OF SOUTH CAROLINA)
) MEMORANDUM OF UNDERSTANDING
COUNTY OF BEAUFORT)

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this ____ day of ______________, 2023, by and between the Town of Hilton Head Island, South Carolina, (hereinafter referred to as the "Town"), and the Hilton Head Island Recreation Association, Inc., a South Carolina not-for-profit corporation (hereinafter referred to as the "Association"), when referred to collectively, the Town and the Association shall be referred to as the "Parties."

WHEREAS, the Town and the Association have worked cooperatively to provide public recreational services to the residents and visitors of Hilton Head Island continuously since 1985; and

WHEREAS, the most recent Memorandum of Understanding between the Parties is set to expire on September 30, 2023; and

WHEREAS, the Parties recognize the ongoing need to provide public recreational services and facilities throughout the Town and therefore desire to enter into a new Memorandum of Understanding; and

WHEREAS, on October 20, 2020, the Town adopted its Comprehensive Plan, *Our Plan*, a component piece of which included a Parks and Recreation Master Plan; and

WHEREAS, the Town has adopted a stand-alone section in *Our Plan* specifically related to parks and recreational services because it represents a significant area of interest and investment falling within the Town's jurisdiction and scope of responsibility for the Island community; and

WHEREAS, within this section of *Our Plan*, the Town has adopted clear goals that it desires to achieve within the areas of public recreation and park facilities which include:

A. **Community Value**: To continue to promote and prioritize the value parks and recreation add to the Island community.
B. **Best-In-Class**: To provide best-in-class recreation facilities and programs in the Island's public parks.
C. **Programming**: To celebrate the unique natural amenities and cultural assets of the Island through education facilities and programs in public parks.
D. **Water**: To continue to improve and increase opportunities for water access.
E. **Pathways**: To continue to improve and enhance the multi-use pathway network on the Island for recreation and transportation.
F. **Sports**: To continue to provide opportunities for sports tourism on the Island.
G. **Funding**: To generate sufficient funds to construct new, redevelop as needed, and maintain all parks in best-in-class condition.
H. **Accessibility**: To promote multi-dimensional inclusion and access for all parks, facilities, and recreation programming; and

WHEREAS, the Town owns the Island Recreation Center, Shelter Cove Community Park, Jarvis Creek Park, Crossings Park, Bristol Sports Arena, Chaplin Community Park and Tennis Courts, Rowing and Sailing Center at Squire Pope Community Park, Green's Shell Park, Lowcountry Celebration Park, Mid Island Tract, Ashmore Tract, Taylor Family Park, Patterson Park, Barker Field and Barker Field Extension, Old School House Park, the Cordillo Tennis Courts, and the Hilton Head Island Senior Center at Shelter Cove; and

WHEREAS, the Parties desire to enter into an agreement wherein the Association will manage and operate all of the Town-owned recreational facilities and associated programming for those facilities identified above along with any other parks and recreation facilities developed during the terms of this agreement.

NOW, THEREFORE, for and in consideration of the mutual promises, undertakings, and covenants set forth herein, the receipt and sufficiency of which is acknowledged and affirmed by the Town and the Association, the parties hereto agree as follows:

A. **Governing Document**. The parties intend that this Memorandum of Understanding and the accompanying exhibits shall replace all previous documents entered into between the Town and the Association regarding the management and operation of all town-owned park or recreational facilities along with any other parks and recreation facilities developed during the terms of this agreement. This document shall serve as the nonexclusive authorization for the Association to occupy, utilize, and determine the programming and special event authorization for those parks and recreation facilities that are herein identified as follows:

a. Island Recreation Center,
b. Shelter Cove Community Park,
c. Jarvis Creek Park,
d. Crossings Park,
e. Bristol Sports Arena,
f. Chaplin Community Park and Tennis Courts,
g. Rowing and Sailing Center at Squire Pope Community Park,
h. Green Shell Park,
i. Lowcountry Celebration Park,
j. Mid Island Tract,
k. Ashmore Tract,
l. Taylor Family Park,
m. Patterson Park,
n. Barker Field and Barker Field Extension,
o. Old School House Park,
p. Cordillo Tennis Courts,
q. Hilton Head Island Senior Center at Shelter Cove

The Association shall serve as the primary entity responsible for managing requests by the public to use these parks and recreation facilities either through a special event permit or otherwise. Such authorization shall be at the Association's discretion so long as any such authorization does not contradict any rules, regulations, or policy instruction developed by either the Town or the Parks and Recreation Commission. To the extent that the town has entered into any agreement, covenant or restriction, or other similar legal requirements pertaining to the nature and use of a particular property, the Association shall ensure that its actions in managing such property shall maintain the Town's compliance with any such regulation or requirement.

B. **Board of Directors**. The Town shall be authorized to make two (2) appointments to the Association's Board of Directors. One appointment shall be a member of the Town Council who shall serve in an ex-officio capacity without voting rights and whose term shall be for such time as the Town Council may determine until a replacement appointment of an alternative Town Council member has been appointed. One appointment shall be a resident of Hilton Head Island that is agreed upon by the Association's Board of Directors, who shall be a full voting member of the Board and whose terms shall run for a three (3) year period consistent with the Association's by-laws. If nominated and approved by the Board of the Association, the resident appointee can serve on the Executive Committee of the Association in accordance with the Association's by-laws

C. **Recreational Programming and Scheduling**. The Association shall be responsible for developing and coordinating a schedule of programs that utilizes all parks and recreation facilities identified within this document along with any other parks and recreation facilities developed during the terms of this agreement. It is the intent of the Town that the Association help to develop new programming opportunities as these future sites become available for such purposes. The programming of such activities shall be done in conformity with any directions that may have been set forth by the Town Council through the adoption of any policy directive such as a defined master plan for a particular park or recreation facility. The Association shall review its schedule of programs with the Parks and Recreation Commission on regular intervals to keep the Commission informed on the status of its programming delivery and usage by the public. Creative programming such as the possible development of traveling recreational programs that can be delivered within communities whose residents may have transportation limitations is an example of the types of diverse programming opportunities that the Town desires the Association to pursue. The Association shall gather such data and metrics as may be necessary to clearly understand the demographics, backgrounds, geographic location, and such other details of individuals participating in the Association's programming in order to evaluate the effectiveness of its programming, the development of new and expanded programming opportunities, and determine the overall return on investment to the community that the Association's programming provides. This data shall also include any metrics that may be developed or recommended by the National Parks and Recreation Association. This information shall be provided to the Commission on a regular periodic basis and shall also be presented to the Town's Finance and Administrative Committee, or if such entity is not available during the term of this agreement, to the Town Council, on a biannual basis.

Creation of New Programming. The Association is encouraged to develop new and expanded program offerings that are targeted to meet the needs of the Island's youth, young families, seniors, and any other community demographic that may exist on Hilton Head Island. The Association shall present requests for new or expanded programming at facilities that have not previously been utilized for such activities to the Parks and Recreation Commission, who shall be responsible for reviewing and evaluating these proposals and making recommendations to the Town Council. Programs shall be developed and offered for all age groups. Access to all town-owned parks and recreation facilities shall be offered without regard to race, creed, disability, color, sex, or national origin.

