

## Correspondence Received from April 2021 through September 2021

*(Click on the text to view the letter)*

April 20, 2021	<a href="#">Deputy Treasurer Edmundson Letter to Village of BHI (VBHI)</a>
April 30, 2021	<a href="#">BHITA Letter to VBHI in Response to VBHI 4/23/21 Letter</a>
May 20, 2021	<a href="#">BHITA Chair Letter to Mayor Sayre</a>
September 15, 2021	<a href="#">Mitchell Corporation Letter to Mayor Sayre</a>
September 24, 2021	<a href="#">Bald Head Association Letter to Mayor Sayre</a>



**NORTH CAROLINA**  
DEPARTMENT OF STATE TREASURER

STATE TREASURER OF NORTH CAROLINA  
DALE R. FOLWELL, CPA

*Dale R. Folwell, CPA*

STATE AND LOCAL GOVERNMENT FINANCE DIVISION  
AND THE LOCAL GOVERNMENT COMMISSION

SHARON EDMUNDSON  
DEPUTY TREASURER

April 20, 2021

The Honorable J. Andrew Sayre, Mayor  
Members of the Town Council  
Village of Bald Head Island  
PO Box 3009  
Bald Head Island, North Carolina 28461

Re: Bald Head Island Transportation Authority ("Authority")  
Application for Approval of Bald Head Island Transportation Authority  
Transportation System Revenue Bond Findings ("Application")

Dear Mayor Sayre, Mayor Pro Tempore Brown and Councilors Gardner, Hill, and Quinn:

Thank you for your letter dated March 22, 2021 expressing the Village of Bald Head Island's ("Village") interest in acquiring, owning and operating all assets of the Transportation System (the "Proposed Acquisition").

The Local Government Commission staff would like answers to some legal issues in order to properly consider the Village's request. At your earliest convenience, please provide the Local Government Commission with a legal opinion addressing the following:

1. The legal authority under which the Village may acquire, own and operate each specific operation of the Transportation System (in particular the barge operation)
2. The legal authority under which the Village may acquire, own and operate each asset (real property, fixtures or personal property) of the Transportation System that lies outside the Village corporate limits
3. Whether Session Law 2017-120 allows the Proposed Acquisition, or whether it prohibits the same
4. Whether approvals of any governmental body are required prior to the Proposed Acquisition
5. Whether any legislative action by the N.C. General Assembly is needed to enable the Proposed Acquisition

The Honorable J. Andrew Sayre, Mayor  
Members of the Town Council  
Village of Bald Head Island  
April 20, 2021  
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Please let us know if you have any questions, and we look forward to receiving the legal opinion.

Sincerely,

A handwritten signature in black ink that reads "Sharon Edmundson". The signature is written in a cursive, flowing style.

Sharon G. Edmundson, MPA, CPA  
Secretary, Local Government Commission

cc: The Honorable Dale Folwell, Treasurer  
The Honorable Beth Wood, State Auditor  
The Honorable Elaine Marshall, Secretary of State  
The Honorable Ronald Penny, Secretary of Revenue  
The Honorable Scott Padgett, Mayor, City of Concord  
The Honorable Viola Harris, Commissioner, Edgecombe County  
Mr. Edward Munn, member, Local Government Commission  
Mr. Joshua Bass, member, Local Government Commission  
Mr. Mike Philbeck, member, Local Government Commission  
Cindy Aiken, Attorney, Department of State Treasurer  
Tim Romocki, Director, Debt Management  
Michael Brown, Mayor Pro Tem, Village of Bald Head Island  
Scott Gardner, Councilor, Village of Bald Head Island  
Emily Hill, Councilor, Village of Bald Head Island  
Peter Quinn, Councilor, Village of Bald Head Island  
K. Christopher McCall, Manager, Village of Bald Head Island  
Susan Rabon, Chair, Bald Head Island Transportation Authority  
Chad Paul, CEO, Bald Head Island Limited, LLC

April 30, 2021

Members of the Local Government Commission  
North Carolina Department of State Treasurer  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604

Bald Head Island Transportation Authority  
Application for Approval of Bald Head Island Transportation Authority  
Transportation System Revenue Bonds

Dear Commissioners:

As the Chair of the Bald Head Island Transportation Authority (the “Authority”), I am responding to the letter dated April 23, 2021 from the Village Council of the Village of Bald Head Island (the “Village”) once again requesting delay of the approval by the North Carolina Local Government Commission (the “LGC”) of the proposed issuance by the Authority of its Transportation System Revenue Bonds (the “Bonds”) in order to finance the acquisition of the ferry, parking, barge, and ground transportation assets (collectively, the “System”) that provide service to Bald Head Island, North Carolina (the “Island”) from Bald Head Island Limited and Bald Head Island Transportation, Inc. (collectively, the “Sellers”).

Summary. The Authority was formed by the General Assembly for the express purpose of “providing reliable and safe public ferry transportation services in its service area.” The authorizing legislation (Session Law 2017-120) (the “Act”) requires representation on the Board of Trustees from the Island, the City of Southport and Brunswick County, as well as other statewide appointees, to assure that all potential users of the System have a voice in its operation. The legislation permits the issuance of revenue bonds to finance the acquisition of the System, payable solely from the revenues of the System.

The financial transaction that has been presented to the LGC for approval meets the requirements of Article 5 of Chapter 159 of the North Carolina General Statutes (the “Revenue Bond Act”) for approval. The Authority has provided the information to the LGC and its staff necessary for it to make the findings required by the Revenue Bond Act, including three years’ audited financial statements of the Sellers broken out and audited to show the different elements of the operation of the System (barge, parking, and ferry and tram); a formal feasibility study that incorporates those historical, audited financials as well as projected operations going forward; all elements of the appraisals and valuations that were used to support the Authority’s agreed upon purchase price (including real estate, vessels and other assets); evidence of an investment grade rating; and other information requested by LGC staff.

The information used by the Authority to reach a purchase price for the System and to develop the financing model is available to the public, and was explained in detail by the independent, third party consultants (i.e. Davenport & Co. as financial advisor, UBS Financial Services Inc. as the Underwriter and Mercator International as the feasibility consultant) who assisted the Authority in developing the feasibility study and pro forma financial projections. In addition to the public hearing, the Authority has provided an extensive response to the questions that were raised, explaining in detail how it reached its conclusions. It has acknowledged that there are operational issues going forward that need to be addressed; those cannot be addressed until the Authority controls the System.



