

SCANNED

DATE 7-8-08  
BY ABMayer

1 STATE OF SOUTH CAROLINA  
2 COUNTY OF HORRY  
3  
4  
5

6 This Facilities Joint Use And Ownership Agreement (hereafter "Agreement"),  
7 dated as of this 1<sup>st</sup> day of MAY 2008, is entered into between the  
8 School District of Horry County (hereafter "District") and the City of Myrtle  
9 Beach (hereafter "City").

10  
11 WITNESSETH:

12  
13 WHEREAS, the City and District each own an undivided one-half interest in  
14 Doug Shaw Memorial Stadium; and

15  
16 WHEREAS, the City owns Field F, and parking facilities for Doug Shaw Memorial  
17 Stadium, and the District owns Fields D, E, and G, the High School Practice  
18 Field, the Miracle League Field, and the Tennis Center; and

19  
20 WHEREAS, the City and District have enjoyed the cooperative use of Doug Shaw  
21 Memorial Stadium and other athletic facilities covered under this agreement  
22 for the mutual benefit of the City, the District, and the greater Myrtle Beach  
23 community for over 40 years; and

24  
25 WHEREAS, the parties desire to continue to work cooperatively to maximize the  
26 use, community benefit, and economic return of these facilities for the  
27 students, citizens, and taxpayers; and

28  
29 WHEREAS, the City and District desire to enhance Doug Shaw Memorial Stadium  
30 and its facilities; and

31  
32 WHEREAS, the City and District desire to memorialize their agreement as to  
33 how Doug Shaw Memorial Stadium and other athletic facilities will be used  
34 cooperatively and in good faith, in the best interests of the people of the City  
35 and District; and

36  
37 WHEREAS, the City and District acknowledge that the shared ownership, cost of  
38 improvements, and use of Doug Shaw Memorial Stadium and other athletic  
39 facilities are good and valuable consideration for the respective promises and  
40 obligations of each herein.

41  
42 NOW THEREFORE, in consideration of the premises and intending to be legally  
43 bound, the parties agree as follows:  
44

1 1. Facilities - This Agreement covers the following facilities, which are  
2 depicted on an aerial photograph and described in the legend, both of  
3 which are incorporated into this Agreement as Attachment A:

- 4
- 5       ▪ Doug Shaw Memorial Stadium
- 6       ▪ Parking Facilities for Doug Shaw Memorial Stadium
- 7       ▪ Fields D, E, F, and G
- 8       ▪ High School Practice Field
- 9       ▪ Miracle League Field
- 10      ▪ Tennis Courts

11

12 2. Terms and Renewal.

13

14       2.1 Doug Shaw Memorial Stadium - This Agreement shall be in effect  
15 throughout the shared ownership of Doug Shaw Memorial Stadium.

16

17       2.2 All other facilities - This Agreement shall be in effect through June  
18 30, 2057, except as provided in Paragraph 11 herein.

19

20       2.3 Renewal - The Agreement shall renew automatically for additional  
21 one (1) year terms unless either party gives written notice of their intent  
22 not to renew at least one (1) year in advance of the applicable  
23 termination date.

24

25 3. General Agreement - The parties generally agree to apply these joint  
26 venture facilities guidelines flexibly and reasonably in order to maximize  
27 benefit to the public, and accommodation of the other. As co-owners of  
28 Doug Shaw Stadium, and cooperative governmental partners acting in  
29 benefit of public health, safety and welfare, each party is expected to  
30 continue to make reasonable exceptions and modifications to the guidelines  
31 to accommodate the goals and needs of the other party in this general  
32 recreational area.

33

34 4. Priority of Use - The use of each facility shall be determined in the priority  
35 shown below, from first-listed to last-listed, provided that no use may be  
36 scheduled during school hours at any facility wholly owned by the District,  
37 other than the Tennis Center as described herein below, without the  
38 District's permission. To ensure priority, each use, other than District  
39 postseason games and District or City make-up games, should be scheduled  
40 at least thirty (30) days prior to the date in question in the manner provided  
41 for in Section 5, though the parties also agree to otherwise schedule all uses  
42 as far in advance as reasonably possible. The parties agree to work  
43 cooperatively to re-schedule make-up events at the first opportunity most  
44 preferable to the party whose event must be rescheduled.

