



Mayor

Craig E. Weaver

Council Members

Maryanne Connelly

Daniel Prickett

Klaus Said

Chris Widuch

Town Administrator

Stephanie Monroe Tillerson

**TOWN OF KIAWAH ISLAND
WAYS AND MEANS COMMITTEE MEETING**

Livestreaming via Zoom

July 28, 2020; 2:00 PM

AGENDA

- I. Call to Order:**
- II. Approval of Minutes:**
 - A.** Ways & Means Committee Meeting of May 26, 2020 [Tab 1]
 - B.** Special Call Ways & Means Committee Meeting of July 7, 2020 [Tab 2]
- III. Old Business:**

None
- IV. New Business:**
 - A.** Consideration and Recommendation to Town Council for Approval of the Contract Amendment with Phillips and Jordan [Tab 3]
- V. Chairman's Report:**
- VI. Treasurer's Report:**
 - A.** Review Budget vs. Actuals Report for Fiscal Year 2019-2020 [Tab 4]
- VII. Committee Member's Comments:**
- VIII. Executive Session:**
- IX. Adjournment:**



Tab | 1

WAYS AND MEANS

Agenda Item

TOWN OF KIAWAH ISLAND
WAYS AND MEANS COMMITTEE MEETING
Municipal Center Council Chambers
May 26, 2020; 2:00 PM

Minutes

I. Call to Order: *Chairman Widuch called the meeting to order at 2:00 pm.*

Present at the meeting: Chris Widuch, Chairman
Craig Weaver, Mayor
Dan Prickett, Committee Member
Maryanne Connelly, Committee Member
Klaus Said, Committee Member

Also Present: Stephanie Monroe Tillerson, Town Administrator
Dorota Szubert, Town Treasurer
Stephanie Braswell Edgerton, Communications Manager
Brian Gottshalk, Public Works Manager
Petra Reynolds, Town Clerk

II. Approval of Minutes:

A. Ways & Means Committee Meeting of April 28, 2020

Committee Member Prickett made a motion to approve the minutes of April 28, 2020 Ways and Means Committee Meeting. Committee Member Connelly seconded the motion, and the minutes were unanimously approved.

III. Citizens' Comments: (Agenda Items only)

None

IV. Old Business:

None

V. New Business:

A. Consideration and Recommendation to Town Council for Approval of the Contract Renewal with All South Consulting Engineers

Mr. Gottshalk stated in the event of a hurricane, or another natural disaster the monitoring of debris removal post-disaster provides the required certification for FEMA (Federal Emergency Management Agency) reimbursement. In 2018, The Town of Kiawah entered into an "as needed" emergency debris monitoring contract with All South Consulting Engineers to provide the necessary equipment and personnel to provide accurate monitoring of debris cleanup that meets FEMA monitoring standards.

All South Consulting Engineers are seeking approval of the first one (1) year extension to the current contract along with the inclusion of an alternate price schedule as an option for less significant events, including a smaller staff and a shorter anticipated cleanup effort. This new price schedule does not replace the original but gives the Town two options based on the severity of the disaster.

Committee Member Said made a motion to recommend to Town Council the approval of the Contract Renewal with All South Consulting Engineers. The motion was seconded by Committee Member Said and was unanimously passed.

B. Consideration and Recommendation to Town Council for Approval of the FY 20-21 State ATAX Funding Amounts

Town of Kiawah Island SATAX Funding Recommendations FY 2020-2021									
Category #	Tab #	Project	Applicant Sponsor	2018/2019 Funded Amount	2019/2020 Funded Amount	Estimated Events Attendees	2020/2021 Application Request	SATAX Committee Funding Recommendation	Ways and Means Committee Funding Recommendation
2	5	Events Promotion	Freshfields Village	\$ 15,000	\$ 15,000	25,480	\$ 20,000	11,357.00	
1	6	Marketing & Advertising Promoting Tourism	Freshfields Village	\$ 35,000	\$ 33,000		\$ 55,000	32,071.00	
1	7	Public Access Events	Kiawah Island Golf Resort	\$ 435,000	\$ 435,000	47,800	\$ 435,000	332,143.00	
6	8	2021 PGA Championship	Professional Golfer's Association of America	\$ 120,000	\$ 120,000	246,250	\$ 120,000	120,000.00	
4	9	Beach Patrol	Town of Kiawah Island	\$ 100,000	\$ 100,000		\$ 50,000	48,429.00	
4	10	Charleston County Sheriff Deputies	Town of Kiawah Island	\$ 385,000	\$ 382,000		\$ 191,000	186,000.00	
		Cars of Kiawah	Kiawah Island Motoring Retreat	\$ 10,000	\$ 15,000		\$ -		
		Totals for Year Ending		\$ 1,100,000	\$ 1,100,000		\$ 871,000	730,000.00	\$ -
Total Available for Funding					\$ 860,000		\$ 730,000	730,000.00	\$ 730,000
Total in excess of Funding					\$ (240,000)		\$ (140,000)	-	\$ (730,000)

Chairman Widuch presented funding allocation recommendations from the SATAX (State Accommodations Tax) Committee totaling \$730,000.00. He called attention to a previous discussion of a projected shortfall in the funds collected for allocation to current FY's commitments. Historically the total funding amount was based on projections of future revenues, and during the FY 2020 funding year, the dollar amount budgeted and allocated was greater than the total amount of SATAX revenues generated on the island and received by the Town. The projected \$240,000.00 shortfall has been decreased by current recipients agreeing to reduce any pending reimbursement requests allowing for a predicted total funding amount of \$730,000.00 for FY 20-21.

Chairman Widuch indicated the SATAX Committee discussed translating the dollar figures into a percentage. Consistent with a percentage of the total SATAX funds collected, the funding allocation distribution would not exceed the dollar figure awarded with any excess funding placed in the next year's funding. He noted that it was requested that the final funding commitment for the PGA not be subject to the percentage allocation. Mayor Widuch recommended the development of a policy incorporating a percentage allocation be presented for consideration by the Committee at the next meeting.