The Village in its various letters to the LGC has voiced a number of concerns about the purchase of the System, including issues relating to transparency of the process, the purchase price agreed to between the Authority and the Sellers, and various aspects of the current operation of the System by the Sellers. On March 22, 2021, following discussions in closed session on March 19, 2021, the Village indicated that it would pursue purchasing the System itself, presumably at the same price offered to the Authority, although to our knowledge no offer has been made to the Sellers, no financing has been discussed and no application with respect to such a transaction has been filed with the LGC. The Sellers have indicated their interest in completing the sale that has been negotiated over several years with the Authority, and fulfilling the legislative goal of public ownership under a regional structure. (Letter from Sellers to LGC 3-26-2021). Furthermore, it is not clear that the Village has the statutory authority to acquire or operate all aspects of the System, nor is it clear that the Village has the authority to use property tax revenue for a ferry transportation system.

**The financing transaction before the LGC for consideration is the Authority's issuance of revenue bonds to purchase the System in accordance with the Act and the Revenue Bond Act.**

In the April 21, 2021 letter, the Village states that it is not opposed to the Authority acquiring and operating the System, but then goes on to raise a number of concerns, which I will address in turn.

Timeliness of Consideration. The Village states that the Authority has not provided sufficient opportunity for the public to provide input in the acquisition and financing. As the Commission is aware, the Authority held a public hearing attended by over 200 people, and provided detailed responses to the questions raised. Those questions and answers are all available on the Village webpage. (See BHITA Questions and Answers 2-26-2021). The Authority conducts its monthly meetings in open session, and members of the public are able to attend. Many of the items complained about by the Village relate to the operations of the System (baggage handling, parking spaces, number of ferry runs and boat capacity), all of which can be addressed once the Authority owns the System. The fundamentals of the transaction remain as they were earlier this year, with a few modifications. While the purchase price has not changed, the Sellers have added additional land for parking and are making additional capital improvements to the parking area and barge loading area, which will be included in the property to be purchased. The proposed method of sale of the Bonds with an investment grade rating also has not changed, and that rating was affirmed by S&P this week. The transaction has met the statutory criteria for approval by the Local Government Commission; there is no reason not to proceed with the financing.

LGC Guidelines regarding Appraisals. The Village disagrees with the results of the third party appraisals of various portions of the System. The LGC Guidelines require that “[a]ppraisals, feasibility studies and comfort letters (if required) must be prepared by parties that are both independent to the transaction and possessing adequate expertise.” The Authority hired a number of independent third party experts to assist it in determining the “appraised value” of the assets of System in order to satisfy the statutory requirement that the System be purchased below the appraised value of these assets. Each of the consultants hired by the Authority was a third party with expertise in its field - Kopco Marine Services, Inc., a vessel survey and valuation company out of Florida; Moffatt & Nichol, a national firm providing engineering and consulting work relating to marine terminals; SM&E, a national firm with expertise in environmental issues; Worsley Real Estate Company, one of the largest commercial real estate appraisal firms in southeastern North Carolina, with specific experience in marinas and deep water port related properties; and Davenport & Company, a financial advisor with extensive experience with public finance transactions in North Carolina. All of these were third party, independent experts as required by the LGC Guidelines. Such independent appraisals and assessments are also required in order to meet the fair dealing and disclosure requirements of the SEC and MSRB in selling the Bonds.

Necessary and Expedient. The Village asserts that the Commission must determine whether the project is “necessary and expedient,” and lists a number of operational issues to support its contention that it is not. However, the statutory criterion is whether the proposed revenue bond issue is necessary and expedient. The Authority has done the diligence required, has negotiated an asset purchase agreement with the Seller which has been approved by the Board of the Authority, and has a financing that is ready to go to market. The Authority has been working with LGC staff for more than two years on the details of the financing, and has met the criteria of Chapter 159, Article 5 governing revenue bonds, and the related LGC Guidelines. LGC Staff feedback was taken into account in structuring the financing and the overall transaction. The repayment plan presented to the LGC is complete and is consistent with the financial projections provided. Financial projections prepared by an independent third party feasibility consultant demonstrate feasibility and are reasonable compared to prior financial performance. The Authority has obtained an investment grade rating. In short, acquisition of the System is necessary to move it from private to public ownership and control, and proceeding to sell and close on the revenue bonds is the most expedient way to achieve that goal.

Adequate Financing. The feasibility study was prepared using historical, audited financials provided by the current operator of the System, and includes a range of future scenarios as to parking, ridership and homeownership, as well as projected capital expenditures such as expanding parking and replacing ferry vessels. The feasibility study demonstrates the feasibility of the financing and the ability of the System to handle projected use of the facilities based on various volume assumptions. The Authority expects to continue to employ most of the same employees who currently operate the System, a process similar to the transition of other assets and operations on the Island from private ownership to Village ownership in the past. The Authority is projected to be able to operate the System without the need for tax dollars, thus fulfilling the General Assembly’s intent that the System be paid for by the users thereof and not supported by taxpayers.

We note that the Village does not appear to have the power to levy property taxes to support the ferry if it were to own it; Section 160A-209 provides that “each city may levy property taxes for one or more of the following purposes: (27) Public Transportation - to provide public transportation by rail, motor vehicle, or another means of conveyance *other than a ferry*, including any facility or equipment needed to provide the public transportation.” Thus the Village would not be permitted to spend tax revenue on the System.

Bond Rating and Financing Costs. Our underwriter has informed us that the BBB- credit rating from S&P makes the Authority the highest rated unsubsidized ferry operation in the world. S&P utilized the same Global Not-For-Profit Transportation Infrastructure criteria used for other public transportation assets, and concluded that the Authority’s credit strengths (i.e. autonomous rate-setting flexibility, favorable historical demand trends, monopolist competitive position and strong debt and liabilities capacity given a moderate debt burden and a manageable capital improvement plan) offset the potential negatives (i.e.. a narrow revenue stream, relatively discretionary demand to a single location with comparatively low activity levels, exposure to weather-related events and periods of economic weakness) and merit an investment grade rating.

While the rating is lower than the rating of many North Carolina local governments, which have the benefit of either a broader revenue base or an ability to raise taxes, the Authority’s credit rating is comparable to other infrastructure assets in the United States with a narrow revenue base, including, for example, the Monroe Expressway near Charlotte, which also carries an underlying rating of BBB-. In fact, the Authority’s investment grade rating significantly improves the marketability of the Bonds and

positions it to take advantage of historically low interest rates in the municipal bond market. Without an investment grade rating, the underwriter expects that the Authority's cost of capital could be in excess of 5%, with the additional debt service costs increasing the burden on users.

