Bald Head Island Limited, LLC
c/o Charles A. Paul, III, CEO
P. O. Box 3069
Bald Head Island, North Carolina 28461
Email: cpaul@bhisland.com

September 28, 2022

VIA HAND DELIVERY
Village of Bald Head Island
c/o Peter Quinn, Mayor
106 Lighthouse Wynd
Bald Head Island, NC 28461

RE: Right of First Refusal dated August 21, 1999 (the "1999 Agreement")

Dear Mayor Quinn:

I am responding to your letter of September 20, 2022 from the Village of Bald Head Island (the "Village") to Bald Head Island Limited, LLC and Bald Head Island Transportation, Inc. (collectively "Sellers"). As you are fully aware, Sellers have entered into a binding, definitive Asset Purchase Agreement dated May 17, 2022 (the "APA"), with SharpVue Capital, LLC ("SharpVue") and its affiliated entities. For convenience, capitalized terms used but not otherwise defined in this letter will have the meanings ascribed to such terms in the APA.

The period to exercise the right of first refusal expires on November 7, 2022. I want to make it clear that Sellers will vigorously challenge any attempt by the Village to assert that the September 6, 2022 letter (the "ROFR Letter") did not provide the requisite notice required by the 1999 Agreement. The delivery of the APA, the related Schedules and Disclosure Schedules to the Village, along with the ROFR Letter itself, clearly and unequivocally fulfilled all of the notice and information requirements relating to the Village's purposed right of first refusal under the 1999 Agreement.[1] To support the $56,000,000 purchase price set forth in the ROFR Letter for the Transportation System (as defined in the 1999 Agreement), I have attached Schedule 2.3 to the APA, which sets forth the proposed purchase price allocation and methodology. While the specific allocation among classes of assets remains subject to final agreement of Sellers and SharpVue, the total consideration to be allocated to and paid by SharpVue to acquire the Transportation System will not change from the $56,000,000 purchase price set forth in the ROFR Letter. In addition, and for purposes of clarity, the secondary offer set forth in footnote

[1] By delivering a full copy of the APA, the related schedules and the Notice and Acceptance with the ROFR letter, Sellers provided the Village with (1) the Transportation System assets (see schedules referenced in Section 1.1 of APA), (2) identified SharpVue and its affiliates as the parties making the offer contained in the APA, (3) provided the purchase price of $56,000,000 for the Transportation System assets (see ROFR Letter), as well as the full set of conditions of sale embodied throughout the APA, and (4) the closing date and the Outside Date (see, among others, Articles 3 and 11 of the APA). In fact, Sellers provided the Village substantially more information than the Village was entitled to receive under the 1999 Agreement, such as providing information regarding the RWI Policy, the Holdback Amount, the Deductible and the full indemnity obligations of the parties, thereby giving the Village an opportunity to make a fully informed decision as to its decision to exercise or not exercise any purported rights under the 1999 Agreement.

1 of the ROFR Letter was outside the scope of the 1999 Agreement, was gratuitously extended by Sellers, and did not diminish in any manner the effectiveness of the notice provided under the ROFR Letter.

With regard to the Village's request for all appraisals, reports and studies in our possession, Sellers will not provide such proprietary information to you as the 1999 Agreement does not require such delivery. However, subject to the Village's compliance with the next paragraph, Sellers will provide the Village appropriate access to facilities in order for the Village to conduct, at the Village's sole cost and expense, physical inspections, appraisals and other due diligence.

I will reiterate a point that I have personally mentioned to you and that Sellers expressly made clear in the ROFR Letter to the Village. Should the Village fail to resolve the North Carolina Utilities Commission proceeding on regulating parking and barge (referenced as the "Village Litigation" in the APA) prior to the October 10, 2022 scheduled hearing and to the sole satisfaction of Sellers, and thereafter attempt to exercise the right of first refusal and become a party to the APA, the Village will be **incapable** of satisfying a material closing condition for Sellers' benefit in Section 8.7 of the APA. An intentional refusal to satisfy a material closing condition within the Village's exclusive control would constitute a willful breach of the APA, thereby resulting in the Village's forfeiting its deposit and subjecting it to substantial damages for acting in "bad faith" for the purpose of interfering with a binding agreement between Sellers and SharpVue.