Committee members reviewed the funding recommendations from the SATAX Committee, noting that a reduction in the funding was likely due to the limited number of events to be promoted; they tried to stay close to previous funding. Mayor Weaver noted that while overall funding was reduced, the Town initially reduced its request for deputy and beach patrol coverage by 50%. With an additional reduction recommended, the Town shouldered the greatest percentage in loss of funding.

Chairman Widuch made a motion to recommend to Town Council the approval of the recommended FY 2020-2021 SATAX dollar figure amounts and percentage funding up to the recommended amount with any excess fund to be used in the following fiscal year. The motion was seconded by Committee Member Prickett and was unanimously passed.

C. Consideration and Recommendation to Town Council for Approval of the of the Kiawah Island Parkway Landscape Project

Ms. Tillerson stated the Parkway landscape project begins at the roundabout and ends in front of the main gate and had an initial estimated budget of \$750,00.00. Concerns with cost prompted a request that the project be divided into sections;

- **Area 1** - The Roundabout and Freshfields
- **Areas 2 & 3** - The landscape from Freshfields to Mingo Point
- **Area 4** - The landscape from Mingo Point to the main gate

The Parkway Landscape Committee, working with Outdoor Spatial Design (OSD) landscape consultants, produced bid documents that provided the Town with six bids. After reviewing the proposals, the Landscape Committee and OSD recommended going with the lowest bidder, which comes from Artigues at \$616,760.70. Staff then worked with OSD made additional modifications to the project to get the cost at or below \$500,000.00. This amount was included as a placeholder in the FY 20-21 Budget.

Ms. Tillerson indicated that the revisions made to the landscape project would include work in all four sections. Mr. Jordan described some of the modifications that were made to Area 1 and in Area 2, noting that scaling back the work in Area 1 produced most of the cost savings.

Chairman Widuch indicated the recommendation for the approval of the landscape project would be discussed by individual areas following the recommendation for the approval of the contractor.

Committee member Prickett made a motion to approve to Town Council the approval of a contract with Artigues Landscape Group in an amount not to exceed \$500,000.00. Mayor Weaver seconded the motion.

Committee members discussed the selection and qualifications of Artigues Landscape Group along with the installation and repairs of the irrigation system.

Following further discussion, the motion was unanimously passed.

Chairman Widuch began the discussion of each area of the landscape project;

Area 4 – Main Gate to Mingo Point - cost not to exceed \$98,252.35. Chairman Widuch indicated the completion of the work in this area was critical.

Committee Member Connelly made a motion to recommend to Town Council the Kiawah Island Parkway Landscape design in Area Four (4) not to exceed \$98,252.35. The motion was seconded by Committee Member Said and was unanimously passed.

Area 3 – Mingo Point to after Parkway Bridge - cost not to exceed \$96,753.25

Committee Member Prickett made a motion to recommend to Town Council the Kiawah Island Parkway Landscape design in Area Three (3) not to exceed \$96,753.25. The motion was seconded by Committee Member Said and was unanimously passed.

Area 2 –After Parkway Bridge to before Freshfields entrance - cost not to exceed \$281,209.85

Chairman Widuch indicated that this area is the largest and includes the section where the right of way to be landscaped was lost to the new turn lane. He asked if the cost of the area that will no longer be landscaped is known. Mr. Jordan indicated that the cost and if the Town will be landscaping, this area is not known at this time.

Committee Member Said made a motion to recommend to Town Council the Kiawah Island Parkway Landscape design in Area Two (2) not to exceed \$281,209.85. Committee Member Prickett seconded the motion.

Discussion included the opinion that Area 2 did not need the extensive enhancements proposed and held an opportunity for substantial cost savings by only installing sod and irrigation to repair construction damage. Committee members also requested;

- the amount that could be saved by reducing plantings
- the incremental cost that could be incurred if the landscaping was completed at a future time
- the cost of the landscaping that would now be installed on private property
- if the county grant would allow landscaping on the private area

Committee members indicated they were not comfortable supporting the expenditure of \$281,000.00 until more information could be obtained and presented at the Town Council meeting.

Committee Member Said withdrew his motion.

Area 1 – Freshfields and Roundabout

Chairman Widuch indicated that in Area 1, the recommendation is that the four islands surrounding the roundabout would be landscaped with general cleanup in the center and no additional plantings.

Mayor Weaver made a motion to recommend to Town Council the Kiawah Island Parkway Landscape design in Area One (1) as described. Committee Member Prickett seconded the motion.

Committee Member Connelly expressed her concern with not landscaping the center of the roundabout. As the entrance to Kiawah and the first impression for visitors coming for the PGA, she felt the area should be pristine and lush, as described in the design presentation. She asked if there is a cost-saving in Area 2 that it be used to enhance the roundabout in Area 1. The other Committee Members expressed their agreement that at this time, the circle of the roundabout is an area that does not require much work except for the islands which need landscaping.

Following the discussion, the motion passed by a 4 to 1 vote. Committee Member Connelly voted, “No.”

D. Consideration and Recommendation to Town Council for Approval of the of the Fiscal Year 2020/2021 Budget

Ms. Szubert reviewed in detail the changes that were made to the FY2021 Budget Draft presented at April 28th Ways and Means Committee meeting:

1. Increase in the local option, hospitality, state, and local accommodation taxes due to the change in assumptions FY21 collection. Change from 30% to 50% in the first quarter and from 30% to 75% in the second quarter. A total increase in revenue of \$584K.

Mayor Weaver cautioned that while the increase in the revenue assumptions is optimistic, many factors can still have a negative effect.