45

46

- 1            4.1 Doug Shaw Stadium, Field F
- 2            4.1.1 High school and middle school preseason, regular season,
- 3            and postseason games, tournaments, and jamborees for
- 4            sports recognized by the South Carolina High School
- 5            Athletic League.
- 6            4.1.2 High school and middle school practices up to three (3)
- 7            hours per day (if needed)
- 8            4.1.3 City recreation league uses
- 9            4.1.4 All other District or City uses
- 10          4.1.5 Public walking, jogging.
- 11
- 12          4.2 High School Practice Field and Field G
- 13          4.2.1 Any District use
- 14          4.2.2 Any City use with the District's permission, which shall not
- 15          be unreasonably withheld or otherwise cause the City's use
- 16          to diminish below the frequency of use for the twelve (12)
- 17          months prior to this agreement
- 18
- 19          4.3 Field D and Field E
- 20          4.3.1 Any District use during school hours
- 21          4.3.2 High school and middle school practices up to three (3)
- 22          hours per day (if needed)
- 23          4.3.3 City recreation league uses
- 24          4.3.4 All other District or City uses
- 25
- 26          4.4 Miracle League Field
- 27          4.4.1 Any activity of the Miracle League
- 28          4.4.2 Any activity proposed by a civic group or school and
- 29          approved by the District that benefits individuals with
- 30          physical handicaps
- 31          4.4.3 Any District use
- 32          4.4.4 City recreation league uses
- 33          4.4.5 All other District or City uses
- 34
- 35          4.5 Tennis Center - The public will be allowed to use open courts that
- 36          are not needed during MBHS and MBMS matches, practices and P.E.
- 37          activities.
- 38          4.5.1 Scheduled MBHS and/or MBMS matches.
- 39          4.5.2 Three-hours/day for scheduled practices of MBHS or MBMS
- 40          (if needed).
- 41          4.5.3 Scheduled City recreational uses.
- 42          4.5.4 Scheduled tournaments and special events.
- 43          4.5.5 Unscheduled District or City uses when available
- 44
- 45          5. Scheduling - The City, through its City Manager, and District, through its
- 46          Superintendent, shall appoint a designee to coordinate the use of all

1 facilities and to review and approve requests of the other party when such  
2 requests are contemplated by this agreement. The parties shall specify an  
3 electronic mailing address through which the designee may be contacted.  
4 Each designee shall notify the other designee of any desired use as soon as  
5 reasonably possible. For purposes of determining priority under Section 4,  
6 notice must be sent via electronic mail to the address designated according  
7 to this Section. For this reason, any informal coordination must be  
8 confirmed by electronic mail. In the case electronic mail failure, any form  
9 of recorded actual notice will be acceptable. Each designee shall be  
10 responsible for keeping his own calendar, though designees are encouraged  
11 to exchange calendars at least monthly to avoid scheduling errors.  
12  
13

14 6. Improvements by the District -  
15

16 The District is responsible for aligning Doug Shaw Stadium, HS Practice  
17 Field, Tennis Center, Field "F" and Field "E" with District Standards and  
18 sustaining that alignment once achieved. Nothing in this agreement shall be  
19 interpreted to require the District to improve any covered facility beyond  
20 District Standards.  
21

22 District Standards are expected to continually evolve over the term of this  
23 agreement. With respect to the facilities listed above, the District agrees  
24 to construct and sustain the same general level of amenities as are typically  
25 provided by the District at similar facilities throughout the District. In this  
26 regard these amenities should be similar in terms of use, compliance with  
27 applicable federal and State regulations, size, and quality as those generally  
28 found at other District-owned facilities. The most current standards are  
29 attached as Attachment B.  
30

31 The District shall not be required to provide facilities at this location  
32 comparable to those paid for or provided through local cash or in-kind  
33 donations in other locations. To the degree that such private donations are  
34 typically matched by District contribution, however, that same level of  
35 contribution shall be available for local match for similar facilities within  
36 the area covered by this agreement.  
37

38 Upon execution of this agreement the District agrees to make the following  
39 improvements to attain current District standards in the area covered by  
40 this agreement:  
41

- 42 6.1 Field earthwork and irrigation
- 43 6.2 Field events repair and replacements
- 44 6.3 Grandstands maintenance, including press box and handicapped  
45 access upgrade
- 46 6.4 Lighting upgrades

- 1           6.5 New eight-lane asphalt track with perimeter drain and demolition of
- 2           existing
- 3           6.6 New goal posts
- 4           6.7 Demolition of existing visitor's seating and new visitor's seating.
- 5

6           With respect to the improvements listed above, the District shall pay the  
7           City an amount as determined by the cost of construction established by the  
8           construction, professional design, engineering and/or construction  
9           management services contracts. The amount of such payment shall not  
10          exceed the budget set forth in Attachment C without the written consent of  
11          the District.