The APA contains no financing contingency for the benefit of the buyer. In light of past statements by the North Carolina State Treasurer and State Auditor, the Village should be prepared to provide clear evidence, at the time of exercise of the purported right of first refusal, that it has adequate sources of financing available to close on the transactions contemplated by the APA in the time frames outlined in the ROFR and the APA.

In light of the Village's past and deliberate actions to block a previous sale of the transportation system by Sellers to the Bald Head Island Transportation Authority (the "Authority"), Sellers share the belief of the Authority and SharpVue that the Village has consistently engaged in conduct for the purpose of delaying, hindering or blocking the sale to the Authority and now SharpVue. The Village communications uncovered through discovery, as well as the attached letter of September 30, 2021 from Messrs. Blau and Carey to the LGC (highlights added) and public presentations made by the Village, clearly support that position. Why else would the Village, having agreed previously to terminate its purported right of first refusal to acquire the system for $47,750,000, now express interest in acquiring the same assets for $56,000,000, when bond issuance costs and interest rates are considerably higher and after the Village has expended considerable public funds attempting to have the NCUC regulate a system that would not be regulated if the Village acquires it. Both the Authority and SharpVue have advised Sellers that, notwithstanding the ROFR Letter, they have reserved and retained all rights to pursue any and all legal and equitable remedies directly against the Village by reason of its conduct (including, without limitation, challenging the enforceability of the 1999 Agreement without prior NCUC approval).

Sincerely,

Bald Head Island Limited, LLC

By: _____
Charles A. Paul, III, CEO

Bald Head Island Transportation, Inc.

By: _____
Charles A. Paul, III, President

cc: Senator William Rabon
Representative Frank Iler
Representative Charles W. Miller
Lee Roberts, Managing Partner SharpVue Capital, LLC
Bald Head Island Transportation Authority Board of Trustees, c/o Susan Rabon, Chair
Brunswick County Board of Commissioners, c/o Patricia Sykes, Chair
City of Southport Board of Aldermen, c/o Mayor Joe Pat Haten
Bald Head Island Association, c/o Robert Drumheller
Charles Baldwin, Esq.

Attachment 1

See attached letter dated September 30, 2021 to
The Honorable Dale R. Folwell, CPA from Robert T. Blau and J. Paul Carey

September 30, 2021

The Honorable Dale R. Folwell, CPA
North Carolina State Treasurer

The Honorable Beth A. Wood, CPA
North Carolina State Auditor

Dear Treasurer Folwell and Auditor Wood:

We are writing with a modest proposal for resolving the on-going dispute over the Bald Head Island Transportation Authority's (BHITA) proposal to acquire the BHI ferry transportation system (System) from its current owner, Bald Head Limited (BHL) for $47.75M, and to finance the deal through a $56.1M revenue bond issue. For reasons highlighted in our July 21 letter, and subsequent developments including a second highly flawed real estate appraisal conducted for the BHITA, we continue to believe that LGC approval of BHITA's revenue bond issue will result in BHITA over-paying for the System, thereby harming System users who will bear the cost of servicing that debt through significantly higher ferry, parking, and barge fees (e.g., **20% higher according to BHITA's bond application**), and by subjecting Bald Head Island and the State to unnecessary default risk.

As you know, the Village of Bald Head Island (Village) has voiced similar concerns about BHITA's proposed deal with BHL, and has asked the LGC to approve a $52M general obligation (GO) bond issue that it would use to acquire the System and operate it as a municipally-owned, unregulated public utility going forward. The Village's bond application does not explicitly indicate how much of its $52M bond issue would be used to pay BHL, in part because the Village believes that some of that debt capital may be needed to pay for capital improvements to the System that BHL has neglected in recent years.