Increase in User Fees. As described in other communications with the public and with the LGC, the increase in the ferry rate of \$4.00 is the first increase in rates since 2010, and is less than the rate of inflation over that same period. The Authority believes that increase is reasonable and indeed not unexpected by the riding public. Based on the rating agency methodology and the LGC requirement that the issue have an investment grade rating, the focus on the structuring efforts was to raise rates just enough to achieve an investment grade rating, place the Authority on a secure financial footing and show funding for capital improvements over the life of the Bonds. While the feasibility study assumes additional rate increases in the future (structured to reflect expected inflation), to the extent the Authority realizes operational efficiencies, it may not need to implement these increases.

I will address several additional points raised by the Village Council.

Working Capital. Under Section 159-83 of the North Carolina General Statutes, a municipality (defined to include the Ferry Transportation Authority for purposes of that article), has the power

*“(9) To appropriate, apply, or expend for the following purposes the proceeds of its revenue bonds, notes issued in anticipation thereof, and revenues pledged under any resolution or order authorizing or securing the bonds: (i) to pay interest on the bonds or notes and the principal or redemption price thereof when due; (ii) to meet reserves and other requirements set forth in the bond order or trust agreement; (iii) to pay the costs of the revenue bond projects authorized in the bond order, reimburse funds loaned or advanced for the costs of these revenue bond projects in accordance with the bond order, and provide working capital for initial maintenance and operation until funds are available from revenues....”*

Similarly, Section 159-84 authorizes the issuance of revenue bonds “in such principal amount as may be necessary to provide sufficient moneys for the acquisition, construction, reconstruction, extension, betterment, improvement, or payment of the cost of one or more revenue bond projects, including engineering, inspection, legal and financial fees and costs, working capital, ... establishment of debt service reserves, and all other expenditures of the State or the municipality, as the case may be, incidental and necessary or convenient thereto.”

Thus the structure of the bond issue is authorized by the Revenue Bond Act. Similar revenue bond issues also include costs other than the actual capital assets financed, such as debt service reserve funds, capitalized interest, and fees and expenses incurred in connection with the transaction. As a start-up transportation authority with no tax supported funding, the Authority will need some working capital at the outset to run its operations “until funds are available from revenues,” as authorized by the Revenue Bond Act.

Community support. The five members of the Village Council of the Village have made clear their objections to the transaction, both as dissenting members of the Authority Board of Trustees and through communications with the LGC. As noted, the Village Council is elected by the approximately 200 full time residents of the Island, and does not necessarily speak for all of the users of the System, including the general public, nonresident homeowners, workers and contractors, and renters who also use the System. Since the public information session on February 17, 2021, and the posting of the responses to the questions raised, there has been very little additional public comment regarding the proposed

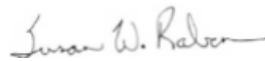
acquisition, and additional favorable support has been expressed in the local press. (See attached newspaper articles). It should also be noted, again, that the Village was in full support of the regional organizational structure of the Authority from the outset, as evidenced by the resolutions it adopted supporting the legislation and creating the Authority in August, 2017.

The community served by the System extends beyond the Island, and includes in particular the rest of Brunswick County and Southport, as that is where most of the workers and contractors who depend on the System to get to the Island live. **Both the Board of Aldermen of the City of Southport and the County Commissioners of Brunswick County, who also supported the organizational structure of the Authority in creating it, have unanimously passed resolutions supporting the regional operation of the System in general and the Authority's proposed transaction specifically.** (Resolution of Brunswick County and Resolution of Board of Aldermen of Southport).

In conclusion, the Authority again requests the LGC to approve this transaction at its May 4, 2021 meeting, based on the information provided and the statutory criteria in the Revenue Bond Act.

As always, the Authority Board members and consultants stand ready to respond to questions from the LGC members and staff.

Very truly yours,



Susan Rabon  
Chair, Bald Head Island Transportation Authority

cc: Sharon Edmundson, Deputy Treasurer  
Tim Romocki, Director, Debt Management  
Mayor J. Andrew Sayre, Village of Bald Head Island  
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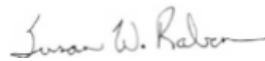
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May 20, 2021

E-mail: [jsayre@villagebhi.org](mailto:jsayre@villagebhi.org)

Mayor J. Andrew Sayre  
Village of Bald Head Island  
Bald Head Island, North Carolina

Cooperation with the Bald Head Island Transportation Authority

Dear Andy:

I am reaching out as chairman of the Bald Head Island Transportation Authority (the Authority) to find ways that the Authority and the Village can cooperate concerning the purchase of the Bald Head Island ferry system, as requested by the North Carolina Local Government Commission (LGC) at its May 4, 2021 meeting. The Village has consistently expressed its concern that Village residents do not have sufficient voice in the decision making of the Authority regarding the ferry system. Therefore, I would like to take you up on the suggestion you made to me following the LGC meeting that the Village and the Authority appoint a task force consisting of property owners and residents of the Village to come up with recommendations regarding operations, capital expenditures, governance and processes for public input for the Authority to consider in operating the ferry transportation system going forward. This task force would begin meeting immediately and would have input in the operation of the ferry system from the outset. The task force would not include you or the Mayor Pro Tem from the Village, or myself or any other member of the negotiating committee from the Authority. I have several Authority members in mind who would be good candidates for this group and would look forward to working with you to put that together.

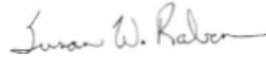
At the next meeting of the Authority on May 27, 2021, we expect to present proposals from several appraisers to the Trustees in order to address the issues raised about the Worsley appraisal, and anticipate getting that process started as soon as the Trustees make a selection and authorize the contract. We also expect the subcommittee of the Trustees previously appointed to develop the post-acquisition budget to focus on that work while the appraisal is underway.

As you are well aware, all of this will take time. Therefore, we are also asking the Village to extend the waiver and termination of its right of first refusal, which has been delivered to the Authority's counsel to be recorded upon closing of the purchase of the system or returned to the Village on August 31, 2021 if the transaction has not closed by then, to a later date in 2021 (such as December 31, 2021) to allow these additional steps to be taken as requested by the LGC.

Mayor Andy Sayre  
Page 2

I would appreciate it if you could have this letter posted on the Village web page along with the other BHITA documents. I look forward to hearing from you and the Village Council, and to working with the Village.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Susan W. Rabon". The signature is fluid and cursive, with a long horizontal stroke at the end.