D. **Alignment of Schedules.** The Association shall be responsible for aligning its programming schedule in consideration of the maintenance needs of the Town's parks and recreational facilities. The Association shall meet with designated Town staff to review these maintenance schedules and shall mutually agree upon the timing of all programming and maintenance-related activities.

E. **Annual Report**. In addition to other data gathering and reporting requirements outlined within this document, the Association shall prepare and submit an annual report to the Town Council which shall coincide in timing with the development and submission of the Association's annual budget request to the Town.

F. **Maintenance.** The Association shall maintain all buildings, facilities, and grounds at the Island Recreation Center and shall ensure that they are clean, safe, and in good repair, with normal wear and tear excepted. Maintenance of the Shelter Cove Community Park, Jarvis Creek Park, Crossings Park, Bristol Sports Arena, Green's Shell Park, Chaplin Community Park and Tennis Courts, Rowing and Sailing Center at Squire Pope Community Park, Green's Shell Park, Lowcountry Celebration Park, Mid Island Tract, Ashmore Tract, Taylor Family Park, Patterson Park, Barker Field and Barker Field Extension, Old School House Park, the Cordillo Tennis Courts, and the Hilton Head Island Senior Center at Shelter Cove shall be maintained through the Facilities Management Division of the Town.

G. **Availability.** The Island Recreation Center, excluding the swimming pool, shall be open daily, except during annual maintenance and the following holidays: Christmas Eve, Christmas Day, New Year's Day, Thanksgiving Day, and Easter Sunday. Unless otherwise agreed to by the Parties, the hours of operation for the Island Recreation Center shall be as follows:

Monday through Friday	6:00 am-9:00 pm
Saturday	8:00 am-3:00 pm
Sunday	11:00 am-3:00 pm

During weekends, the Association may schedule programs or have facility rentals that occur outside these normal operating hours.

H. **Hours of Operation.** The town-owned parks and recreation facilities shall be open for use by the public during such hours as the Town Council may designate within The Municipal Code of the Town of Hilton Head Island. In the absence of such designation, the following hours of operation shall apply:

Shelter Cove Community Park	8:00 a.m. - 10:00 p.m.;
Lowcountry Celebration Park	8:00 a.m. - 10:00 p.m.;
Green's Shell Park	dawn-dusk;
Jarvis Creek Park	dawn-dusk;
Rowing and Sailing Center	dawn-dusk;
Chaplin Tennis Courts	7:00 a.m. – 9:30 p.m.;
Cordillo Tennis Courts	7:00 a.m. - sunset ;
Crossings Park	8:00 a.m. - 10:00 p.m.;
Bristol Sports Arena,	8:00 a.m. - 10:00 p.m.;
Barker Field Extension	8:00 a.m. - 10:00 p.m.; and
Chaplin Community Park.	8:00 a.m. - 10:00 p.m.

The Association may schedule programs or have facility rentals that occur outside the normal operating hours so long as such programs and facility rentals do not otherwise conflict with the regulation set forth in The Municipal Code of the Town of Hilton Head Island.

I. **Beach Activities.** The Association shall be authorized to provide supervised instruction for various recreation activities as part of its regular programming, which may include instruction for surfing classes and other water-related programs that may occur at the beach. This will not be considered to be commercial activity on the beach. The Association shall be authorized to utilize a golf cart or gator to access the beach and carry the equipment to the instruction areas on the beach.

J. **Swimming Pool.** The swimming pool shall be open and staffed daily, except during inclement weather, periods of pool malfunction, installation and deflation of the Air Dome, and the following holidays: Christmas Eve, Christmas Day, New Year's Day, Easter Sunday, and Thanksgiving Day. The hours of operation shall be as follows:

Monday through Friday	5:30 am- 8:00 pm
Saturday	8:00 am to 3 pm
Sunday	11:00 am-3:00 pm

During weekends, the Association may schedule programs or have facility rentals that occur outside these normal operating hours.

The Association may also open the swimming pool at such hours as it shall determine are needed for special events, or during such additional periods as it determines are warranted by weather and public use. The swimming pool shall also be open during dates and times mutually agreed upon between the Association and the Beaufort County School District for purposes of teaching swim lessons and practices for swim meets for the Hilton Head Island High School swimming teams. Staffing during these dates and times will be by appropriately certified Board of Education and Association personnel.

K. **Operating Funds.** The Association shall submit its funding request to the Town annually. This request shall coincide with the Town's annual budget process. The Town Manager, or his designee, shall inform the Association of the procedures to be followed regarding the funding process.

The Association shall raise a minimum of fifty percent (50%) of its operating budget as shown on its operating account profit and loss statement from sources other than the Town General Fund commitment for the annual operating budget of the Association. The Association shall also be authorized to charge reasonable user fees for programs and services provided by the parks and recreational facilities. Such fees shall be designed to offset applicable personnel, administrative, and operating expenses allocated to its provision of programs or services. When developing and setting such fees, the Association should be mindful to avoid competition from private industries and businesses located on Hilton Head Island.

Any funding provided to the Association from the Town shall be used towards its operating expenses or capital improvement needs. At no time shall the funding provided to the Association by the Town be used to create or enlarge a reserve financial account. The Association should keep and maintain such an account, but funding for that account should come exclusively from sources other than those provided by the Town.

L. **Accounting Services**. The Town shall provide the Association with timely accounting, check writing, payroll, audit, and income tax preparation services.

These services shall include:

a. a monthly and annual balance sheet and profit and loss statement;
b. a monthly and annual general ledger of transactions;
c. monthly reconciliation of bank statements;
d. preparation of checks, including payroll checks and payroll tax payments, including the filing of withholding, FICA, and similar state and federal reports;
e. all audit and audit review preparation services necessary to comply with Town requirements; and
f. annual state and federal income tax submissions.

Accounting reports shall be in a format that is acceptable to both the Association and the Town.

M. **Bank Accounts, Checks, and Payments.** Bank accounts shall be maintained in such institutions as the Association shall determine appropriate. The Town shall prepare checks on the Association's check forms, normally based on a written request of the Association indicating the payee, account code, and invoice or other appropriate reference data. Checks shall be signed by such person(s) as the Association shall determine.

The Association may maintain a separate checking account in an amount not to exceed Twelve Thousand Dollars ($12,000.00) and fund its ongoing periodic cash needs unless otherwise authorized in writing by the Town. Checks drafted upon this account shall be prepared and signed by such person(s) as the Association shall determine. When the Association requests the Town to transfer additional funds to replenish this account the Association will provide to the Town adequate information regarding payees, account numbers, and invoice or reference data to permit the Association's accounting records to be maintained properly. The Association shall make requests for the Town to transfer additional funds to replenish this account on a not less than monthly basis.

The Association shall provide the Town schedules of pay rates of Association personnel, time sheets, and other information requested by the Town for proper payroll records. Such personnel shall not be deemed employees or agents of the Town.

The Association shall provide the Town with an annual independent audit report or audit review report. An annual audit report shall be submitted no less than every third year.