- 12
- 13 7. Improvements by the City - The City, at its own expense, may improve any
- 14          facility covered by this Agreement provided that such improvements meet
- 15          or exceed the District's standards and that the District's approval, which
- 16          shall not be unreasonably withheld, is first obtained with respect to
- 17          improvements contemplated for Doug Shaw Stadium, or wholly owned
- 18          District facilities. The City shall ensure that all improvements it makes will
- 19          be maintained at or above the District's standards. Should the City
- 20          subsequently choose to abandon any improvement, the respective facility
- 21          must be restored to meet or exceed the District's Standard at the City's
- 22          expense. At a minimum, the City shall pay for the cost of installation of an
- 23          artificial playing surface at Doug Shaw Memorial Stadium and of installing a
- 24          synthetic track surface at this location.
- 25
- 26 8. Maintenance - The City shall maintain all facilities covered under this
- 27          agreement. The District shall reimburse the City the average cost of
- 28          maintaining comparable facilities in other District schools within sixty (60)
- 29          days after the end of the District's fiscal year. For the purpose of this
- 30          calculation the District shall exclude the costs of maintenance on High
- 31          School Baseball Fields and gymnasiums since those facilities are not covered
- 32          in this agreement.
- 33
- 34 9. Utilities - The City shall pay utilities for Doug Shaw Memorial Stadium, Field
- 35          D, Field E, Field F, and the Miracle League Field. The District shall pay
- 36          utilities for the High School Practice Field, Field G, and the Tennis Center.
- 37
- 38 10. Insurance - The City and District shall each maintain independent liability
- 39          insurance sufficient to cover claims for tort liability as provided by the
- 40          South Carolina Tort Claims Act. Any tort liability pursuant to the South
- 41          Carolina Tort Claims Act of the City and/or District shall be apportioned as
- 42          provided by S.C. Code Ann. 15-78-100(c). Additional property and casualty
- 43          insurance covering the cost of repair or replacement of all facilities shall be
- 44          maintained by the City, one-half (50%) the premium of which shall be
- 45          reimbursed by the District within thirty (30) days after being paid by the
- 46          City. The parties may agree to obtain and pay the cost of additional limits,

1 endorsement, or coverages as they may determine are proper, by  
2 subsequent mutual agreement.

3  
4 11. Facility Parking, Revenue, and Fees

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6 11.1 Parking - The City shall make the parking facilities adjacent to  
7 Doug Shaw Memorial Stadium available to the District at no cost for all  
8 District uses including District rentals of its facilities to a third party  
9 pursuant to § 11.3. This provision shall be binding upon any successor in  
10 interest to the parking lot in question.

11  
12 11.2 Concessions - The District, either directly or through a District-  
13 approved organization whose purpose is the support of District programs,  
14 has the right of first refusal to provide concessions at District uses, and  
15 the City has the right of second refusal. The City has the right of first  
16 refusal to provide concessions for non-District uses, and the District or  
17 District-approved organization whose purpose is the support of District  
18 programs has the right of second refusal.

19  
20 11.3 Facility rental - With the approval of both the City, through its City  
21 Manager or designee, and the District, through its Superintendent or  
22 designee, any of the facilities may be rented to a third-party according  
23 to specific terms memorialized by a separate agreement. The City shall  
24 not unreasonably withhold such approval with respect to District uses,  
25 and the District shall not unreasonably withhold such approval with  
26 respect to City uses.

27  
28 11.4 Facility revenue - The District will receive all revenues, including  
29 but not limited to gate admissions, concessions, broadcasting rights, and  
30 sponsorships from events scheduled by the District. District revenues  
31 may be used at the District's discretion.