2. Elimination of CATAX funding from County, a decrease of \$492K.
3. Tourism and Recreation line item increased by \$60K due to the following items:
 - Increase of funding to Promotional Fund of \$78K
 - Increase in funding to SATAX applicants of \$23K
 - Decrease of funding for wildlife projects and research of \$27K
 - Decrease in funding for KI Conservancy of \$14K. The total reduction is 30% of last year funding

4. Decrease of \$200K for KI Parkway landscaping. The total project cost is budgeted at \$500K.
5. Decrease of \$15k in Utilities in Supplies line items. Further analysis of historical utilities cost and proposed new landscaping design help find some cost savings in electricity and water usage. New landscaping with less sod will allow using drip compared to spray irrigation that is more efficient and uses less water.

Chairman Widuch stated that comments on discussion items presented at the last meeting indicated Committee Members had no interest in cutting a deputy from the third shift and no consensus on pay raises. He noted that there would not be any across the board pay raises, but there was a placeholder in the Budget for possible pay raises late in the year.

Ms. Szubert indicated that the Budget was balanced and reviewed the detailed schedules included in the FY20-21 Budget highlighting notable items.

Committee Member Connelly made a motion to recommend to Town Council the approval of the Fiscal Year 2020/2021 Budget. The motion was seconded by Committee member Said and was unanimously passed.

VI. Chairman's Report:
None

VII. Treasurer's Report:
None

VIII. Citizen Comments:
None

IX. Committee Member's Comments:

Committee Member Prickett commended the staff and Chairman Widuch for the hard work that has gone into a very challenging budget.

X. Executive Session:
None

XI. Adjournment:

Mayor Weaver motioned to adjourn the meeting at 3:07 pm. The motion was seconded by Committee Member Connelly and carried unanimously.

Submitted by,

Petra S. Reynolds, Town Clerk

Approved by,

Chris Widuch, Chairman

Date



Tab | 2

WAYS AND MEANS

Agenda Item

**TOWN OF KIAWAH ISLAND
WAYS AND MEANS COMMITTEE MEETING**

**Via Live Streaming
July 7, 2020; 1:45 pm**

Special Call Meeting

Minutes

I. Call to Order: Chairman Widuch called the meeting to order at 1:45 pm.

Present at the meeting: Chris Widuch, Chairman
Craig Weaver, Mayor
Dan Prickett, Committee Member
Maryanne Connelly, Committee Member
Klaus Said, Committee Member

Also Present: Stephanie Monroe Tillerson, Town Administrator
Dorota Szubert, Town Treasurer
Stephanie Braswell Edgerton, Communications Manager
Brian Gottshalk, Public Works Manager
Petra Reynolds, Town Clerk

II. New Business:

A. Consideration and Recommendation to Town Council for Approval of the Contract for Janitorial Services

Mr. Gottschalk stated that maintaining a clean and sanitary work environment is of high importance to Town staff, especially when there is a heightened need to maintain an exceptional level of cleanliness and sanitation in the work areas. The current contract with Summit Cleaning has exhausted the extensions and will expire as of August 1, 2020. An RFP (Request for Proposals) was released for the Municipal Center Janitorial Services and posted on the Town's website, as well as advertised in the Post and Courier. The Town received five bid proposals in response to the request;

Cleaning with Class, LLC	\$2,117.00/Month
Elite Properties of Charleston	\$2,800.00/Month
Melissa Wigger	\$5,200.00/Month
Summit Building Services	\$579.00/Month
Jan-Pro Cleaning Systems*	\$975.00/Month for Option A - based on the Scope of Work as solicited. \$1,478.00/Month for Option B - based off an adjusted scope recommended by the company that calls for more disinfecting and sanitizing due to the pandemic. (Recommended by Jan-Pro)

Mr. Gottshalk indicated that staff requests the Ways and Means Committee recommend to Town Council the approval of awarding the Janitorial Services Contract to Jan-Pro Cleaning Systems based on the recommended Option B Cleaning Schedule along with entering into a one (1) year contract with the option for two (2) one (1) year extensions. The contract would consist of monthly recurring charges of \$1,478.00 along with one time deep clean cost of \$395.00 for an annual cost of \$17,736.00.

Committee members discussed the staff recommendation for the selection of Jan-Pro, the continuation of Option B after the virus threat has subsided, and having the contract include the opportunity for an upgrade or downgrade to the scope of work.

Committee Member Prickett made a motion to recommend to Town Council the approval of awarding the Janitorial Services Contract to Jan-Pro Cleaning Systems based on the recommended Option B Cleaning Schedule. The motion was seconded by Mayor Weaver and was unanimously passed.

III. Adjournment:

Mayor Weaver motioned to adjourn the meeting at 1:55 pm. The motion was seconded by Committee Member Said and carried unanimously.

Submitted by,

Petra S. Reynolds, Town Clerk

Approved by,

Chris Widuch, Chairman

Date



Tab | 3

WAYS AND MEANS

Agenda Item



Request for Ways and Means Committee Action

TO: Ways and Means Chairman and Committee Members

FROM: Brian Gottshalk, Public Works Manager

SUBJECT: Request to Extend Philip and Jordan Contract

DATE: 28 July, 2020

BACKGROUND:

Being a coastal community, The Town of Kiawah Island recognizes the threat of hurricanes annually that can greatly impact the island. Because of this, it is important that The Town has appropriate procedures in place to ensure a speedy recovery after a hurricane or other natural disasters.

ANALYSIS:

The Town has held an “as needed” contract with Philip and Jordan to provide relief to the island after a disaster event. While this contract has not yet been activated, the need to have a group such as Philip and Jordan remains. Our current contract with P&J is primarily for post disaster debris removal, however, there are a number of ancillary resources that come with the contract to include temporary shelter, climate controlled bunks, marine vessels, and a temporary bridge. The contract went into effect in 2015 as a five (5) year contract with the option for two (2) one (1) year extensions.

ACTION REQUESTED:

Town staff requests that the Ways and Means Committee recommend to Town Council that The Town enter into the first extension to the contract with Philip and Jordan.