N. **Procurement and Purchasing**. Unless otherwise authorized in writing by the Town, the Association will adhere to the procurement and purchasing procedures adopted by the Town in its purchase of materials and services for the Recreation Center, Parks, and Tennis Courts. This shall not be interpreted to mean that the Town must execute or approve such purchases, however, unless otherwise agreed upon between the parties. All such purchases shall be deemed direct transactions between the Association and the entity providing the materials or services.

O. **Personnel**. Personnel of the Association shall not be employees of the Town.

P. **Miscellaneous**.

a. The Association shall provide the Town with current copies of all insurance policies of the Association relating to all parks and recreation facilities within thirty (30) days of the signing of the Agreement and will provide a copy to the Town upon each renewal of said insurance policies.

b. The Association shall provide the Town with copies of all insurance policies the Association requires users to provide to the Association for the use of any parks or recreation facility within thirty (30) days of receiving the copy of the policy.

c. The Association shall remain a not-for-profit independent entity whose policies and procedures shall be determined by its Board of Directors.

Q. **Notices.** All notices required under this Memorandum shall be deemed to have been given if in writing and (a) delivered personally; or (b) mailed first class, postage prepaid, to the address of record set forth below, in which case delivery shall be deemed to have occurred two calendar days after the date of postmark. The address of the record may be changed by written notice to the other party.

R. **Term.** The term of this Memorandum of Understanding shall be for a period of ten (10) years from the date of its execution. No later than one hundred and twenty (120) days prior to the expiration of this Memorandum of Understanding, the Parties agree that they will meet to review the terms of this document and discuss the development of any potential extensions, renewals, replacements, or termination thereof.

S. **Amendments.** Changes to this document may be made only with the mutual written consent of both parties.

T. **Termination.** In addition, any other rights of termination outlined in this Memorandum, each party shall have the right to terminate this Memorandum, by written notice to the other party, if the other party is in default of any term or provision of this Memorandum, and the defaulting party fails to cure or correct such default within fourteen (14) days of notice thereof from the non-defaulting party. A party may elect to disregard a default for some time without waiving its right to declare a default at a subsequent time or upon reoccurrence of the default.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures hereto the date first written hereinabove.

WITNESSES: **HILTON HEAD ISLAND RECREATION ASSOCIATION, INC.**

_____________________________ By: ____

_____________________________ Attest: ____

WITNESSES: **TOWN OF HILTON HEAD ISLAND**

______________________________ By: ____
Alan Perry, Mayor

_______________________________ Attest: ____
Marc Orlando, Town Manager

TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

RESOLUTION NUMBER 2023-__

A RESOLUTION BY THE TOWN OF HILTON HEAD ISLAND AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE ISLAND RECREATION ASSOCIATION

WHEREAS, the Town of Hilton Head Island and the Island Recreation Association executed a Memorandum of Understanding on July 18, 2018, providing for the Association's programming, oversight, and special event management of most Town-owned recreational/park facilities; and

WHEREAS, the existing Memorandum of Understanding was set to expire on September 30, 2023; and

WHEREAS, on September 19, 2023, Town Council adopted a Resolution extending the existing Memorandum of Understanding until such time as a new agreement was entered into between the parties; and

WHEREAS, the Town and the Island Recreation Association have been engaged in ongoing discussions regarding the terms to be contained within a new Memorandum of Understanding; and

WHEREAS, the parties have completed their negotiations and the result of which is a new Memorandum of Understanding which provides for the continued recreational programming, oversight, and special event management of most Town-owned recreational/park facilities by the Association.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Councilmembers of the Town of Hilton Head Island, in Council duly assembled, that the Mayor and Town

Manager are hereby authorized to take such actions as may be necessary to enter into a new Memorandum of Understanding enclosed with this Resolution as Attachment A.

THIS RESOLUTION SHALL BE EFFECTIVE IMMEDIATELY UPON ITS ADOPTION.

MOVED, APPROVED, AND ADOPTED ON THIS _____ DAY OF ________________, 2023.

TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

____
Alan R. Perry, Mayor

ATTEST:

____
Kimberly Gammon, Town Clerk

APPROVED AS TO FORM

____
Curtis L. Coltrane, Town Attorney

Introduced by Council Member:__________________________________

TOWN OF HILTON HEAD ISLAND

Finance and Administrative Committee

TO: Finance and Administrative Committee Members
FROM: Joshua Gruber, *Deputy Town Manager*
CC: Marc Orlando, *Town Manager*
DATE: November 6, 2023
SUBJECT: Consideration of a Resolution Approving a Memorandum of Understanding with the University of South Carolina Beaufort

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RECOMMENDATION:

The Committee should review the proposed Memorandum of Understanding with the University of South Carolina Beaufort and provide comments on any suggested modifications to this document. Once finalized, the Committee should make a recommendation to the Town Council on the adoption of this updated Memorandum of Understanding.

BACKGROUND:

Beginning in 2011, the Town formed a partnership with the University of South Carolina Beaufort to support hospitality training, special event management, and volunteerism efforts on Hilton Head Island. A copy of the initial collaboration document is enclosed as Attachment 1. To fund these services, the Town incorporated into its Municipal Code a provision whereby 5% of the funding that the Town collected under its Local Accommodation Tax would be provided to the University for these purposes. A copy of Ordinance 2011-13 is enclosed as Attachment 2.

In recent years, collections of both State and Local Accommodations Taxes have increased significantly. In response, the Town Council amended its Municipal Code and removed the automatic funding formula as a set percentage of collections in preference to having the University seek funding pursuant to an annually submitted budget as an Affiliated Agency of the Town. Staff were then directed to begin working on a draft Memorandum of Understanding that would serve to outline the roles of both entities and be the basis of any funding that might be provided as part of this annual budget process.

Staff met with representatives of the University and utilized the services contained within the provisions of the Town's Municipal Code as a starting point. Staff then worked with the University to reimaging the Island Ambassador program and bring it up to date with current Town expectations. Correspondingly, the University is seeking to establish consistent recurring funding that will allow it to employ and retain the necessary professional services required to meet these objectives. As such, and similar to other existing Town Memorandums of Understanding, the University is requesting an annual funding amount of $235,000 which would be adjusted annually by 3% to stay current with expected inflation levels. Any additional services beyond those outlined within the Memorandum of Understanding would require an Addendum that would need to be approved by both the Town and the University. For comparative purposes, the Town provided the University a total of $238,985 in FY2024 based upon the adopted budget and provided them with $190,094 in FY2023 based upon the prior Municipal Code formula.

CONCLUSION:

The Committee should review the new Memorandum of Understanding between the Town and the University of South Carolina Beaufort which has been enclosed as Attachment 3 and provide any comments or other feedback that it may have on this document. Once finalized, the Committee should forward the Memorandum of Understanding to the Town Council with a recommendation that it adopt a Resolution authorizing its execution.