32  
33 The City will receive all revenues as described above from all events  
34 scheduled by the City. The City will place all such net revenues into a  
35 "Facilities Maintenance and Replacement Fund" to be used to replace the  
36 artificial turf and synthetic track when the initial warranty period  
37 expires. The City may use these revenues at the City's discretion when  
38 the amount held by the City in this fund equals or exceeds the amount  
39 required for the replacement of the artificial turf and the synthetic  
40 track.

41  
42 11.5 Fees - Neither the City nor the District will be charged by the other  
43 for the use of any of the facilities under this Agreement.

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1 12. Sale or Transfer of Facilities; Termination

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12.1 Sale or transfer of facilities - If either the City or District seek to transfer any part of its ownership interest in any of the facilities under this Agreement, including either party's one-half interest in Doug Shaw Memorial Stadium property, the other party to this Agreement shall have the right of first refusal to meet the price expressed in a *bona fide* contract of sale entered into by the selling party (which contract shall contain a contingency clause citing this provision of this Agreement), if the party exercising its right of first refusal irrevocably pays ten percent (10%) of the sales price to the seller or into an escrow account within thirty (30) calendar days of its receipt written notice of the contemplated transfer, and tenders the remainder of the purchase price within ninety (90) days of receipt of such written notice.

12.2 Termination - If either the City or District transfers its one-half interest in the Doug Shaw Memorial Stadium property, whether to the other party or a third party, the Agreement shall immediately terminate and City and District shall, within ninety (90) days of termination, remit to each other any accrued revenue or expenses then owed under this Agreement.

12.3 Parties' Right to Remove Wholly-Owned Facility - Either party may unilaterally limit the scope of this Agreement by removing any facility it wholly owns from this Agreement when the use of that facility must be materially changed. In such case, all remaining terms of the Agreement shall remain in force.

The intent of a party to remove such a facility from this agreement must be evidenced by an executed construction contract for a facility or structure occupying the area in which the facility to be removed from the scope of this agreement is now located.

13. General Provisions

13.1 Effective Date - This agreement shall be effective upon execution of this agreement or upon execution of a document creating joint ownership of Doug Shaw Stadium, whichever takes place last.

13.2 Modification - This Agreement may not be amended except by jointly executed writing.

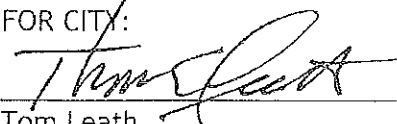
1            13.3 Assignment - The rights and obligations of this Agreement are not  
2 assignable except as provided herein.


3  
4            13.4 Mediation - Any dispute arising under this Agreement that cannot  
5 be resolved by mutual agreement must be submitted to mediation  
6 before an agreed-upon neutral third party as a condition precedent to  
7 any civil action arising from this Agreement, except an application for  
8 equitable relief in exigent circumstances.  
9


10        14. Master Plan Agreement - To facilitate effective joint use of the Area and  
11 review of evolving District Standards, the District and the City agree to  
12 cooperate in the preparation of a Master Plan within one year of execution  
13 thereof. The District and City also agree to update this Master Plan every 5  
14 years thereafter.

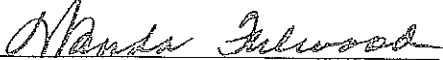
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16        15. Oversight Committee - The City Manager and District Superintendent shall  
17 appoint two members each to an oversight committee, which will review  
18 annually the performance of Agreement and make recommendations for  
19 modification or other action as appropriate. The committee shall prepare  
20 and present to the District and the City an annual report describing the use  
21 of and recommendations relating to the facilities included in this  
22 agreement. The committee shall also prepare and present the Master Plan  
23 described above to their respective bodies for approval.  
24

25        IN WITNESS WHEREOF, we the duly authorized undersigned representatives of  
26 the City and District have set our hands and seals as of the date first printed  
27 above.