Susan W. Rabon

Cc: [village@villagebhi.org](mailto:village@villagebhi.org)  
Mr. Chris McCall, Village Manager  
Village of Bald Head Island Village Council  
Bald Head Island Transportation Authority Trustees  
Charles Baldwin, Esq., Counsel to the Village  
Carrie Moffett, Executive Director, Bald Head Association

September 15, 2021

J. Andrew Sayre, Mayor  
Village of Bald Head Island  
106 Lighthouse Wynd  
Bald Head Island, NC 28461

**RE: Bald Head Island Transportation System**

Dear Mayor Sayre:

We understand from our CEO, Chad Paul, that you have requested an opportunity to meet personally with the Mitchell family and our Boards to discuss the Village of Bald Head Island's desire to purchase the ferry transportation system. For reasons outlined in this letter, we respectfully decline that invitation. All communications or negotiations relating to the sale of the ferry transportation system or any other assets or operations of Bald Head Island Limited, LLC and Bald Head Island Transportation, Inc. should be coordinated and conducted, directly and only with our CEO and CFO, Chad Paul and Shirley Mayfield, and legal counsel to the companies.

After expending more than \$1 million and a considerable amount of time and resources for over five years to effectuate a public trust solution representative of all constituents for the ferry transportation system pursuant to the North Carolina Ferry Transportation Authority Act (SB#391), we have collectively decided, after careful deliberation and evaluation of public comments-presentations and certain comments made at Village of Bald Head Island (Village) and Local Government Commission (LGC) meetings, to pursue a competitive sale process for the disposition of the remaining operations we have relating to Bald Head Island, to include the ferry, parking, barge and transportation-related real estate assets. In the interim, we will continue to support the Bald Head Island Transportation Authority (Authority) as the preferred buyer of some or all of the transportation system; however, we will no longer allow the personal or political agendas of a few individuals to be used to delay the sale process.

Our dedicated employees and staff, the Bald Head Island property owners and the ridership and users of the transportation system deserve to have finality to this process and to have capable stewardship governing the transportation system going forward. A key factor in reaching this decision is that an overwhelming number of ferry riders, barge customers, and Island property owners oppose a Village owned and/or operated transportation system controlled by a small group of Island voting residents that represent approximately five percent (5%) of Island property ownership and less than ten percent (10%) of annual ferry ridership. Moreover, we note that all governmental jurisdictions associated with the creation and operation of the Authority, to include, the North Carolina General Assembly, Brunswick County, City of Southport, and the Village of Bald Head Island, have by execution of several unanimous consents and resolutions supported the enactment of the North Carolina Ferry Transportation Authority Act, the Authority's subsequent incorporation and commencement and underwriting of its operations. Additionally, the North Carolina Utilities Commission, North Carolina Department of

Transportation, and the current and former Governors of North Carolina have supported both the passage of the North Carolina Ferry Transportation Authority Act and the Authority's subsequent efforts to acquire the transportation system. For reasons noted in the March 26, 2021 letter attached, the undersigned find the Village's withdrawal of its unanimous support and consent for the acquisition of the system by the Authority after almost five years into the process ill-considered and its reasons for doing so unpersuasive.

Should LGC approval of the Authority's financing not be forthcoming in the near future, we believe it highly likely that parts of the system will be sold at a substantially higher collective price than the entire system has been offered in the past to the Authority. Consequently, it is unrealistic to believe that the Authority (or any other party) would have an opportunity to acquire the entirety of the system in that case.

Sincerely,

**For the Mitchell Family Corporation**



C. Grant Mitchell, President

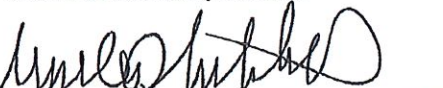


Spiros N. Vassilakis,  
Chief Operating Officer

**For the Board of Directors of  
Bald Head Island Transportation, Inc.**

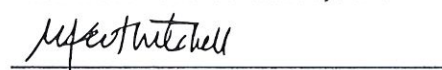


M. Kent Mitchell, Director



Mark D. Mitchell, Director

**For the Board of Managers of  
Bald Head Island Limited, LLC**



M. Kent Mitchell, Manager



Mark D. Mitchell, Director



C. Grant Mitchell, Director



Spiros N. Vassilakis, Manager



Charles A. Paul, III, Manager



Shirley A. Mayfield, Manager

Attachment: March 26, 2021 Charles A. Paul, III correspondence to LGC

Cc: Susan Rabon





March 26, 2021

The Local Government Commission  
North Carolina Department of State Treasurer  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604

Dear Members of the Local Government Commission:

Bald Head Island Limited, LLC and Bald Head Island Transportation, Inc. (collectively, "Limited"), would like to provide this information to the Local Government Commission (the "LGC") for your consideration regarding the proposed sale of the ferry transportation system to the Bald Head Island Ferry Transportation Authority (the "Authority"). This transaction has been thoroughly and properly vetted through a lengthy planning and sale process spanning more than four years and expenditure of significant funds on due diligence and professional advisors, and the devotion of countless hours (many by volunteers) at public meetings and informational sessions. The financial valuation and projections have been exhaustively reviewed and the proposed financing has received an investment grade rating from Standard & Poor's. Moreover, from a policy perspective, only a sale from Limited to the Authority adheres to the statutory mandate set forth in the "Ferry Transportation Authority Act" that, following the formation of a Ferry Transportation Authority like the Authority, an existing private ferry transportation service operating in the service area "*shall be acquired . . . by that Authority . . . such purchase to be financed by bonds or notes issued by the Authority or other financing mechanisms . . .*" (emphasis added). Furthermore, for reasons discussed below, Limited is confident that a sale to the Authority (a regional public trust) offers the best solution for the continued operation and management of these key transportation and infrastructure assets for the benefit of all involved stakeholders.

Since the early 1980s, the George P. Mitchell family has devoted substantial time and resources toward the stewardship and preservation of Bald Head Island and its natural resources. When Mr. Mitchell passed away in 2013, the Mitchell family resolved to find a viable and long-term solution for an orderly transition of ownership and operation of the ferry transportation system.

The ferry, barge, tram, terminals, parking and related assets (the "Transportation System") uniquely function as a regional transportation system, serving both on-island residents *as well as* off-island property owners, visitors, contractors and employees, almost all of whom live on

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the mainland and use the ferry system daily. Recognizing the diverse stakeholders to be served by the Transportation System, the North Carolina General Assembly (after much deliberation and public input) unanimously passed Senate Bill 391 creating an ownership and governance solution that afforded the three local units of government where the assets are situated – the Village of Bald Head Island (the “Village”), the City of Southport and Brunswick County – representation on the Authority’s Board of Trustees. This structure assures all stakeholders fair representation in the setting of rates, fees, charges, routes and schedules. The Village Council serves and represents its constituency, the permanent residents of Bald Head Island (who constitute less than 10% of the annual ferry ridership); however, the composition of the Board of Trustees of the Authority assures a broader and more balanced representation and a voice for all members of the communities served by the Transportation System.