ATTACHMENTS:

1. Collaboration Document Between the Town of Hilton Head Island and the University of South Carolina Beaufort
2. Town of Hilton Head Island Ordinance 2011-13
3. Draft Memorandum of Understanding between the Town of Hilton Head Island and the University of South Carolina Beaufort
4. Resolution Approving a Memorandum of Understanding with the University of South Carolina Beaufort

Vision for the Future:
A collaboration between USC Beaufort and the Town of Hilton Head Island

Summary:

Since the inception of the Hospitality Management education program at the University of South Carolina Beaufort (USCB), the University's vision has encompassed delivery of world-class education to the Hospitality and Tourism industry. Hilton Head Island is an internationally known and recognized hospitality destination and the natural partner for the University in this vision. As the USCB program grows, there are natural synergies that would occur between the Island and a USCB College of Hospitality Management located on the island.

A successful hospitality industry is key to the future of Hilton Head Island. USCB proposes to collaborate with the Town to improve and enhance the hospitality industry through the establishment of the Center for Event Management and Hospitality Training. The Center will focus on two areas: Special Events Production and Volunteerism, and Hospitality Education. The Special Events component will assist in the establishment of new festivals attracting new tourists to Hilton Head Island and support special events and festivals that are currently held on the Island. The Education and Training component will provide training to employees, students and hospitality professionals, attracting tourists, professionals and students to the area to receive specialty training.

Vision 2025, as presented by the Mayor's Task Force on the Island's Future, set forth thirteen Stretch Goals for the community. The work of the Center will support five of those goals, namely

- Become the #1 hospitality and family-friendly, beach destination in the Southeast
- Become the #1 Cultural/Arts destination of choice in the Southeast
- Become the #1 ecotourism destination in the Southeast
- Broaden and Deepen the Economy
- Become a great learning Center destination.

Each component of the Center will result in a significant, positive economic impact to the community. Special event productions will help deepen the economy through their positive economic impact in the hospitality industry, estimated at $5 million (budget attached). This will help to achieve vision element #4 economic diversification, tactic # 1 (page 17): to increase the economic impact of Hospitality by $500,000,000 over 5 years. With events in the areas of arts, culture, ecotourism and sports, the Center will support the Island's goal of becoming the #1 destination in the Southeast. The learning opportunities available through the Center will help to make Hilton Head Island a learning center destination. Combined, the activities of the Center will help to bring about sustained growth in the hospitality industry of the Town of Hilton Head Island. As the

Center grows areas relating to Ecotourism and Sustainability will be natural areas of expansion.

Introduction:

The Department of Hospitality Management at USCB has a long established history of offering teaching, research and service to the Hilton Head Island community. The department has conducted survey research and provided student volunteers to assist at ATAX sponsored events since 1997. Since the University's move from the Hilton Head location to Bluffton in 2004, with the concomitant establishment of baccalaureate degree programs, the Hospitality Management Program has grown to become one of the largest degree programs at USCB, with 165 majors out of a total enrollment of approximately 1750 students. Students from the United States as well as international locations are choosing to study Hospitality Management in the Lowcountry at USCB. Many of the students who decide to study at USCB vacationed on Hilton Head Island while growing up. We expect that the extraordinary growth of enrollment in the Hospitality Management program will continue, given that the department has recently expanded academic offerings by adding certificates in Events Management, Hotel Management, Food and Beverage Management and Private Club Management.

Many of the Hospitality Management students currently work in Hilton Head Island businesses. They have also provided volunteer services at many of the area's local festivals and events. Students past and present have been involved in everything on the Island from The Heritage Golf Tournament to a reception for Governors' Conference attendees. The student volunteers majoring in hospitality provide a degree of professionalism, competence, and enthusiasm that assists Hilton Head Island by providing visitors, residents and future retiree residents with outstanding experiences at these local venues and events. In addition, past USCB graduates continue to be a part of the fabric of the island through their employment in hospitality operations or support services.

The Hospitality Management department would like to expand its presence on Hilton Head Island through the establishment of the USCB-Hilton Head Island Center for Events Management and Hospitality Training. As our program grows, we will offer students from around the globe the chance to study and participate in events that will give them valuable experience in a world-class destination. In addition, the center will enable Hilton Head Island to develop necessary support for current events and festivals as well as to source, expand, and develop other destination events.

Mission:

To provide specialized education and training that will enable Hilton Head Island to become known as an international destination for Events Management and Hospitality Training. The center will work to expand destination events and assist in the management of current local events through student volunteers and management when appropriate. In additon, the center will provide training to island workers, and individuals who are both degree seeking and non-degree seeking individuals, and be a hub for supporting the hospitality industry on Hilton Head Island. Programs will be developed for markets that include tourists, USCB students, local residents, local industry employees, community college students, and individuals who are interested in bettering themselves through education and training. The two components of the Center are explained below.

1) Special Events Management and Staffing

EVENT PRODUCTION: People want to celebrate! Whether licking their fingers at WingFest or shivering at Snow Day – people love a party. The special events industry is experiencing a growth phase as communities and companies learn of the positive economic impact these events can have. An Event Management Certificate Program was recently approved by USCB for its Hospitality Management Department, and one function of the Center would be to promote Hilton Head Island as an Event Destination.

Hilton Head Island has many successful special events; however, there is plenty of room for growth. In the Event Center, we envision the addition of at least three new special events that are currently being offered in other locations. The events would be marketed to attract new visitors to the Island and entice former visitor to come on back. The economic impact on Hilton Head Island of adding three additional special events could easily reach in excess of $5 million. Attached is simple economic impact model for the proposed special events. The estimates used are conservative. In addition, a sample economic impact analysis for a Certification Course in Events is also included.

Examples of Special Events:

- ARTS ALIVE! : Arts Alive is just that – a festival bringing the arts alive to all of its attendees. The event would feature several staged areas for live performances including music, dance and drama, an expo for individuals displaying their art forms including sculpture, glass blowing, pottery, painting, sketching, jewelry making and photography, as well as exhibits for the culinary arts.

- Distance Sporting Event: Hilton Head is the prime location for a distance sporting event either a Marathon or a half iron distance triathlon. Kiawah Island currently offers an event weekend including a half marathon and marathon race. The marathon event almost always sells out early in the year, capping entrants at 2500 runners. If each runner stays the weekend, the economic impact for such an event is over 1.2 million for just the marathon runners, not including those registered in the half marathon event. Hilton Head is also a perfect venue for a half distance ironman event. The sport of triathlon is one of the fastest growing sports in the nation. USA Triathlon reports that 67% of their members are business and community leaders between the ages of 30 and 50. Members have a median household income of $126,000, and spent $3.4 billion on goods and services in 2010. Again, an event of this nature can easily attract in excess of 2500 community leaders with income to spend. Hilton Head is currently under consideration by one major triathlon production group and is willing to work with this community.

- GO GREEN –GO HHI: The ecotourism festival would feature just that – ecotourism activities – kayak paddles, trail runs, beach sweeps, kite surfing, paddle surfing and oyster roasts. The history and culture of Hilton Head Island would be celebrated as well with information sessions and the performing arts.

All special events would be green events, practicing responsible festival production. Cans, bottle, glass and cardboard would be recycled, and land usage would be careful and protective. Hilton Head Island is a beautiful location for a festival and it needs to remain protected for future celebrations.

