

**CITY OF MULLINS
STATE OF SOUTH CAROLINA**

**ORDINANCE 19-007 "AN ORDINANCE TO APPROVE A
TRANSACTION CONCERNING THE DONATION OF REAL
PROPERTY IDENTIFIED AS A PORTION OF MARION COUNTY
TAX MAP NUMBER 404-01-03-000000"**

WHEREAS, the City of Mullins, South Carolina, is a municipal corporation and political subdivision of the State of South Carolina; and

WHEREAS, the City Council of the City of Mullins is the duly elected governing body of the City; and

WHEREAS, Council is vested with the authority to sell and dispose of real property owned by the City pursuant to Title 6 of the South Carolina Code of Laws, 1976, as amended; and

WHEREAS, the City is the owner of that certain parcel of real property located on the North side of E. Academy Street in the City of Mullins, identified as Tax Map # 404-01-03-000000, and

WHEREAS, the City has agreed to give to The Pee Dee Community Action Head Start;

1. Such property is strongly desired by The Pee Dee Community Action Head Start for the development of an education center, if successful, will provide certain benefits to the community through the promotion, conducting and hosting of educational programs and activities.
2. The education center, if successful, will serve as a catalyst to further growth and development in the City as well as increased quality of life enhancement and community vitality.

WHEREAS, Council considered the following information in support of its determination to approve transfer of the 3.1 Acres of Property to Pee Dee Community Action Head Start as part of this transaction: The E Academy Property is currently owned by the City and is vacant; the Property does not generate any property tax or business license revenue for the City; it is the belief of Council that operation of an education center on the E Academy Street Property will improve the character of the neighborhood and increase positive activity and growth in the community; and Council anticipates an active education center will increase property values in the surrounding neighborhood and areas; and

WHEREAS, the City is cognizant that its authority to dispose of real property is limited by a fiduciary duty to act in the best interest of the public.¹ The City has a fiduciary duty to receive consideration or "reasonably equivalent value" in exchange for its sale or conveyance of real property.² In determining what constitutes "reasonably equivalent value," a municipality is not limited to considering the monetary value received for the property but may also "consider indirect benefits resulting to the public in determining what is a fair and reasonable return for disposition of its properties...."³ While direct monetary consideration is not being given for the conveyance of the E Academy Property, the foregoing consideration, including the indirect benefits, are more than sufficient to the City to validate and confirm the Proposed Transaction

¹ *Haesloop v. City Council of Charleston*, 115 S.E. 596, 600 (S.C. 1923).

d.

Quoting *McKinney v. City of Greenville*, 203 S.E.2d 680, 688 (S.C. 1974).

WHEREAS, The City is further mindful of and has considered the requirements of *Nichols v. South Carolina Research Authority*, 290 S.C. 415, 351 S.E.2d 155 (1986) and *WDW Properties v. City of Sumter*, 342 S.C. 6, 535 S.E.2d 631 (2000), wherein public purpose of the proposed incentives to Pee Dee Community Action Head Start determined by the following four-part test:

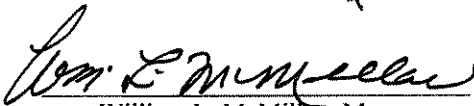
(1) what is the ultimate goal or benefit to the public intended by the project; (2) are public parties or private parties the primary beneficiaries; (3) is the benefit to the public speculative; and (4) what is the probability that public interest shall be served and to what degree. The City, in negotiating with the Pee Dee Community Action Head Start, has determined that the Proposed Incentives complies with the objective provisions of the Byrd Test.

WHEREAS, based upon the foregoing, Council has deemed the Proposed Transaction as equitable and favorable for the City.


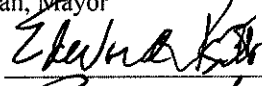
NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MULLINS ASSEMBLED

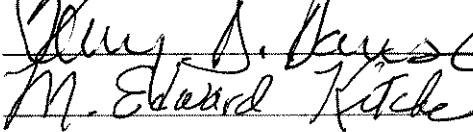
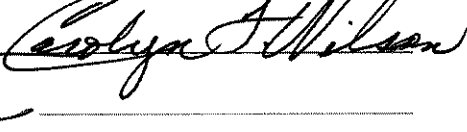
SECTION 1: The City, acting through the City Administrator, is hereby authorized to complete the Proposed Transaction. The City Manager is further authorized to execute any and all deeds, instruments, affidavits, agreements and/or other documents which may be necessary to effectuate the transfer of the said parcels of real property and complete the Proposed Transaction.

SECTION 2. In connection with the Proposed Transaction, any actions previously undertaken by the City Administrator, Council or City staff in connection with the negotiation of the Proposed Transaction prior to the enactment of this Ordinance are ratified and confirmed. Further, the City ratifies, confirms and approves all of the findings of fact established hereinabove.



William L. McMillan, Mayor

M. Edward Kitch

FIRST READING: 9/10/19

SECOND READING: 10/8/19

Robert Corley, City Attorney

ATTEST:

Felicia J. Sawyer, City Clerk