From the beginning (February, 2017) and through the informational session with the LGC on December 1, 2020, the process for the sale of the Transportation System to the Authority has been collaborative and conducted with substantial involvement and support of the Village. Only recently did Limited learn, by way of a December 15, 2020 letter from the Village to the LGC, of the Village’s concern with the Authority’s purchase of the Transportation System.<sup>1</sup> Considering the sequence of events over the last four years, as outlined on Schedule 1 attached to this letter, Limited is both surprised and disturbed by the Village’s most recent shift from collaborative stakeholder acting through its representatives on the Board of Trustees of the Authority to that of a competitive bidder.<sup>2</sup>

Limited has received no formal offer to purchase the Transportation System from the Village and Limited does not intend to engage in negotiations with the Village. Limited is convinced, and believes third parties would perceive, that abandoning a transaction with the Authority at this late stage would be inappropriate, irresponsible and in bad faith in the face of the legislation passed by the General Assembly (as signed into law by the Governor of North Carolina) and in light of the amount of time, effort and financial resources expended on the pending transaction. Limited stands ready, willing and able to close the transaction with the Authority, and only the Authority, upon the terms and conditions set forth in the Asset Purchase Agreement finalized and approved by the Authority at its December 8, 2020 meeting. We respectfully request that

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<sup>1</sup> Please note, the December 15, 2020 letter from the Village was sent two weeks *after* the LGC Information Session of December 1, 2020. *Authority working group members that were present at the December 1, 2020 LGC Information Session did not misrepresent the circumstances, context or facts of the situation as has been alleged.*

<sup>2</sup> Noteworthy, is the contrast between the Village’s position stated in its January 19, 2021 letter to the LGC and that put forth in its March 22, 2021 letter to the LGC. On January 19, 2021, the Village states that “the Village supported the formation of the Authority and believes it is a good structure for the long-term ownership and operation of the transportation system assets.” Two months later, in its March 22, 2021 letter to the LGC, the Village declares that the “Village Council is unanimously committed to pursuing the Village’s acquisition of the Transportation System” and “will work closely with the Seller, the Authority and the Local Government Commission to close the transaction quickly.” (emphasis added)



the LGC place this matter on its April 13, 2021 agenda for approval of the Authority's public bond financing which, as previously stated, has received an investment grade rating.

We appreciate your time and consideration of this matter.

Sincerely,

Bald Head Island Limited, LLC



Charles A. Paul, III, CEO

Bald Head Island Transportation, Inc.



Charles A. Paul, III, President

cc: Dale R. Folwell, CPA, Treasurer  
Sharon Edmundson, Deputy Treasurer  
Tim Romocki, Director, Debt Management  
Village of Bald Head Island Council  
J. Andrew Sayre, Mayor  
Michael Brown, Mayor Pro Tempore  
Scott Gardner, Councilor  
Emily Hill, Councilor  
Peter Quinn, Councilor  
K. Christopher McCall, Bald Head Island Village Manager  
City of Southport Board of Aldermen  
Joseph P. Hatem, MD, MPH, Mayor, City of Southport  
Thomas Lombardi, Alderman  
Karen Mosteller, Alderman  
Marc Spencer, Alderman  
Lora Sharkey, Alderman  
John Allen, Alderman  
Lowe Davis, Alderman  
Gordon Hargrove, Southport City Manager  
Brunswick County Board of Commissioners  
Randy Thompson, Chairman  
Mike Forte, Vice Chairman  
J. Martin (Marty) Cooke, Commissioner  
Pat Sykes, Commissioner  
Frank Williams, Commissioner  
Randell Woodruff, County Manager, Brunswick County  
Senator William Rabon



Representative Frank Iler

Representative Charles W. Miller

Bald Head Island Transportation Authority Board of Trustees

Susan Rabon, Chair, appointed by NC Governor

Robert Howard, Vice Chair, appointed by Brunswick County

Landon Zimmer, Secretary, appointed by NCDOT

David Jessen, Treasurer, appointed by NC General Assembly

Rex Cowdry, Trustee, appointed by NCDOT and resident of Bald Head Island

Jed Dixon, Trustee, appointed by NCDOT

Paul Cozza, Trustee, appointed by NC General Assembly

Jim Powell, Trustee, appointed by City of Southport

Mayor J. Andrew Sayre, Trustee, Village of Bald Head Island

Mayor Pro Tem Michael Brown, Trustee, Village of Bald Head Island

Claude Pope, Trustee, appointed by Village of Bald Head Island

## **Schedule 1**

**1. From a very early stage, representatives of the Village, including its legal counsel, were kept informed and provided meaningful and substantive input into the drafting of the legislation and full support for passage of Senate Bill 391 and the eventual formation of the Authority itself. By way of example:**

### **March 2017**

Village's Mayor and Mayor Pro Tem and the Village's counsel meet with representatives of Limited for an informational session and detailed presentation on the current structure and operation of the Transportation System and the benefits of formation and consolidating ownership and operation of the Transportation System under a to-be-formed transportation authority.

### **March 25, 2017**

Counsel to the Village, provides comments and suggested changes to Senate Bill 391 on behalf of the Village.

### **April 2017**

After public notice and hearing, the Village unanimously passes a "Resolution in Support of Creation of a Ferry Transportation Authority" supporting and calling upon the General Assembly to pass Senate Bill 391. Upon the effectiveness of the legislation, the Village further indicated its intent to conduct a public hearing on a Resolution to Form an Authority and have the Village serve as an incorporator.

### **June 7, 2017**

Counsel to the Village drafts Articles of Incorporation of the Ferry Transportation Authority, Bylaws, Public Notice and Concurrent Resolution.