VOLUNTEER MANAGEMENT:

Special events cannot be successful without volunteers and USCB students have helped to make Island special events successful for years, including The Heritage Classic of Golf, the Concours d'Elegance, Hilton Head Wine and Food Festival, Wing Fest, Snow Day, Seafood Jazz and Brew and the Play Hard Sports Duathlon.

In addition, the Center stands ready to formally partner with key groups such as the Gullah Festival, Hilton Head Hospitality Association, and the Public Art Festival to deliver quality events.

The Center will enable the University to expand its volunteer program to allow more and more extensive student volunteer opportunities including but not limited to a practicum course in Events. This will benefit the students as they learn with a hands on approach, and will also benefit the event managers who will be assured a pool of qualified volunteers that will help ensure the success of the event.

Examples of Volunteer Positions:

- Island Recreation Center: The Island Recreation Center builds community and does so by its successful production of community events such as the Turkey Trot, the Oyster Roast, Wing Fest and Cajun Festival to name a few. Students will be placed as interns with Island Recreation to help with the production, marketing, budgeting, and promotion of such events.

- The Heritage Classic of Golf: USCB currently provides over 60 student volunteers during this prestigious PGA event. The Center will be able to allow the University to increase its volunteers and also develop an internship position with the Heritage Classic Foundation.

- Concours D'Elegance, Seafood Jazz and Brew, Hilton Head Wine and Food Festival: Students can assist with research and various volunteer positions.

2) Hospitality Training:

The Center will offer education opportunities in credit courses, non-credit courses, certificates, and training. Programs will be developed for markets that include: Tourists, USCB students, local residents, local industry employees, community college students, and individuals who are interested in bettering themselves through education and training.

Examples of programs could include:

- Island Knowledge and Island Customer Service Training: Non-credit certificates.
    - Target Market: Local hospitality industry employees who are in need of specific Hilton Head Island knowledge training, certifications, service training.

- USCB can partner with organizations such as the National Restaurant Association and the American Hotel and Lodging Association, to provide service training and skills training. Examples include certificates in areas such as Customer Service, Food Sanitation, and Alcohol Service Training.
    - Target Markets:
        - Local hospitality industry employees who are in need of specific certifications, service training, or Island knowledge training.
        - Managers and Industry leaders who will come to Hilton Head Island in order to become certified.
        - High School students who are currently working in or thinking of working in the hospitality industry in part-time positions.

- Two 3-Day Specialized Certification Courses offered to industry leaders, managers and business owners from international locations and the United States.
    - Target Market: Managers and Professional in the field of Hospitality.
    - Two 3-day schools, each related to a specific topic such as Event Planning and Management, Destination Wedding Management, Event Research. Participants would come to Hilton Head Island for a specific course of study at the Center and participate in Festivals and Events, stay in local hotels for 2-

3 nights, eat in local restaurants, and receive a USCB continuing education certificate or other national certifications in the area of Events Management.

- Continuing Education for Retirees and Island Residents. The Center for Events Management and Hospitality Training, in partnership with the Osher Lifelong Learning Center at USCB, will offer seminars and classes in the area of Food and Wine.

- Appropriate University Courses in Events Management
  - Target Market: Students enrolled in a baccalaureate degree. Students will assist at festivals and events on Hilton Head Island through such activities as volunteering, planning, marketing, conducting research, and other aspects of festival and event management that will allow current events to thrive and allow for the possibility of creating or attracting new events.

- 2-3 Day Culinary Programs.
  - Target Market: Tourists and Retirees
  - 1-3 day Cooking schools related to a specific topic. Tourists and residents would take a courses taught at local restaurants.
  - 1-3 day Wine and/or Spirits programs. Tourists and residents would participate in programs

Impact on Tourism

The Center will provide a platform for addressing training issues and challenges in the hospitality industry. More importantly, the programs will become a viable means of professional growth and career advancement for all local hospitality industry employees. This educational opportunity will have far reaching effects for the Island by increasing the visibility of our area while educating hospitality executives from all over the world. The following population segments will be impacted by the center: 1) tourists will benefit through better service in Hilton Head Island hotels, resorts, restaurants, and hospitality businesses, 2) hospitality employees will benefit through better education, 3) hospitality employees will benefit by understanding the Hilton Head environment and history, 4) employers will benefit through better educated employees, and 5) Hilton Head Island will benefit through national exposure as a destination for education and certificates, which will increase the number of visitors.

Benefit to the Community

Travel and tourism is one of the largest industries in the world, and is the largest industry on Hilton Head Island. However, Hilton Head Island and its tourism-related businesses are competing with high quality destinations throughout the world. This intense global competition for tourism dollars can be counteracted by maintaining and enhancing the superior quality of service provided on Hilton Head Island as well expanding and supporting local events. By entering into this collaboration, the Accommodation tax funds will be reinvested by the Center to ensure that all who live here and visit here will an exceptional experience on Hilton Head Island. This seed money will allow USCB to re-establish a presence on the Island and grow programs that are integral to the continued success of Hilton Head Island as a world-class destination and community.

Special Event Economic Impact

Lodging 2 nights @ $100	$200
Food and Beverage 3 Days @ $50	150
Shopping, Snacks, Misc. 3 Days at $25	$75
Total Per Guest	$425
Attendees	
2000	$850,000
2500	$1,062,500
3000	$1,275,000
3500	$1,487,500
4000	$1,700,000
4500	$1,912,500
5000	$2,125,000

Special Event Education Certification Course Economic Impact

Lodging 2 nights @ $100	$200
Food and Beverage 3 days @ $50	$150
Shopping, Snacks, Misc. 3 days @ $25	$75
Total per Student	$425
Students Annually 25 per quarter	100
Total	$42,500

ORDINANCE NO.: 2011-13 **PROPOSED ORDINANCE NO.: 2011-13**

AN ORDINANCE TO AMEND CHAPTERS 10 AND 13 OF TITLE 4 (FINANCE AND TAXATION), OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, BY AMENDING SECTION 4-10-70, PERMITTED USES OF LOCAL ACCOMMODATIONS TAX FUNDS; AMENDING SECTION 4-10-100, MANAGEMENT AND USE OF LOCAL ACCOMODATIONS TAX; AMENDING SECTION 4-13-80, PERMITTED USES OF FUNDS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on July 2, 1997, the Town Council amended the Code of the Town of Hilton Head Island, South Carolina, (1983), by adding a new chapter 10 of article 4, entitled "Local Accommodations Tax"; and

WHEREAS, on February 8, 2000, the Town Council amended the Code of the Town of Hilton Head Island, South Carolina, (1983), by adding a new chapter 13 of article 4, entitled "Local Hospitality Tax"; and

WHEREAS, Town Council desires to amend Section 4-10-70, (Permitted uses of local accommodations tax funds), in order to consistently provide for an advertising account in the General Fund in accordance with guidelines established in the Town Budget's accounting and financial policies; and

WHEREAS, Town Council desires to amend Section 4-10-100 (a), (Management and use of local accommodations tax), in order to abolish the Festival and Island Ambassador Program fund and replace it with an Event Management and Hospitality Training Program fund.