BUDGET & FINANCIAL DATA:

There is no immediate change to budget or financial data as this is an “as needed” contract and costs will incur should this contract be activated.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
_____)

**AMENDMENT TO
AGREEMENT BETWEEN
THE TOWN OF KIAWAH ISLAND
AND
PHILLIPS AND JORDAN, INC.**

WHEREAS, the Town of Kiawah Island and Phillips and Jordan, Inc. entered into a contract on **September 1, 2015** for the purpose of providing a standby agreement for debris removal in the event of a natural disaster.

WHEREAS, the Town and Phillips and Jordan, Inc. wish to amend said agreement in the following particulars:

1. **TERM:** This agreement term shall be extended for an additional one-year term commencing on September 1, 2020 and expiring on August 31, 2021.
2. **EFFECTIVE DATE:** This agreement shall be effective on September 1, 2020.

All other provisions of the agreement entered into on **September 1, 2015** shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this amendment this 4th day of August, 2020.

WITNESSES

Town of Kiawah Island

By: Craig Weaver
Its: Mayor

Phillips and Jordan, Inc.

By:
Its:

STATE OF SOUTH CAROLINA)

Emergency Debris Removal

COUNTY OF CHARLESTON)

AGREEMENT

THIS AGREEMENT entered into this 1st day of September 2015 between the **Town of Kiawah Island**, South Carolina, a body politic and corporate under the laws of the State of South Carolina (hereinafter "Town") and **Phillips and Jordan, Incorporated**, a North Carolina Corporation, the address of which is 10201 Parkside Drive, Suite 300, Knoxville, TN 37922 (hereinafter "Contractor").

WITNESSETH:

WHEREAS, the Town desires to enter into a standby Agreement for debris removal in the event of a natural disaster, and

WHEREAS, the Town desires to retain a Contractor to remove aforesaid debris, and

WHEREAS, Contractor has represented to the Town that its staff is qualified to provide the work required in this Agreement in a professional, timely manner, and

WHEREAS, the Town has relied upon the above representations by Contractor,

NOW, THEREFORE, in consideration of these promises and of the mutual covenants herein set forth, it is agreed by and between the Parties hereto as follows:

SECTION ONE: Contract Documents

The Parties agree that the contract documents shall include the following, which are incorporated herein by reference:

Exhibit A: Contractor's Proposal

Exhibit B: Satellite Data Service and Budgetary Pricing

Exhibit C: Base Camp Services and Cost Schedule

Exhibit D: Agreement to Honor Original Terms

SECTION TWO: Term

Town hereby contracts with the Contractor for this Standby Agreement to provide those debris removal and hauling services specified herein upon the terms and conditions hereinafter stated for the period of five (5) years starting on the date first written above. This Agreement may be renewed for two additional one (1) year periods, for a total contract period not to exceed seven (7) years. Any request for a price increase must be made at least sixty (60) days prior to the anniversary date of the contract, or sooner if so requested by the Town. The annual review would include considerations for fuel costs, and changes in the FEMA or State guidelines. All price increases will be based on the CPI for the Southeastern Region for the month of July. Any request will be evaluated prior to exercising the option to extend. The Town will be the sole judge as to whether any price increase will be approved.

Attention is called to the fact that the work set forth in this Agreement, if required, will be urgently needed by the Town and that time is of the essence due to the involvement of FEMA and other factors.

SECTION THREE: Scope of Services

Contractor shall provide debris clean-up, loading and hauling services from the Town of Kiawah Island as described in this Agreement and in the attached exhibits in a professional and timely manner. Other services may be added to this contract if mutually agreed upon by the Town and Contractor.

SECTION FOUR: Notice to Proceed

The successful Offeror shall not commence any work under this contract until he has received a formal written Notice to Proceed from the Town.

The Contractor shall commence performance within twenty-four (24) hours from the Notice to Proceed. Contractor is not to proceed without coordinating project with the Town Administrator or his authorized representative. Failure to comply with this requirement shall give the Town the right, but not the obligation, to carry out the Work, or any portion thereof with its own forces, or with the forces of another vendor, and the Contractor shall be fully responsible and liable for the additional costs of the Town or another vendor performing such work.

The Contractor will not be issued a Notice to Proceed unless an actual emergency occurs and their services are required. If a natural disaster occurs requiring activation of the contract, the Contractor will be notified of the situation and be given an estimated amount

of debris for removal, and a time frame for completion of the contract.

Completion time will be equitably negotiated by both parties pursuant to applicable State and Federal law.

SECTION FIVE: Compliance by Contractor

Contractor shall comply with all applicable Federal, State and local laws, ordinances, and rules and regulations including but not limited to any laws, ordinances or regulations relating to FEMA, South Carolina Department of Transportation throughout the duration of this Agreement. The Contractor shall be responsible for compliance with any such law, ordinance, rule or regulation, and shall hold the Town harmless and indemnify same in the event of non-compliance.

The Contractor specifically agrees to conduct its business in accordance with all FEMA rules and regulations. The Contractor shall comply with FEMA's rules and regulation(s) requiring the Contractor to give first priority to utilizing resources in the Disaster Area, including but not limited to, procuring supplies and equipment, awarding subcontracts, and employing workmen.

The Contractor specifically warrants and represents that it is not on any FEMA list of debarred contractors.

The Contractor agrees to abide by the requirements under Federal Executive Order Number 11246, as amended, including specifically, the provisions of the equal opportunity clause.

SECTION SIX: Contractor's Warranties and Representations

Contractor warrants and represents that it will use best efforts to provide above described services in a professional, efficient manner and that its employees are well qualified to provide the services required in this Agreement.