### **August 18, 2017**

After public notice and hearing and providing a timeline, the Village unanimously passes "A Concurrent Resolution Whereby the Village of Bald Head Island, the City of Southport, and the County of Brunswick Signify their Determination to Organize the Bald Head Island Ferry Transportation Authority". Such Resolution, among other things, states that:

**WHEREAS**, the Village, Southport, and Brunswick County are engaging to coordinate and plan for the Authority that will operate a reliable and safe ferry and barge transportation system to transport passengers and freight between Southport and the Village; to provide parking facilities for those passengers on the mainland, and to provide

tram service on the island; to enhance the quality of life, mobility, and circumstances of residents of the Village, Southport, and Brunswick County; and to promote economic development and tourism throughout the Cape Fear region, while protecting and preserving the environment;

**WHEREAS**, the Village, Southport, and Brunswick County have duly afforded the general public, and other interested parties, both public and private, the opportunity to participate in public hearings regarding the formation of the Authority, which public hearings were noticed as required by G.S. 160A-683 and properly conducted pursuant to all applicable laws;

**2. The Village agreed to act as a conduit of funds for the benefit of the Authority, accepting grants to be used for the benefit of the Authority.** Starting with the first Interlocal Agreement on March 16, 2018, the Village entered into a series of Interlocal Agreements with the Authority to provide “certain accounting, administrative, and support services” to the Authority and to “allow the Authority to pay basic operating expenses until such time as the Authority has completed the acquisition of and is operating the System”. The Village financed its obligations to the Authority under these Interlocal Agreements using Grant Funds appropriated by the Village pursuant to G.S. 160A-685(b) for the purpose of supporting “the establishment and operation of the Authority”. The funding was provided to the Village by Limited pursuant to six Funding Agreements, the first of which was signed February 19, 2018. To date, Limited has advanced Grant Funds of \$415,000 to the Village for the express purposes set forth in the Interlocal and Funding Agreements.

**3. On August 21, 1999 the Village and Limited entered into a Right of First Refusal (“ROFR”) relating to parts of the Transportation System and that, by its express terms, would become effective only upon approval of the North Carolina Public Utilities Commission.** In order to facilitate the transaction between the Authority and Limited, the Village executed a termination of the ROFR in August, 2020 to be held in escrow pending the closing of the sale of the Transportation System to the Authority.

**4. Approval of the Board of Trustees has been obtained.** The Board of Trustees of the Authority approved the acquisition of the Bald Head Island Transportation System on December 8, 2020 by a 7 to 4 vote, passed a resolution authorizing the filing of the application for approval of the bond financing for the acquisition of the Transportation System with the LGC and making certain findings as to the feasibility of the financing by resolution passed December 16, 2020 by a 9 to 2 vote. Finally, and more recently, the Trustees of the Authority, by unanimous vote (i.e., an 11 to 0 vote) on March 17, 2021, approved of an update to the Asset Purchase Agreement which resulted in the inclusion of additional land to be acquired from Limited as part of the transaction.





## Bald Head Association

111 Lighthouse Wynd • PO Box 3030 • Bald Head Island, NC 28461  
910-457-4676 • [www.BaldHeadAssociation.com](http://www.BaldHeadAssociation.com)

September 24, 2021

The Honorable J. Andrew Sayre  
Mayor, Village of Bald Head Island  
PO Box 3009  
Bald Head Island, NC 28461

Dear Mayor Sayre:

On September 22, 2021, all of the Directors of Bald Head Association spent considerable time discussing among and between themselves the Ferry Transportation System and considering what we as a Board should do. While we have sat quietly for many months hoping the Village would satisfactorily resolve this situation, we can no longer remain quiet.

The conclusion we reached was we should look to you, our Mayor and leader, to settle and resolve this situation by working cooperatively with the Bald Head Island Transportation Authority (BHITA) to allow BHITA to acquire the assets of the ferry system.

The September 15, 2021, letter from the heirs of the Mitchell estate (Mitchell Family) to you, Mayor Sayre, alerted all of us and our members to the crisis situation this has become. You apparently had requested to meet with the Mitchell Family to discuss the desire of the Village to purchase the Ferry Transportation System. The Mitchell Family rejected that request. ("For reasons outlined in this letter, we respectfully decline that invitation.") See enclosed letter from the Mitchell Family.

Most significantly, the Mitchell Family also made it clear that the actions of the Village in "its withdrawal of its unanimous support and consent for acquisition of the system by the Authority after almost five years into the process" was "ill-considered and its reasons for doing so unpersuasive."

Additionally, the Mitchell Family made it clear that it will continue sale discussions with the BHITA and will treat it as the preferred buyer.

The Mitchell Family also made it clear that if approval from the Local Government Commission (LGC) for financing were not promptly forthcoming, they will “pursue a competitive sale process for the disposition of the remaining operations we have relating to Bald Head Island, to include the ferry, parking, barge and transportation-related real estate assets.”

That would be an exceptionally unfortunate result.

While we believe the Village has acted with good intentions, the deterioration between the Mitchell Family – the owners, financial providers and developers of our island paradise – and the Village of Bald Head Island is quite disappointing and saddening.

We, the Directors of Bald Head Association, look to you, our Mayor, our elected leader, to resolve this crisis and lead us to resolution.

The only two options now available are for the BHITA to acquire and run the ferry system, or for the pieces of the system (parking, barge, ferry terminals, ferries, warehouse, etc.) to be sold off to the highest bidder. A piece by piece sale would be a disaster for our members. Efforts to enforce a questionable right of first refusal will lead to endless and expensive litigation and much delay and acrimony.

In a business world situation, people may negotiate for months or years, litigate, appeal and treat it like a chess game or just business as usual. That is not what this is. Bald Head Island is where we live. This is our little paradise that we have worked all our lives to reach. This is where we come to get away from the business games and hassles. We are surrounded here by friends and family. We want to live here in peace with all.

While well intentioned, the Village efforts to acquire the system and potential threat of extending the timeline of resolution puts the island, its property owners and its commerce at risk. The risks of public sale (in pieces) outweigh the perceived reward of a reduced price with some possible yet not clear ability to invest in some service improvements. We have hit a critical point where the risks outweigh the rewards and a drawn-out process could likely gain minimal to no benefit for all riders and property owners.

We first considered whether to send another survey to our members to get their individual present opinions. But, we reached one overriding conclusion – all of our

members want this matter resolved and want to have the assurance that an acceptable ferry transportation system (ferries, tram, parking, barge, warehouse, etc.) will exist and provide us and our families, friends, service personnel and others access to and from our little paradise. And, time and the urgency of the situation does not permit a further survey.

To be sure, some of our members would prefer the Village would own and operate the system and some would prefer the BHITA would own and operate the system. But, NONE of our members want the fragments of the system sold off to different owners. And, ALL of our members want this resolved now. **And, time is of the essence.**

For over four years, we and, so far as we know, all of our members were led to believe by the Village that a sale of the Ferry Transportation System to the BHITA would be a very good thing for us. On January 19, 2021, after you had worked with the BHITA for almost four years, the Village stated in a letter to the LGC that "the Village supported the formation of the Authority and believes it is a good structure for the long-term ownership and operation of the transportation system assets."