WHEREAS, Town Council desires to repeal Section 4-10-100 (b), (Reserve fund).

WHEREAS, Town Council desires to amend Sections 4-13-80, (Permitted uses of funds), in order to consistently provide for an advertising account in the General Fund in accordance with guidelines established in the Town Budget's accounting and financial policies; and

NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AND IT IS ORDAINED BY SAID AUTHORITY OF COUNCIL:

Section 1. **Amendment.** That the Code of the Town of Hilton Head Island, South Carolina, be, and the same hereby is, amended to read as indicated on the attached pages.

NOTE: New text is indicated by a double underline and deleted text is indicated by a ~~strike through~~.

Section 2. **Severability.** If any sections, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not attest the validity of the remaining portions thereof.

<u>Section 3.</u> **<u>Effective Date.</u>** This Ordinance shall be effective upon its adoption by the Town Council for the Town of Hilton Head island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS 2nd DAY OF August 2011.

Drew A Laughlin, Mayor

ATTEST:

Lori Brock, Town Clerk

First Reading: July 5, 2011

Second Reading: August 2, 2011

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: KENNETH S HEITZKE

LOCAL ACCOMODATIONS TAX

Sec. 4-10-70. - Permitted uses of local accommodations tax funds.

(a) The Town Council is hereby authorized to utilize the funds collected from the imposition and collection of the local accommodations tax and any other funds deposited into "The Town of Hilton Head Island, South Carolina, Local Accommodations Tax Account." The revenue generated by the local accommodations tax must be used exclusively for the following purposes:

(1) Tourism-related buildings, including, but not limited to, civic centers, coliseums, and aquariums;

(2) Tourism-related cultural, recreational, or historic facilities;

(3) Beach access and renourishment;

(4) Highways, roads, streets, and bridges providing access to tourist destinations;

(5) Advertisements and promotions related to tourism development;

(6) Water and sewer infrastructure to serve tourism-related demand; and,

(7) The operation and maintenance of those items provided in (a)(1) through (a)(6) above, including police, fire protection, emergency medical services, and emergency-preparedness operations directly attendant to those facilities;

(8) For those purposes set forth in section 4-10-100.

(b) The Town shall set aside five (5) percent of the local accommodations tax collected hereunder, and shall deposit the same into an advertising account in the General Fund as identified in the Accounting and Financial Policies section of the annual budget as adopted by town council, with said funds to be utilized as provided therein.

~~(b)~~ (c) Authorization to utilize any funds from the "the town, Local Accommodations Tax Account," shall be by the annual budget ordinance duly adopted by the town council for the town.

Sec. 4-10-100.- Management and use of local accommodations tax.

(a) Event Management and Hospitality Training ~~Festival and Island Ambassador~~ Program fund. The town shall set aside five (5) percent of this local accommodations tax for special events production and volunteerism and hospitality training. ~~the promotion of festivals created after January 21, 1998, and promotion and sponsorship of the Island Ambassador Program and similar programs.~~ The ~~T~~town shall select one (1) organization to manage and direct such fund expenditures. To be eligible for selection the organization must be local, organized as a nonprofit (501c), and be mission driven to promote tourism development. ~~whose membership consists of representatives from the lodging, restaurant, golf, tennis and related hospitality industry.~~ The organization must employ a full-time executive director and provide an annual audited financial report in accordance with generally accepted accounting principles. The organization must not otherwise be designated as the official tourism agency by the town or any other governmental agency. The organization is required to submit an annual budget to the town~~'s accommodations tax advisory committee~~ prior to April 1 of each calendar year for inclusion in the town's proposed annual budget. ~~The accommodations tax advisory committee shall review and make recommendations to the town council by May 15 of each calendar year.~~ The town council shall consider the budget and award the organization a reimbursable grant on a June 30 fiscal year basis. ~~Funds shall be distributed to the designated organization on a quarterly basis no later than thirty (30) days after the end of the quarter.~~

~~(b) Reserve fund. The town shall set aside, in a separate account, five (5) percent of the one (1) percent local accommodations tax, as a reserve fund for disaster management communications-oriented programs. Fund expenditures shall be used to provide for post disaster advertising, a communications link to emergency agencies, and media programs to provide public notice. Funds may be distributed upon authorization by the town manager.~~

(Ord. No. 98-05, § 1, 1-21-98; Ord. No. 00-06, § 1, 2-8-00; Ord. No. 2008-16, § 1, 6-17-08)

LOCAL HOSPITALITY TAX

Sec. 4-13-80. - Permitted uses of funds.

(a) The town council is hereby authorized to utilize the funds collected from the imposition of the local hospitality tax and any other funds deposited into the town hospitality tax account for the following purposes, and no other:

(1) To pay, in whole or in part for the current and future construction, enhancement, preservation and maintenance of:

a. Tourism-related buildings, including, but not limited to, civic centers, coliseums, and aquariums;
b. Tourism-related cultural, recreational, or historic facilities;
c. Beach access and renourishment;
d. Highways, roads, streets, and bridges providing access to tourist destinations;
e. Advertisements and promotions related to tourism development; and,
f. Water and sewer infrastructure to serve tourism-related demand.

(3) The town shall set aside two (2) percent of the local hospitality taxes collected hereunder, and shall deposit the same into ~~the disaster "reserve fund" heretofore established under the provisions of section 4-10-100(b),~~ an advertising account in the General Fund as identified in the Accounting and Financial Policies section of the annual budget as adopted by town council, with said funds to be utilized as provided therein.

Memorandum

TO: Town Council

FROM: Steve Riley, Town Manager

VIA: Susan Simmons, Director of Finance

DATE: July 6, 2011

RE: **Second Reading of Proposed Ordinance No. 2011-13**

There were no changes made to Proposed Ordinance #2011-13 during the first reading on July 5, 2011.

MEMORANDUM

TO: Town Council

FROM: Stephen G. Riley, CM, Town Manager

VIA: Susan M. Simmons, CPA, Director of Finance SMS

DATE: June 24, 2011

RE: **First Reading of Proposed Ordinance No. 2011-13**

Recommendation:

Town Council approves first reading of Proposed Ordinance No. 2011-13 amending the Town Code for Local Hospitality Tax (Section 4-13-80) and Local Accommodations Tax (Sections 4-10-70 and 4-10-100) related to the restricted advertising account and USCB's Center for Event Management and Hospitality Training.

Summary:

Restricted Advertising Account. The ordinance will codify the proposed change to the Restricted Advertising Account (previously called the Disaster Advertising Reserve) to allow broader permitted uses of these funds. Previously, this account consisted of two subaccounts: (1) when fully funded, $1 million was for Disaster Advertising and (2) any excess amount over $1 million was accumulated for a General Reserve up to a max of 15% of the General Fund's operating revenues. Under the new proposal, the General Reserve portion of these funds will be eliminated and the newly structured Restricted Advertising Account may be used for:

- a "near miss" or a declared disaster (can take the Account below $1 million),
- other such targeted advertising needs authorized by Town Council (cannot take the Account below $1 million),
- supplemental annual tourism advertising distributed to the Town's designated tourism promotion agency when the Account balance at fiscal yearend exceeds $1 million after distribution of approved uses above.