SECTION SEVEN: Liquidated Damages

Contractor agrees that if the work, or any part thereof is not completed within the time agreed upon in this solicitation or any extension thereof: the contractor shall be liable to the Town of Kiawah Island in the amount of \$1,000.00 per day for each and every calendar day the completion of the work is delayed beyond the time provided in this solicitation, as fixed and agreed liquidated damages and not as a penalty; and the Town of Kiawah Island shall have the right to deduct from and retain out of monies which may be

then due or which may become due and payable to the contractor, the amount of such liquidated damages; and if the amount so retained by the Town of Kiawah Island is insufficient to pay in full such liquidated damages, the contractor shall pay to the Town of Kiawah Island the amount necessary to effect payment in full of such liquidated damages.

SECTION EIGHT: Bid Performance and Payment Bonds

1) The successful Offeror shall provide a Bid Bond or alternate security, in the amount of Five Hundred Thousand Dollars (\$500,000). Either cash, money order, certified check, an irrevocable letter of credit or submission of a Bid Bond completed and signed by all required parties and submitted on the Town's Bid Bond is required. This Bid Bond will remain in effect for a period of five (5) years from the effective date of the contract.

2. Performance and Payment Bonds must be provided, in a form satisfactory to the Town (see attached Town of Kiawah Island Bonds), in the following amounts within three (3) days of the issuance of a Notice to Proceed:

Payment Bond: based upon the "best available information" estimate of the volume of debris. The Payment Bond shall be solely for the protection of the persons furnishing materials or performing labor for which a contractor or subcontractor is liable.

Performance Bond: based upon the "best available information" estimate of the volume of debris.

The Contractor shall submit a request for payment for the premium cost of these initial Performance and Payment Bond penal sum amounts, with the first Contractor invoice submitted for work performed and accepted by the Town.

3. In order that the Town make payment only for the actual, final premium cost of the penal sums of the performance and Payment Bonds, the Contractor shall submit a final invoice for payment for services performed. The final invoice will indicate the original contract amount and the final contract amount with the Performance and Payment Bonds premium cost associated with the difference. This could result in an additional charge or in a refund depending upon the final contract amount. The Town shall pay the Contractor or the Contractor shall refund the Town the difference between the actual premium associated with the final penal sum amount of the Performance and Payment Bonds and the premium associated with the initial Performance and Payment Bonds paid with the first invoice.

4. At the completion of all work under the Notice to Proceed, the Performance and Payment Bonds shall be released.

5. The aforesaid Bonds must be issued by a corporate surety registered and authorized to do business in South Carolina and must be counter-signed by a licensed, authorized South Carolina agent.

6. Attorneys-in-fact who sign Bid, Payment and Performance Bonds must file with each bond a certified and effective, dated copy of their power of attorney.

7. The Contractor may submit Payment Bond and Performance Bond by facsimile transmittal; however, the original documents must be received within three (3) business days after the issuance of the Notice to Proceed.

SECTION NINE: Compensation and Payment Terms

Contractor agrees that no compensation shall be paid by the Town unless a natural disaster occurs requiring the activation of this Contract through the issuance of a Notice to Proceed.

Town agrees to pay Contractor for the performance of the Work described in this Agreement, including all items necessary to accomplish and complete the Work, in accordance with all terms and conditions which is attached hereto and previously incorporated by reference in Exhibits A-C.

Contractor shall submit itemized monthly invoices for work in progress and equipment delivered on site to the address below. All such invoices will be paid promptly, less ten percent (10%) retainer, by the Town unless any items thereon are questioned, in which event payment will be withheld pending verification of the amount claimed and the validity of the claim. Contractor shall provide complete cooperation during any such investigation.

Invoices shall be submitted to the following address:

Town of Kiawah Island
Attn: Treasurer
21 Beachwalker Drive
Kiawah Island, SC 29455

Contractor shall be paid a final payment upon completion of the Work which shall be paid upon final acceptance by the Town's authorized representative.

SECTION TEN: Retention of Records

The Contractor agrees to maintain for three (3) years from the date of final FEMA reimbursement, or until all other pending matters are closed under this Agreement, whichever is later, all books, documents, papers, and records pertinent to this Agreement. The Town shall notify the Contractor of the final FEMA reimbursement. The Contractor agrees to provide to the Town of Kiawah Island, any Federal grantor agency, the Comptroller General of the United States, any State grantor agency, any assignee, or any of their duly authorized representatives access to such books, documents, papers, and records for the purpose of examining, auditing, and copying them. The Contractor further agrees to include these provisions in any subcontracts issued by him in connection with this Agreement.

SECTION ELEVEN: State and Local Taxes

Except as otherwise provided, contract prices shall include all applicable state and local taxes;

If applicable, two percent (2%) income tax withholding shall be withheld from each and every payment pursuant to Sections 12-8-540 and 12-8-550 of the *South Carolina Code of Laws* (1976, as amended) for certain out-of-state contractors, and such sums will be remitted to the South Carolina Department of Revenue and Taxation (the "SCDRT"). When and if Town receives an executed SCDRT form 1-312, Nonresident Taxpayer Registration Affidavit

Income Tax Withholding, such withholding shall cease.

Contractor shall calculate that portion of the contract which is subject to the seven percent (7%) South Carolina sales and/or use tax, which amount shall be itemized and shown on all invoices, and shall be paid to the SCDRT by Contractor. If Contractor is a non-South Carolina Company, the Town will withhold said amount from all invoices and remit payment to the SCDRT, unless Contractor furnishes Town with a valid South Carolina Use Tax Registration Certificate Number.

Contractor shall indemnify and hold harmless the Town for any loss, cost, or expense incurred by, levied upon or billed to the Town as a result of Contractor's failure to pay any tax of any type due in connection with this Agreement.

SECTION TWELVE: Independent Contractor

Contractor is an independent contractor and shall not be deemed the agent or employee of the Town of Kiawah Island for any purpose whatsoever. Contractor shall not hold himself

out as an employee of the Town of Kiawah Island, and shall have no power or authority to bind or obligate the Town of Kiawah Island in any manner, except the Town of Kiawah Island shall make payment to Contractor for services and expenses as herein provided. Contractor shall obtain and maintain all licenses and permits required by law for performance of this Agreement by him or his employees, agents, and servants. Contractor shall be liable for and pay all taxes required by local, State or Federal governments, including but not limited to Social Security, workmen's compensation, Employment Security, and any other taxes and licenses or insurance premiums required by law. No employee benefits of any kind shall be paid by the Town of Kiawah Island to or for the benefit of Contractor or his employees, agents, or servants by reason of this Agreement.