Like BHITA, the Village does not know what the System would likely sell for if placed on the open market. Figuring that out would require that independent business valuation experts be given access to prior-year financial statements for the System which BHL has refused to disclose publicly. As a consequence, both BHITA and the Village have focused on how much public debt either could borrow, in order to pay BHL, and obtain LGC approval of their respective bond applications. The Village notes further that because it would borrow less capital than BHITA (i.e., $52M vs. $56.1M) at a lower interest rate (i.e., by issuing GO bonds vs. BHITA's revenue bonds), its annual debt service costs also would be significantly lower which, of course, would be paid for through smaller increases in ferry, barge, and parking fees.

Under North Carolina law, the Village's GO bond issue must be approved by a majority of BHI voters. They will have that opportunity in the upcoming municipal election on November 2.

Recently, members of the LGC were copied on coordinated, back-to-back letters from the Mitchell Family Corporation, which owns BHL, and the Bald Head Association (BHA) Board of Directors to the Mayor of Bald Head Island opposing the sale of the System to the Village. Since the Village's purchase price may end up being less than BHITA's $47.75M offer, depending on immediate capital spending needs and, hopefully, a better understanding of what the transportation System might actually be worth, BHL and the Mitchell Family Corporation understandably favor BHITA's bond proposal over the Village's.

In an effort to curry support on the island for BHITA's offer, BHL has stated, at least publicly, that it will not sell the System to the Village. And that if the LGC does not immediately approve BHITA's $56.1M revenue bond issue, the Mitchell Family Corporation will "pursue a competitive sale process for the disposition of the

remaining operation that we have relating to Bald Head Island, to include ferry, parking, and barge and transportation-related real estate assets."[1]

BHA's Board of Directors apparently interprets this to mean that if BHITA's bond application is not approved soon, the System will be broken up and BHL's ferry, parking and barge operations would be sold to the highest commercial bidder. An outcome the BHA Board asserts would be "a disaster for our members," and unfair to the Mitchell Family Corporation who current BHA Board members expressly regard as "the owners, financial providers, and developers of our island paradise."[2]

Remarkably, the BHA Board of Directors letter goes on to note:

> In a business world situation, people may negotiate for months, or years, litigate, appeal and treat it like a chess game or 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 for 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.[3]

Apparently, the BHA Board does not care that BHITA is asking the LGC to approve a bond issue that, including interest paid on $56.1M of public debt, will cost the 2,000 or so property owners on BHI upwards of $100M over the next 30 years. $100M that will be in addition to what it will cost to keep the transportation System running, in good working order. Similarly, were the System to fall into the financial tank, and further disrepair, because either BHITA or the Village borrowed more debt than the System can comfortably handle, the BHA Board apparently doesn't care what might happen to property values on the island, or to BHI as a resort community more generally.

While somewhat embarrassing, all of this, in our view, is nothing more than thinly veiled posturing designed to: 1) frighten BHI voters into opposing the Village's bond referendum; and 2) pressure the LGC into approving BHITA's bond application, thereby effectuating BHL's rent-seeking, sales-price-maximization scheme that we detailed in our July 21 letter to you.

Accordingly, we would like to offer the following modest suggestion that, we believe, would help break through this current turtle jam. **Given circumstances surrounding the disposition of BHL's transportation assets, certainly including the need to find a new owner/operator, the LGC should inform BHITA and the Village that it will finalize its review of their respective bond applications if, but only after, BHL has publicly disclosed prior-year financial statements that are essential to determining how much the transportation System might actually be worth.**