You have been our representative at the BHITA meetings for the last four years. You are the one who was in a position to know if the BHITA would be a good structure for the long-term ownership and operation of the Ferry Transportation System. We were not in a position to know. We relied on what you told us and led us to believe that it would be a good thing.

When you came to our directors meeting in July 2021 and spoke publicly to us and all of our members, you assured us that the BHITA members were good people.

It is the opinion of the directors of Bald Head Association that sale of the Ferry Transportation System to BHITA for its long-term ownership and operation would be a very good result and is the right result to take place now.

It is time for you, as our Mayor and leader, to bring this matter to a resolution. You have been a leader of our Village for the last twenty-four years. You served us well as a Councilor for twelve years and you have served us well as our Mayor for the last twelve years. We all thank you for that.

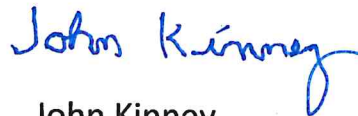
Now is the time to bring the relevant parties together and solve this problem as outlined above. You are our Mayor. We look to you to accomplish what all of your constituents want – Resolution.

Thank you again for your many years of leadership and service as the leader of our Village.

Respectfully yours,



Alan Briggs  
President



John Kinney  
Vice President



Robert Drumheller  
Secretary/Treasurer



John L. Fisher  
Past President



Tiffany Williams  
Director-at Large



Jennifer Lucas  
Director-at-Large

Enclosure

cc: Mayor Pro Tempore Michael Brown  
Councilor Emily Hill  
Councilor Peter Quinn  
Councilor Scott Gardner  
Susan Rabon, BHI Transportation Authority  
Local Government Commission  
Charles Paul, BHI Limited/BHI Transportation



September 15, 2021

J. Andrew Sayre, Mayor  
Village of Bald Head Island  
106 Lighthouse Wynd  
Bald Head Island, NC 28461

**RE: Bald Head Island Transportation System**

Dear Mayor Sayre:

We understand from our CEO, Chad Paul, that you have requested an opportunity to meet personally with the Mitchell family and our Boards to discuss the Village of Bald Head Island's desire to purchase the ferry transportation system. For reasons outlined in this letter, we respectfully decline that invitation. All communications or negotiations relating to the sale of the ferry transportation system or any other assets or operations of Bald Head Island Limited, LLC and Bald Head Island Transportation, Inc. should be coordinated and conducted, directly and only with our CEO and CFO, Chad Paul and Shirley Mayfield, and legal counsel to the companies.

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Transportation, and the current and former Governors of North Carolina have supported both the passage of the North Carolina Ferry Transportation Authority Act and the Authority's subsequent efforts to acquire the transportation system. For reasons noted in the March 26, 2021 letter attached, the undersigned find the Village's withdrawal of its unanimous support and consent for the acquisition of the system by the Authority after almost five years into the process ill-considered and its reasons for doing so unpersuasive.

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Sincerely,


**For the Mitchell Family Corporation**

  
C. Grant Mitchell, President


  
Spiros N. Vassilakis,  
Chief Operating Officer

**For the Board of Directors of  
Bald Head Island Transportation, Inc.**

  
M. Kent Mitchell, Director

  
Mark D. Mitchell, Director


**For the Board of Managers of  
Bald Head Island Limited, LLC**

  
M. Kent Mitchell, Manager

  
Mark D. Mitchell, Director

  
C. Grant Mitchell, Director

  
Spiros N. Vassilakis, Manager

  
Charles A. Paul, III, Manager

  
Shirley A. Mayfield, Manager

Attachment: March 26, 2021 Charles A. Paul, III correspondence to LGC

Cc: Susan Rabon



March 26, 2021

The Local Government Commission  
North Carolina Department of State Treasurer  
3200 Atlantic Avenue  
Raleigh, North Carolina 27604

Dear Members of the Local Government Commission:

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the mainland and use the ferry system daily. Recognizing the diverse stakeholders to be served by the Transportation System, the North Carolina General Assembly (after much deliberation and public input) unanimously passed Senate Bill 391 creating an ownership and governance solution that afforded the three local units of government where the assets are situated – the Village of Bald Head Island (the “Village”), the City of Southport and Brunswick County – representation on the Authority’s Board of Trustees. This structure assures all stakeholders fair representation in the setting of rates, fees, charges, routes and schedules. The Village Council serves and represents its constituency, the permanent residents of Bald Head Island (who constitute less than 10% of the annual ferry ridership); however, the composition of the Board of Trustees of the Authority assures a broader and more balanced representation and a voice for all members of the communities served by the Transportation System.

From the beginning (February, 2017) and through the informational session with the LGC on December 1, 2020, the process for the sale of the Transportation System to the Authority has been collaborative and conducted with substantial involvement and support of the Village. Only recently did Limited learn, by way of a December 15, 2020 letter from the Village to the LGC, of the Village’s concern with the Authority’s purchase of the Transportation System.<sup>1</sup> Considering the sequence of events over the last four years, as outlined on Schedule 1 attached to this letter, Limited is both surprised and disturbed by the Village’s most recent shift from collaborative stakeholder acting through its representatives on the Board of Trustees of the Authority to that of a competitive bidder.<sup>2</sup>

Limited has received no formal offer to purchase the Transportation System from the Village and Limited does not intend to engage in negotiations with the Village. Limited is convinced, and believes third parties would perceive, that abandoning a transaction with the Authority at this late stage would be inappropriate, irresponsible and in bad faith in the face of the legislation passed by the General Assembly (as signed into law by the Governor of North Carolina) and in light of the amount of time, effort and financial resources expended on the pending transaction. Limited stands ready, willing and able to close the transaction with the Authority, and only the Authority, upon the terms and conditions set forth in the Asset Purchase Agreement finalized and approved by the Authority at its December 8, 2020 meeting. We respectfully request that

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<sup>1</sup> Please note, the December 15, 2020 letter from the Village was sent two weeks *after* the LGC Information Session of December 1, 2020. *Authority working group members that were present at the December 1, 2020 LGC Information Session did not misrepresent the circumstances, context or facts of the situation as has been alleged.*

<sup>2</sup> Noteworthy, is the contrast between the Village’s position stated in its January 19, 2021 letter to the LGC and that put forth in its March 22, 2021 letter to the LGC. On January 19, 2021, the Village states that “the Village supported the formation of the Authority and believes it is a good structure for the long-term ownership and operation of the transportation system assets.” Two months later, in its March 22, 2021 letter to the LGC, the Village declares that the “Village Council is unanimously committed to pursuing the Village’s acquisition of the Transportation System” and “will work closely with the Seller, the Authority and the Local Government Commission to close the transaction quickly.” (emphasis added)

the LGC place this matter on its April 13, 2021 agenda for approval of the Authority's public bond financing which, as previously stated, has received an investment grade rating.