SECTION THIRTEEN: Indemnification

Except for expenses or liabilities arising from the negligence of the Town, the Contractor hereby expressly agrees to indemnify and hold the Town harmless against any and all expenses and liabilities arising out of the performance or default of this Contract *as follows*:

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

SECTION FOURTEEN: Insurance Requirements

Contractor shall at all times during the term of this Agreement carry insurance as required

in Exhibit A which is attached hereto and previously incorporated by reference. The Town shall not issue a Notice to Proceed until Contractor has submitted acceptable insurance certificate(s) and endorsement(s), which must be submitted within five (5) business days after issuance of the Notice of Award, and which reflect that the required coverage's are in place and that all premiums have been paid. Refusal or failure to submit such certificate(s) or endorsement(s) shall constitute grounds for the Town to revoke its notice of award and award the contract to another contractor. The Town may contact the Contractor's insurer(s) or insurer(s)' agent(s) directly at anytime regarding Contractor's coverages, coverage amounts, or other such relevant and reasonable issues related to this Agreement.

SECTION FIFTEEN: Assignments or Subcontracts

The Contractor shall not assign in whole or in part this Agreement without the prior written consent of the Town of Kiawah Island. The Contractor shall not assign any money due or to become due to it under said contract without the prior written consent of the Owner.

No subcontracts shall be allowed without the prior written approval of the Town. The Contractor shall not contract with a proposed person or entity to whom the Town has made reasonable and timely objections. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable and timely objection.

Contractor shall remove or cause to have removed from the project any employee or employees who are considered unsatisfactory by the Town.

Contractor assumes the responsibility for assuring that his working forces are compatible with Town employees and Contractor is responsible for making himself aware of those forces. Contractor will furnish a competent representative who is to be kept available to represent the Contractor for the purpose of receiving notices, orders and instruction.

SECTION SIXTEEN: Other Contracts

Contractor understands that related clean-up work will be undertaken by Town Staff and the Kiawah Island Community Association. Contractor shall fully cooperate with such other contractors and Town of Kiawah Island employees and carefully fit his own work to such additional work as may be directed by the Town Administrator or his designated representative. Contractor shall not commit or permit any act which will interfere with the performance of work by any other contractor or by Town of Kiawah Island employees.

SECTION SEVENTEEN: Contractor's Responsibilities

Contractor shall be responsible for any and all damages that occur during the performance of this contract. Contractor shall take proper safety and health precautions to protect work, workers, public and property of others.

Contractor is responsible for all services performed by a subcontractor. Responsibilities include compliance with regulations promulgated by South Carolina's General and Mechanical Contracting Act as enforced by the South Carolina Licensing Board for Contractors.

Contractor shall be responsible for all work performed until completion and acceptance of the entire project.

Contractor shall be responsible for strict compliance with the Town Tree Ordinance, if applicable.

SECTION EIGHTEEN: Work Week Schedule

The Contractor's work week shall be seven days per week from dawn to dusk.

SECTION NINETEEN: Inspection and Acceptance

All work shall be subject to inspection by the Town of Kiawah Island, The Town's Debris Monitoring Firm, and FEMA representatives at all reasonable times and places prior to acceptance. Any such inspection is for the sole benefit of the Town of Kiawah Island and shall not relieve contractor of the responsibility of complying with the contract requirements. No inspection by the Town shall be construed as constituting or implying acceptance. Inspection shall not relieve contractor of the responsibility for damage or loss prior to acceptance, nor in any way affect the continuing rights of the Town of Kiawah Island after acceptance of the completed work.

Contractor shall, without charge, correct any work found by the Town of Kiawah Island not to conform to the solicitation requirements, unless the Town of Kiawah Island consents to accept such work with an appropriate adjustment in contract price.

SECTION TWENTY: Suspension of Work

The Town Administrator may order suspension of the Work in whole or in part for such

time as he deems necessary because of the failure of the Contractor to comply with any of the requirements of this Agreement, and the Agreement's completion date shall not be extended on account of any such suspension of Work.

When the Town Administrator orders any suspension of the Work under the subparagraph above, the Contractor shall not be entitled to any payment for Work with respect to the period during which such Work is suspended and shall not be entitled to any costs or damages resulting from such suspension.

SECTION TWENTY-ONE: Termination

A. For Convenience

The Town Administrator, by advance written notice, may terminate this Agreement when it is in the best interests of the Town of Kiawah Island. If this Agreement is so terminated, the Contractor shall be compensated for all necessary and reasonable direct costs of performing the work actually accomplished. The Contractor will not be compensated for any other costs in connection with a termination for convenience. Contractor will not be entitled to recover any damages in connection with a termination for convenience.

B. For Default

If the Contractor refuses or fails to perform the work or any separable part thereof in a timely or workmanlike manner in accordance with the Contract Documents, or otherwise fails, in the sole opinion of the Town Administrator of the Town, to comply with any of the terms and conditions of the Contract Documents deemed, in the sole opinion of the Town Administrator, to be material such refusal or failure shall be deemed a default under this Contract. In the event of a default under this section, the Town shall have the right to terminate forthwith this contract by written notice to the Contractor. In the event of such default, the advance notice period for termination is waived and the Contractor shall not be entitled to any costs or damages resulting from a termination under this section.

Whether or not the Contractor's right to proceed with the Work is terminated, it and its sureties shall be liable for any damage to the Town of Kiawah Island resulting from Contractor's default. Any wrongful termination for default shall be deemed by the parties a termination for convenience.