A very basic problem underlying this entire process has to do with the fact that after nearly five years of deliberation between BHL, BHITA and, more recently, the Village, the transportation System's fair market value remains a mystery. This is unfortunate since the mystery has bred a considerable amount of fear and mistrust among BHI property owners -- all because BHL has not been required to disclose prior-year financial data that are essential to estimating the System's fair market value as a going concern which, for the sake of BHI, it better be. As a consequence, the LGC is now being asked to approve one of two bond applications that ostensibly are based on two highly flawed real estate appraisals done for BHITA, and two detailed cash flow

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[1] See September 15, 2021 letter from the Mitchell Family Corporation to J. Andrew Sayre, Mayor, Village of Bald Head Island, p. 1.
[2] See September 24, 2021 letter from Bald Head Association Board of Directors to The Honorable J. Andrew Sayre, Mayor, Village of Bald Head Island, p. 2.
[3] *Ibid*

projections that estimate how much public debt either BHITA or the Village could conceivably borrow, in order to pay BHL, while maintaining an investment grade bond rating.

We continue to believe this is an inexcusable situation, particularly given that either BHITA or Village would finance the acquisition of BHL's transportation assets – in their entirety -- using tax-exempt public debt; public debt that would be: a) paid for by raising unregulated user fees for monopoly ferry, parking and barge services, and b) backed, or effectively guaranteed, by the State in the case of BHITA's revenue bonds, or some combination of the State and local property taxpayers in the case of the Village's GO bonds.

In our view, the use of tax-exempt public debt for this purpose should come with conditions. One of those conditions should involve protecting taxpayers against unnecessary default risk. Because default risk underlying either BHITA's or the Village's proposed bond issues will necessarily go up with the amount of debt that either BHITA or the Village ends up borrowing, in order to pay BHL, the LGC should insist that BHL's prior-year financial data for the System be publicly disclosed and vetted as a condition for the LGC reviewing either of the bond applications. Failing that, either BHITA's or the Village's bond issues will likely be significantly higher than they need to be and, thus, will carry unnecessary default risk.

If BHL prefers not to disclose its financial data publicly, it would remain perfectly free to sell the System to another commercial operator who, no doubt, would insist on reviewing these same data. BHL would make that data available subject to the would-be buyer's willingness to sign the same type of non-disclosure agreement (NDA) that members of the BHITA Board of Trustees erroneously agreed to sign.

Unlike a commercial buyer, however, BHITA Board members should not have signed BHL's NDA precisely because in acquiring BHL's System with 100 percent public debt financing, they were putting taxpayer money at risk, not their own. Similarly, once they did sign the NDA, BHL's prior-year financials and the System's actual financial performance were effectively excluded from BHITA's valuation process simply because those data could not be used in BHITA's real estate appraisals or its bond application since that would have resulted in the data being disclosed. Instead, and by its own admission, BHITA and its financial advisors were left to focus exclusively on how much public debt it could borrow to pay BHL and obtain LGC approval.[4]

Were BHITA to end up defaulting on its bond payments, because it borrowed more than the System could handle, members of the BHITA Board of Trustees also knew that they could simply walk away, knowing that the LGC would step in and clean up the mess. Similarly, were the Village to over pay for the System and get into financial trouble as a result, elected members of the BHI Village Council might get tossed out of office, but they too would be held financially harmless. If, on the other hand, a commercial buyer purchased the system and subsequently defaulted on debt used to finance its deal with BHL, a bankruptcy judge would take whatever was left of the owner's equity and give it to the owner's creditors.

The latter difference is obviously very significant to any price negotiation between a buyer and a seller. In this instance, the difference also is of considerable potential value to BHL. Claims to the contrary, BHL will not refuse to disclose its prior-year financials should the LGC insist on it. BHL may object, but it will comply. It will do so simply because it understands that either BHITA or the Village will pay a significantly higher price for the System than BHL could obtain from a commercial buyer. This would be true if the System were sold as a going concern, or broken up, as BHL has threaten to do, and its ferry, parking and barge operations were sold separately to one or more commercial operators.