We appreciate your time and consideration of this matter.

Sincerely,

Bald Head Island Limited, LLC



Charles A. Paul, III, CEO

Bald Head Island Transportation, Inc.



Charles A. Paul, III, President

cc: Dale R. Folwell, CPA, Treasurer  
Sharon Edmundson, Deputy Treasurer  
Tim Romocki, Director, Debt Management  
Village of Bald Head Island Council  
    J. Andrew Sayre, Mayor  
    Michael Brown, Mayor Pro Tempore  
    Scott Gardner, Councilor  
    Emily Hill, Councilor  
    Peter Quinn, Councilor  
K. Christopher McCall, Bald Head Island Village Manager  
City of Southport Board of Aldermen  
    Joseph P. Hatem, MD, MPH, Mayor, City of Southport  
    Thomas Lombardi, Alderman  
    Karen Mosteller, Alderman  
    Marc Spencer, Alderman  
    Lora Sharkey, Alderman  
    John Allen, Alderman  
    Lowe Davis, Alderman  
Gordon Hargrove, Southport City Manager  
Brunswick County Board of Commissioners  
    Randy Thompson, Chairman  
    Mike Forte, Vice Chairman  
    J. Martin (Marty) Cooke, Commissioner  
    Pat Sykes, Commissioner  
    Frank Williams, Commissioner  
Randell Woodruff, County Manager, Brunswick County  
Senator William Rabon



Representative Frank Iler

Representative Charles W. Miller

Bald Head Island Transportation Authority Board of Trustees

Susan Rabon, Chair, appointed by NC Governor

Robert Howard, Vice Chair, appointed by Brunswick County

Landon Zimmer, Secretary, appointed by NCDOT

David Jessen, Treasurer, appointed by NC General Assembly

Rex Cowdry, Trustee, appointed by NCDOT and resident of Bald Head Island

Jed Dixon, Trustee, appointed by NCDOT

Paul Cozza, Trustee, appointed by NC General Assembly

Jim Powell, Trustee, appointed by City of Southport

Mayor J. Andrew Sayre, Trustee, Village of Bald Head Island

Mayor Pro Tem Michael Brown, Trustee, Village of Bald Head Island

Claude Pope, Trustee, appointed by Village of Bald Head Island

## Schedule 1

1. From a very early stage, representatives of the Village, including its legal counsel, were kept informed and provided meaningful and substantive input into the drafting of the legislation and full support for passage of Senate Bill 391 and the eventual formation of the Authority itself. By way of example:

### March 2017

Village's Mayor and Mayor Pro Tem and the Village's counsel meet with representatives of Limited for an informational session and detailed presentation on the current structure and operation of the Transportation System and the benefits of formation and consolidating ownership and operation of the Transportation System under a to-be-formed transportation authority.

### March 25, 2017

Counsel to the Village, provides comments and suggested changes to Senate Bill 391 on behalf of the Village.

### April 2017

After public notice and hearing, the Village unanimously passes a "Resolution in Support of Creation of a Ferry Transportation Authority" supporting and calling upon the General Assembly to pass Senate Bill 391. Upon the effectiveness of the legislation, the Village further indicated its intent to conduct a public hearing on a Resolution to Form an Authority and have the Village serve as an incorporator.

### June 7, 2017

Counsel to the Village drafts Articles of Incorporation of the Ferry Transportation Authority, Bylaws, Public Notice and Concurrent Resolution.

### August 18, 2017

After public notice and hearing and providing a timeline, the Village unanimously passes "A Concurrent Resolution Whereby the Village of Bald Head Island, the City of Southport, and the County of Brunswick Signify their Determination to Organize the Bald Head Island Ferry Transportation Authority". Such Resolution, among other things, states that:

**WHEREAS**, the Village, Southport, and Brunswick County are engaging to coordinate and plan for the Authority that will operate a reliable and safe ferry and barge transportation system to transport passengers and freight between Southport and the Village; to provide parking facilities for those passengers on the mainland, and to provide

tram service on the island; to enhance the quality of life, mobility, and circumstances of residents of the Village, Southport, and Brunswick County; and to promote economic development and tourism throughout the Cape Fear region, while protecting and preserving the environment;

**WHEREAS**, the Village, Southport, and Brunswick County have duly afforded the general public, and other interested parties, both public and private, the opportunity to participate in public hearings regarding the formation of the Authority, which public hearings were noticed as required by G.S. 160A-683 and properly conducted pursuant to all applicable laws;

**2. The Village agreed to act as a conduit of funds for the benefit of the Authority, accepting grants to be used for the benefit of the Authority.** Starting with the first Interlocal Agreement on March 16, 2018, the Village entered into a series of Interlocal Agreements with the Authority to provide “certain accounting, administrative, and support services” to the Authority and to “allow the Authority to pay basic operating expenses until such time as the Authority has completed the acquisition of and is operating the System”. The Village financed its obligations to the Authority under these Interlocal Agreements using Grant Funds appropriated by the Village pursuant to G.S. 160A-685(b) for the purpose of supporting “the establishment and operation of the Authority”. The funding was provided to the Village by Limited pursuant to six Funding Agreements, the first of which was signed February 19, 2018. To date, Limited has advanced Grant Funds of \$415,000 to the Village for the express purposes set forth in the Interlocal and Funding Agreements.

**3. On August 21, 1999 the Village and Limited entered into a Right of First Refusal (“ROFR”) relating to parts of the Transportation System and that, by its express terms, would become effective only upon approval of the North Carolina Public Utilities Commission.** In order to facilitate the transaction between the Authority and Limited, the Village executed a termination of the ROFR in August, 2020 to be held in escrow pending the closing of the sale of the Transportation System to the Authority.

**4. Approval of the Board of Trustees has been obtained.** The Board of Trustees of the Authority approved the acquisition of the Bald Head Island Transportation System on December 8, 2020 by a 7 to 4 vote, passed a resolution authorizing the filing of the application for approval of the bond financing for the acquisition of the Transportation System with the LGC and making certain findings as to the feasibility of the financing by resolution passed December 16, 2020 by a 9 to 2 vote. Finally, and more recently, the Trustees of the Authority, by unanimous vote (i.e., an 11 to 0 vote) on March 17, 2021, approved of an update to the Asset Purchase Agreement which resulted in the inclusion of additional land to be acquired from Limited as part of the transaction.