C. Termination for Non-Appropriation of Funds

The Town Administrator or Town Treasurer, by written advance notice, may terminate this Contract in whole or in part in the event that sufficient appropriation of funds from any source (whether a Federal, State, Town or other source) are not made or sufficient funds are otherwise unavailable, in either case, to pay the charges under this Contract. If this Contract is so terminated, the Contractor shall be compensated for all necessary and reasonable direct costs of performing the Work actually provided to the date of such termination. The Contractor will not be compensated for any other costs in connection with a termination for non-appropriation. Contractor will not be entitled to recover any damages in connection with a termination for non-appropriation, including, but not limited to, lost profits.

D. Rights Cumulative

The rights and remedies of the Town provided in this section are in addition to any other rights and remedies provided by law or under this Contract.

SECTION TWENTY-TWO: Gratuities and Kickbacks

A. Gratuities.

It shall be unethical for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept, or agree to accept from another person a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation or any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter pertaining to any program requirement of a contract or subcontract, or to any solicitation or proposal therefore.

B. Kickbacks.

It shall be unethical for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor, or to hire any subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

C. Note: *Violation of this clause may result in contract termination.*

SECTION TWENTY-THREE: Modification

The Town has the right to modify this Agreement, within the general limits of the scope of work, when said modification is in the best interest of the Town, provided however, Contractor is given written notice of any such modification and Town is responsible for paying Contractor for any additional expenses incurred by Contractor which relate to said modification. Subject to the above, Contractor is obligated to perform the revised contract when so directed by the Purchasing Agent. Agreement fees or prices will be equitably adjusted where an issued change order so demands.

No claim by the Contractor for an adjustment hereunder shall be allowed if asserted after final payment under this Agreement.

SECTION TWENTY-FOUR: Conditions Affecting the Work

By signing this contract, Contractor affirmatively states that it has taken steps reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work or the cost thereof: Any failure by Contractor to have done so will not relieve him from responsibility for successfully performing the work without additional expense to the Town of Kiawah Island. The Town of Kiawah Island assumes no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to the execution of this contract, unless such understandings or representations by the Town of Kiawah Island are expressly stated in this contract.

SECTION TWENTY-FIVE: Town's Designated Representatives

In the event that any questions or problems arise in the course of performing this Contract, Contractor shall immediately contact one or more of the following Town representatives:

Mayor	(843) 768-9166
Town Administrator	(843) 768-9166
Town Treasurer	(843) 768-9166

SECTION TWENTY-SIX: Default of Contract

Failure to satisfactorily perform the services required by this Agreement will be grounds for the Town to declare the Contractor in default and terminate this Contract, provided however, Contractor has been provided twenty-four (24) hours to cure any default. However, Contractor shall not be provided a twenty..four (24) hour remedy period after the thirtieth (30~ day following the issuance of the Notice to Proceed.

SECTION TWENTY-SEVEN: Controlling Law

The laws of South Carolina shall govern this Agreement. All litigation arising under said Agreement shall be litigated only in a nonjury hearing in the Circuit Court within the Ninth Judicial Circuit of Charleston County, Charleston, South Carolina. Upon approval of the Circuit Court, any such action shall be referred to the Master-m-Equity for Charleston County. The prevailing party shall be entitled to recover attorneys fees and the costs of said litigation.

SECTION TWENTY-EIGHT: Order of Precedence

In the event of an inconsistency in this Agreement, the inconsistency shall be resolved in the following order:

- A. This Agreement
- B. Exhibits A - D

SECTION TWENTY-NINE: Notices

Whenever any provision of this contract requires the giving of written notice, it shall be deemed to have been validly given if delivered by person or by registered mail to the following: Town of Kiawah Island, Attention: Town Administrator, 21 Beachwalker Drive, Kiawah Island, SC 29455

SECTION THIRTY:

Entire Contract

This Agreement constitutes the entire understanding and agreement between the Parties.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement under their several seals the day and year first written above.

WITNESSES FOR CONTRACTOR:

(1) Valerie W. Holder

(2) Willie Brea

Phillips and Jordan, Inc.

[Signature]



By: John West

Its: Vice President

WITNESSES FOR TOWN:

(1) Mary Johnson

(2) Pete S. Reynolds

Town of Kiawah Island

Charles R. Lipuma

By: **Charles R. Lipuma**

Its: **Mayor**



Tab | 4

WAYS AND MEANS

Agenda Item



Memorandum

TO: Chair and Members of Ways and Means Committee

FROM: Dorota Szubert, Town Treasurer

SUBJECT: Budget Report for the Twelve Months Ended 6/30/2020

DATE: 7/28/2020

Overview:

Presented here is the Town's Balance Sheet as of June 30, 2020 and Budget to Actual Report for the 2020 fiscal year. The Budget to Actual Report is compiled on the cash basis and all the funds are consolidated.

As of June 30, 2020, the Town's governmental funds combined have ending fund balance of approximately \$20M, a decrease of approximately \$1.3M from June 30, 2019. Of this amount approximately 47%, or \$9.3M is available for spending at the Town's discretion (unassigned fund balance).

For the fiscal year 2020 the Town's consolidated revenues of approximately \$8.7M were lower than budgeted about \$1.8M. This significant shortfall in majority of the revenue sources has been expected due to COVID19 pandemic. The restriction placed on rentals, retail businesses and restaurants in the 4th quarter affected collection of the revenues generated by tourists and residents, such as accommodation hospitality and local option sales taxes. Additionally, as the special projects on the Island have been on hold and we are experiencing slowdown in the construction activity. The building permits revenue is also affected and lower than budgeted. The other revenues include few unbudgeted one-time revenues, such as \$180K for FEMA reimbursement for clean up after hurricane IRMA and \$50K for Webster Rogers settlement. The numbers presented today don't include June collections that will bring approximately additional \$500k in various revenue sources.