There are two basic reasons why either BHITA or the Village could and would pay considerably more for the System than a commercial buy(s). First, if either BHITA or the Village acquires the System, the BHI passenger

[4] See BHITA response to LGC "must answer" Question 10 in BHITA's July 6, 2021 letter to LGC.

ferry, which accounts for roughly 60 percent of the System's annual operating revenues, would no longer be regulated. If sold to another commercial operator, the passenger ferry would remain regulated by the NC Utilities Commission and the price of ferry tickets would remain pretty much were they are today. Were that to occur, the System as a whole would generate far less cash flow going forward and, thus, would be worth less to any would-be commercial operator(s). Second, because neither BHITA or the Village would be putting their own investment capital at risk, their incentives or insistence in getting the System's purchase price down to its fair market value would be considerably less acute or focused than those of a commercial operator who would be putting his/her own capital at risk.

BHL, and the Mitchell Family Corporation, understand this perfectly well and will sell the System, as a going concern, to the Village should the LGC favor the Village's bond application's over BHITA's. It will do so simply because the Village could and would outbid any commercial buyer(s).

For its part, BHITA has expressed no willingness to reconsider its $47.75M offer price to BHL, or its proposed $56.1M bond issue. As explained in our July 21 letter, BHITA's offer represents the highest price it could possibly pay BHL, and finance through an investment grade, state-backed revenue bond issue. The practical consequences of the LGC approving BHITA's current bond application, therefore, would be twofold: 1) privatize the transportation System's future unregulated monopoly profits that would immediately accrue to BHL, and the Mitchel Family Company, pretty much in their entirety, thru an inflated $47.75M purchase price; and 2) socialize the added financial/default risk that would result from BHITA borrowing $56.1M through a bond issue rated BBB- (one notch above junk) and, in doing so, tapping out its ability to raise more debt capital should unanticipated capital spending requirements arise, which they likely will.

As a matter of public policy, there is absolutely nothing fair, economically efficient, or, in our view, responsible about this type of wealth transfer. Quite to the contrary. Economists refer to it as a dead weight loss for a reason. It would be far better if either BHITA or the Village figured out the System's fair market value, borrowed only what is needed to pay BHL that amount, and got on with making much needed improvements to the BHI transportation System.

Respectfully yours,

Robert T. Blau, CFA
5 Starrush Trail, BHI

J. Paul Carey
611 Currituck Way, BHI

cc: Honorable Ronald Penny, NC Secretary of Revenue
Honorable Elaine Marshall, NC Secretary of State
Honorable Mike Philbeck, NC Speaker of House
Mr. Joshua Bass
Ms. Viola Harris
Mr. Scott Padgett
Mr. Edward Munn
Ms. Sharon Edmundson, NC Deputy Treasurer
Mr. Timothy Romocki, Director, Debt Management, NC Department of State Treasurer
Ms. Susan Rabon, Chair, Bald Head Island Transportation Authority
Mr. J. Andrew Sayre, Mayor, Village of Bald Head Island

Attachment 2

Schedule 2.3
Allocation Methodology

Type of Asset	For Supplemental Businesses and Related Assets of BHIL	For Non-Regulated Business and Related Assets of BHIL and For Regulated Business and Related Assets of BHIT
Class I (Cash and general Deposits)	**50% of Operating Cash**	**50% of Operating Cash**
Class II (Actively-traded personal property)	None	None
Class III (Debt instruments and A/R)	None	None
Class IV (Inventory)	BHIL's actual cost	BHIL's actual cost
Class V (All other assets)	Fair market value based on an independent valuation to be obtained by Buyer, subject to reasonable approval of Sellers and Buyer	Fair market value based on an independent valuation to be obtained by Buyer, subject to reasonable approval of Sellers and Buyer
Class VI (Section 197 Intangibles)	Fair market value at Closing as mutually agreed between Sellers and Buyer	Fair market value at Closing as mutually agreed between Sellers and Buyer
Class VII (Goodwill and going concern value)	Balance, if any	Balance, if any
	$11,200,000	**$56,000,000**