This ordinance amends the Town Code authorizing establishment and funding of the Account but the permitted uses will be addressed in the Accounting and Financial

Policies enacted each year with the Town's annual budget ordinance. Therefore, the policy change will require a budget amendment ordinance. In an unrelated matter, staff must also amend significant portions of the Accounting and Financial Policies to address the new requirements of GASB Statement No. 54, Fund Balance Reporting and Governmental Fund Type Definitions. This ordinance will be proposed by staff in August or September. In the interim, the draft changes for only the Restricted Advertising Account are included as **Attachment 1** to this memo.

USCB's Center for Event Management and Hospitality Training (the Center). The proposed ordinance will codify changes necessary to implement action taken by Town Council on May 3, 2011 to establish the Center as the designated agency to receive funds to promote tourism through a two faceted program to provide Special Events Production and Volunteerism as well as Hospitality Education. The Center will reinstate USCB's presence on the Island.

Background:

Restricted Advertising Account. When originally established, the Town intended to use these funds primarily for natural disasters (such as hurricanes and tropical storms). It later realized that even a "near miss" could impact tourism and the economy. In the last couple of years' recession, the Town realized that economic disasters are just as likely to impact the Town's economy as natural disasters. The near loss of the Heritage and the necessity for the Town to support the Heritage to maintain it for the next five years will require sources of revenue to fund the Town's share, possibly funds from this Restricted Advertising Account. The permitted uses for this Account may also include development, production and similar costs related to advertising. In addition, the Island has lost ground to promote tourism when compared to its competing tourist markets. Staff believes that utilizing balances above $1 million to promote tourism and help restore the Island's marketing presence would be a better use of funds than building up large reserves.

Note: Changes to the Restricted Advertising Account should not be confused with the Town's main Operating Reserve. The Town has a **separate** fully-funded Operating Reserve (minimum of 25% up to a maximum of 30% of the annual operating budget) which is not being eliminated or changed.

USCB's Center for Event Management and Hospitality Training (the Center). The Event Management and Hospitality Training Program will replace the Festival and Island Ambassador Program as a similar but expanded program. The Hilton Head Hospitality Association no longer qualifies to be the recipient organization to receive these funds and has in fact announced plans to disband. The changes to the Code will not impact the funding of this account which is 5% of the Local Accommodations Tax revenues.

The proposed ordinance will codify changes necessary to implement action taken by Town Council on May 3, 2011 to establish the USCB Center on the Island and make it the designated organization to receive funds to promote Island tourism through Event Management and Hospitality Training.

Attachment 1

Notes to Readers: Attachment 1 is a draft from the Accounting and Financial Policies of the Town's Annual Budget. In August or September, staff will propose a comprehensive budget amendment ordinance to amend the Policies to comply with GASB 54. This excerpt from the Policies is included here to represent the planned changes for the Restricted Advertising Account which is pertinent to this Proposed Ordinance 2011-13.

New text is indicated by a double underline and deleted text is indicated by a ~~strike through~~.

Disaster Planning Reserves/Policies

~~*Advertising Reserve*~~

~~The Town will set aside 2% of the 2% local hospitality tax and 5% of the 1% local accommodations tax revenues collected annually into a disaster advertising reserve account. These funds are held in reserve for disaster management communications oriented programs. The fund will be used to provide post disaster advertising, a communications link to emergency agencies, and media programs to provide public notice. Funds may be distributed upon authorization by the Town Manager. The total amount of funds to be deposited in the reserve for this purpose will not exceed $1 million. Annual interest earned on funds in the reserve will also be deposited into the account.~~

~~*General Reserve*~~

~~Once the Disaster Advertising Reserve reaches $1 million, the Town will set aside 2% of the 2% local hospitality tax and 5% of the 1% local accommodations tax revenues collected annually into a disaster general reserve account. These funds may be used for pre-disaster planning and post disaster recovery efforts (non-communication related activities or debt service payments). The total amount of funds held in reserve for this purpose will not exceed 15% of the General Fund's annual operating revenue.~~

Restricted for Advertising

The Town shall maintain a Restricted Advertising Account for the purpose of having ready access to funds for special advertising needs in cases of a) a near miss of a hurricane, b) for advertising in response to a declared disaster, c) for other such targeted advertising needs as determined by Council on a case-by-case basis, and d) for supplemental annual tourism advertising.

The Town shall deposit two percent (2%) of the local hospitality tax revenues and five percent (5%) of the local accommodations tax revenues collected annually into the Restricted for Advertising account. Annual interest earned shall be deposited into the account. The Town will maintain at least one million dollars in the account. Deposits into this account shall first be used to replenish the Restricted Advertising Account to a minimum of one million dollars if the account has fallen below that threshold.

Attachment 1 (continued)

Permitted Uses of Funds

Funds may be distributed as follows:

A. The Town Manager may authorize advertising expenditures associated with responding to a near miss or declared disaster and are the only expenditures authorized to take the account below one million dollars.

B. Following a vote of Town Council, funds may be distributed for other such targeted advertising needs as approved. In no case shall such a release of funds for such purposes take the account below one million dollars.

C. At the end of each fiscal year, the Town Manager shall review the amounts deposited into and distributed from the account for that year. Any remaining amount above one million dollars shall be made available to the Town's designated tourism promotion agency for supplemental tourism advertising during the subsequent fiscal year.

STATE OF SOUTH CAROLINA)
) MEMORANDUM OF UNDERSTANDING
COUNTY OF BEAUFORT)
)

This Memorandum of Understanding (the "Memorandum") is entered into by and between the Town of Hilton Head Island (hereinafter referred to as the "Town,") a South Carolina Municipal Corporation, and the University of South Carolina Beaufort (hereinafter referred to as "USCB"), a South Carolina public education institution. When referred to collectively, these entities shall be known as the "Parties".

1. **Governing Document and Statement of Purpose.** It is the intent of the Parties that this Memorandum shall serve to outline the various services that USCB will provide to the public on behalf of the Town and the corresponding financial support that will be provided by the Town in order to receive these services. Those services shall include, but not necessarily be limited to, supporting organizations in the development of special events, providing hospitality training, increasing volunteerism, continuing community education, and facilitating the Island Ambassador Program. This document is not intended in any way to impact or amend any other programing, facilities, or financial support documents that may already exist between the Town and USCB separate and apart from this Memorandum.