Overall, the expenditures for the fiscal year 2020 are approximately \$10M and about \$2M higher than budgeted. Although, many of the expenditures are in line with the budget few line items contribute to this overage and have a negative variance:

- Consulting cost is approximately \$157K over the budget due to HR&A contract being approved after budget adoption and the engineering contracts for KI Parkway resurfacing with McCormick Taylor and Dennis Co being higher than budgeted.
- Capital Outlay cost is 1.6M over the budget. This overage relates to KI Parkway resurfacing project. The construction is funded from capital reserves.
- STR Code Enforcement cost is a new line item, approved in December 2019, after budget adoption. This cost is offset by the STR license application fees.
- Unbudgeted cost for cleanup cost after hurricane Dorian in the amount of approximately \$765K.

The negative variances are partially offset by the positive variance in Tourism and Recreation cost attributable to reduction in SATAX and CVB funding.

Town of Kiawah Island

Balance Sheet - Governmental Funds

Unaudited

Modified Cash Basis

June 30, 2020

	GENERAL FUND	SPECIAL FUNDS COMBINED	CAPITAL FUND	TOTAL FUNDS
ASSETS				
Cash and Cash Equivalents	\$ 9,571,329		\$ -	\$ 9,571,329
Cash and Cash Equivalents, Restricted	-	7,867,132	3,970,941	11,838,073
Accounts Receivable	83,595	-	-	83,595
Prepaid Item	86,830	-	-	86,830
TOTAL ASSETS	9,741,754	7,867,132	3,970,941	21,579,826
LIABILITIES				
Accounts Payable and Accrued Liabilities	289,720	41,555	887,970	1,219,245
Municipal Court Fines and Assessments Payable	7,390	-	-	7,390
Unearned Revenue	4,821	240,000	-	244,821
TOTAL LIABILITIES	301,931	281,555	887,970	1,471,456
DEFERRED INFLOWS OF RESOURCES				
Unavailable Revenue	139,305	-	-	139,305
TOTAL DEFERRED INFLOWS OF RESOURCES	139,305	-	-	139,305
TOTAL LIABILITIES AND DEFERRED INFLOWS OF RESOURCES	441,236	281,555	887,970	1,610,761
FUND BALANCES				
Restricted:				
Tourism Related Expenditures & Capital Improvements	-	7,562,279	3,082,971	10,645,249
Victims' Assistance	-	23,298	-	23,298
Unrestricted	9,300,518	-	-	9,300,518
TOTAL FUND BALANCES	9,300,518	7,585,577	3,082,971	19,969,065
TOTAL LIABILITIES, DEFERRED INFLOWS OF RESOURCES, AND FUND BALANCES	\$ 9,741,754	\$ 7,867,132	\$ 3,970,941	\$ 21,579,826

Town of Kiawah Island
Budget to Actuals
For the Twelve Months Ended 6/30/20
Modified Cash Basis /Unaudited

<u>Revenue:</u>	YTD ACTUALS	FY 20 BUDGET	VARIANCE	FY19 ACTUALS
Building Permits	\$ 880,309	1,121,173	\$ (240,864)	\$ 987,649
Building Permits/Special Projects	-	650,000	(650,000)	263,197
Business Licenses	2,341,635	2,333,980	7,655	2,535,128
STR Application Fees	362,177	-	362,177	-
Franchisee Fees	753,083	882,588	(129,505)	857,732
Local Option Tax	476,633	572,128	(95,495)	585,738
State ATAX	1,074,647	1,695,198	(620,551)	1,713,500
Local ATAX	639,820	1,037,993	(398,173)	967,051
County ATAX	354,000	492,000	(138,000)	484,000
Hospitality Tax	416,033	588,866	(172,833)	576,884
Environmental Services	598,315	566,000	32,315	551,180
Interest	361,788	345,000	16,788	432,733
Other	422,361	180,000	242,361	383,715
Total Revenue	8,680,801	10,464,926	(1,784,125)	10,338,507
<u>Expenses:</u>				
Salaries/Regular Employees	1,228,786	1,231,833	3,047	1,178,337
Overtime	4,452	4,200	(252)	2,091
Benefits	372,028	381,710	9,682	409,321
Payroll Tax	97,417	124,874	27,457	124,831
Employee Subtotal	1,702,683	1,742,617	39,934	1,714,580
Public Safety/Payroll and Related/ Off Duty Deputies	460,563	491,645	31,082	505,544
Public Safety/CCSO Contract	499,694	502,748	3,054	60,422
STR Code Enforcement	144,289	-	(144,289)	-
Utilities & Supplies	178,178	243,200	65,022	175,920
Advertising	6,990	4,500	(2,490)	10,112
Communications	51,585	49,688	(1,897)	50,046
Waste Management	1,022,496	1,058,000	35,504	1,040,707
Insurance	117,745	139,721	21,976	107,781
Professional Services	134,439	140,000	5,561	121,815
Consultants	475,463	318,000	(157,463)	118,524
Maintenance	444,050	467,520	23,470	470,686
Travel	29,273	56,500	27,227	25,421
Rentals	36,575	41,000	4,425	33,730
Tourism & Recreations	1,476,023	1,948,771	472,748	1,796,997
Contributions	150,155	150,000	(155)	150,000
Other	290,642	251,033	(39,609)	132,464
Capital Outlay:				
Infrastructure	1,575,913	-	(1,575,913)	446,397
Vehicles	35,839	30,000	(5,839)	58,251
Other	21,571	6,000	(15,571)	10,816
Debt Service	366,854	362,378	(4,476)	366,507
Unbudgeted /Storm Cleanup	765,046	-	(765,046)	49,514
Total Expenses	9,986,066	8,003,321	(1,982,745)	7,446,234
<u>Net Changes in Fund Balance</u>	\$ (1,305,265)	\$ 2,461,604	\$ (3,766,869)	\$ 2,892,273

Additional revenues/expenditures to be accrued at 6/30/2020