2. **Programming.**

a. To be eligible for funding under this Memorandum, USCB shall remain an agency of the state and be mission driven to support tourism development on Hilton Head Island through the Center for Lowcountry Hospitality Education.

b. USCB must employ a full-time executive director who will be responsible for overseeing the creation, development, and delivery of a hospitality training program which shall serve to educate Hilton Head Island residents and visitors as to the Island's rich history, cultural resources and communities, Island operations/resources, environment, and ecology. The scope of services that USCB will provide related to the Island Ambassador Program are outlined in attachment "A" incorporated herein by reference to this Memorandum.

c. The Island Ambassador Program shall be offered to the public no less than five (5) times per calendar year at such dates and times as may be determined by USCB. Additionally, USCB may provide the Island Ambassador Program to select groups and organizations as it deems appropriate.

d. As part of the Island Ambassador Program, USCB shall provide participants with a meaningful opportunity to provide feedback on the quality of the Program materials, presenters, and other relevant information in order to provide ongoing evaluation as to the effectiveness of the program and any potential program modifications that may need to be considered. This information shall be submitted to the Town with its annual budget request and its corresponding annual report. This report should detail information about program participation levels, accomplishments during that reporting period, and other relevant information to help inform the Town about the performance and effectiveness of the Island Ambassador Program.

e. In addition to the Island Ambassador Program, USCB will also provide consultation to nonprofit organizations located on Hilton Head Island in the planning, development, and/or execution of special event production and associated volunteerism related activities.

f. USCB will provide an annual audited financial report in accordance with generally accepted accounting principles.

g. Upon request of the Town, USCB shall make its financial records associated with any grant funding provided herein available to the Town for review.

h. USCB will submit a proposed annual budget in conformity with the terms of this Memorandum to the Town prior to February 1st of each calendar year for consideration by the Town Council as an affiliated agency.

3. **Funding.** In support of providing the services outlined herein on behalf of the Town of Hilton Head Island, the Town will provide USCB with funding in the amount of $235,000 annually. This figure shall be subject to an annual inflation factor of three percent (3%) for each successive year under the Term of this Memorandum.

4. **Notices.** All notices required under this Memorandum shall be deemed to have been given if in writing and

a. delivered personally; or

b. mailed first class, postage prepaid, to the address of record set forth below, in which case delivery shall be deemed to have occurred two calendar days after the date of postmark.

UNIVERSITY OF SOUTH CAROLINA BEAUFORT
Chancellor
One University Boulevard
Bluffton, SC 29909

TOWN OF HILTON HEAD ISLAND
Town Manager
One Town Center Court
Hilton Head Island, SC 29928

The address of record may be changed by written notice to the other party.

5. **<u>Term.</u>** The term of this Memorandum of Understanding shall be for a period of five (5) years from the date of execution. No less than six (6) months prior to the expiration of this Memorandum, it will be reviewed by the Town and USCB for purposes of determining if such Memorandum should be extended, terminated, or if modifications need to be made prior to the execution of any subsequent agreements. Changes to this document may be made only with and by the mutual consent of both parties.

6. **<u>Termination.</u>** In addition to any other rights of termination set forth in this Memorandum, each party shall have the right to terminate this Memorandum, by written notice to the other party, if the other party is in default of any term or provision of this Memorandum, and the defaulting party fails to cure or correct such default within fourteen (14) days of notice thereof from the non-defaulting party. A party may elect to disregard a default for the period of time without waiving its right to declare a default at a subsequent time or upon reoccurrence of the default.

IN WITNESS WHEREOF, the Town and USCB has caused this Agreement to be signed and sealed this ______ day of __________________________, 20_____.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:	**UNIVERSITY OF SOUTH CAROLINA BEAUFORT**
______________________________	By:________________________________
	Dr. Al M. Panu Chancellor
______________________________	
SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:	**TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA**
______________________________	By:________________________________
	Marc Orlando Town Manager, ICMA-CM
______________________________	

ATTACHMENT A

ISLAND AMBASSADOR/HOSPITALITY TRAINING/COMMUNITY EDUCATION PROGRAM OUTLINE

1. Island Ambassador Program

    a. USCB will collect data from a variety of focus groups and Hilton Head Island stakeholders to completely redesign the Island Ambassador Program (“Program”).

    b. The Program is envisioned to be sorted into required content that is directly related to Hilton Head Island’s history, culture (including an emphasis on Gullah Geechee culture, native islander communities, and their importance to Hilton Head Island), natural resources and ecology, governance, economy, and additional a la carte content that takes a deeper dive into some or all of these areas, depending on audience. Local experts in these areas will be incorporated into the Program through videos, in-person presentations, or other meaningful methods.

    c. The program will include an introduction from the mayor speaking to those people participating in the Program who live and/or work on the island.

    d. Redesign the Island Ambassador (“IA”) “pin” and create a digital badge for use in the employee’s signature line.

    e. Schedule a minimum of five (5) Program sessions to occur annually on USCB’s Hilton Head Island campus with additional events to be scheduled with local industries and delivered on-site as determined by USCB.

    f. Develop and implement a pilot for a “junior ambassador” program targeting 3rd graders on the island as 3rd grade educational standards include South Carolina History.

2. Quality Management Program

    a. Refresh the quality management program; increase “secret shopper” program to local industries to continually improve the guest/tourist experience.

3. Continuing Education

    a. Survey needs of various industry partners and community stakeholders to identify potential continuing education program offerings.

    b. Offer relevant industry certifications (ex. AHLEI) that develop and recognize the expertise of local industry leaders.

4. Ecotourism

    a. Expand Finnegan's Sharing Shack to include other locations and create co-branding opportunities with beachfront resorts.

    b. Collaborate with the Town to minimize the carbon footprint of tourists and support other environmentally responsible strategies to preserve the natural beauty of the island.

5. Develop New and Improved Media Presence

    a. Demonstrate CEMHT's commitment to incorporating the Town Goals as outlined in the Town's *Our Plan*, as well as any current Strategic Action Plan.

    b. Overhaul the Program's website to reflect these items.

    c. Introduce use of social media for marketing purposes.

TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

RESOLUTION NUMBER 2023-__

A RESOLUTION BY THE TOWN OF HILTON HEAD ISLAND AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE UNIVERSITY OF SOUTH CAROLINA BEAUFORT

WHEREAS, beginning in 2011, the Town formed a partnership with the University of South Carolina Beaufort to support hospitality training, special event management, and volunteerism efforts on Hilton Head Island; and

WHEREAS, to fund these services, the Town incorporated into its Municipal Code a provision whereby 5% of the funding that the Town collected under its Local Accommodation Tax would be provided to the University for these purposes; and

WHEREAS, in recent years, collections of both State and Local Accommodations Taxes have increased significantly thereby causing the Town to remove this automatic funding formula from its Municipal Code in favor of funding these services as an Affiliated Agency of the Town; and

WHEREAS, Town staff were directed to prepare a Memorandum of Understanding that would serve to outline the roles of both the Town and the University and be the basis of any funding that might be provided as part of the annual budget process; and

WHEREAS, the parties have completed their negotiations in developing a draft Memorandum of Understanding and the result of which is being presented to the Town Council for its consideration.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Councilmembers of the Town of Hilton Head Island, in Council duly assembled, that the Mayor and Town

Manager are hereby authorized to take such actions as may be necessary to enter into a Memorandum of Understanding enclosed with this Resolution as Attachment A.

MOVED, APPROVED, AND ADOPTED ON THIS _____ DAY OF ________________, 2023.

TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

____
Alan R. Perry, Mayor

ATTEST:

____
Kimberly Gammon, Town Clerk

APPROVED AS TO FORM:

____
Curtis L. Coltrane, Town Attorney

Introduced by Council Member:__________________________________