28  
29        FOR CITY:  
30              
31            \_\_\_\_\_  
32        Tom Leath  
33        City Manager  
34

30        FOR DISTRICT:  
31              
32            \_\_\_\_\_  
33        Will Garland  
34        Board Chairman

35        Witnessed by:  
36              
37            \_\_\_\_\_  
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35        Witnessed by:  
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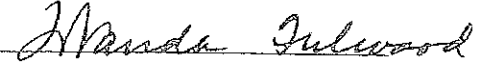
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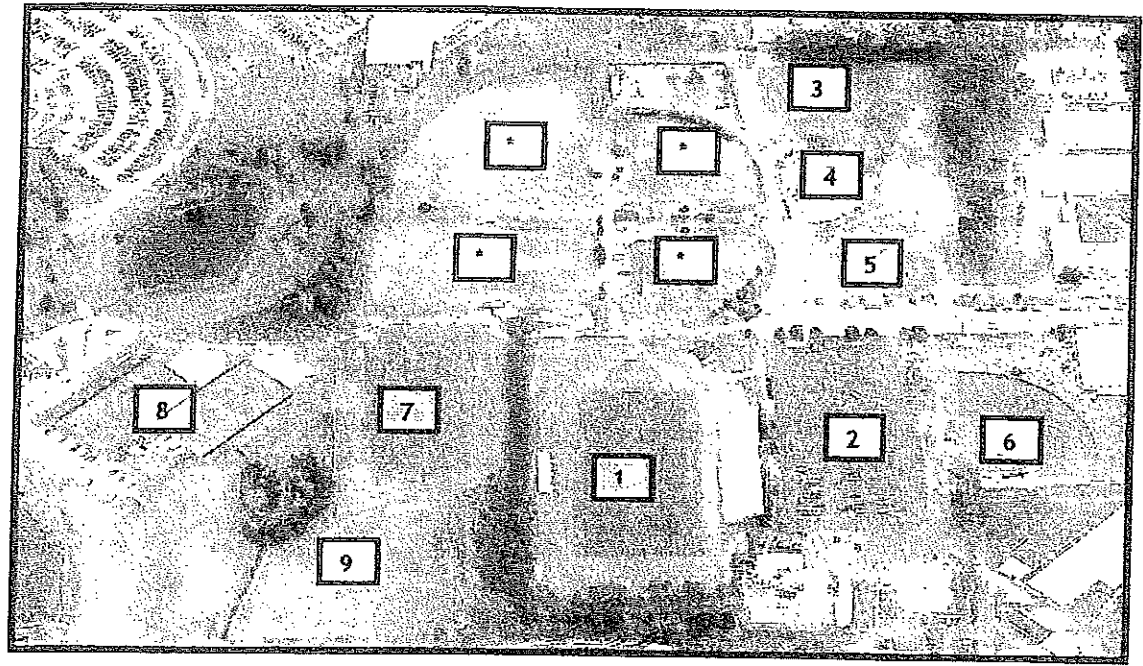
  
\_\_\_\_\_  
Dr. Bobby Nalley  
Acting Superintendent

Witnessed by:

  
\_\_\_\_\_

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### Facilities Covered Under Agreement



Legend:

- 1. Doug Shaw Stadium
- 2. Doug Shaw Stadium Parking Lot
- 3. Field "D"
- 4. Miracle Field
- 5. Field "E"
- 6. Field "F"
- 7. High School Practice Field
- 8. Tennis Center
- 9. Field "G"

\* Fields Not Included in Agreement.

HORRY COUNTY SCHOOL DISTRICT  
MINIMUM STANDARDS FOR ATHLETIC FACILITIES

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<b><u>SPORTS:</u></b>	<i>Fall</i>	<i>Winter</i>	<i>Spring</i>
	Football	Basketball	Baseball
	Cross Country	Wrestling	Softball
	Girls Tennis	Cheerleading	Soccer
	Volleyball		Track
	Cheerleading		Boys Tennis
			Golf

FOOTBALL

- Seating Requirements
  - All seats should be constructed of aluminum or concrete
  - Seating capacities adequate for first round of playoffs
 

AAAA	4,000
AAA	3,500
AA	2,300
A	1,000
- Grading
  - 1 percent grade (minimal)
- Drainage
  - Water must run to designated drainage areas off the playing surface and away from stadium
- Irrigation
  - All heads must be even or below playing surface.
  - Each head coverage shall overlap another zone.
  - Entire playing surface must have coverage.
- Sod
  - Fields must have grass, which covers the entire playing surface
  - If grass is going on a new field or grass is being replaced, Bermuda 419 should be used.
- Press Box
  - Adequate space to accommodate the following: Home and Away crews (two per team), clock judge, announcer, and spotter. A fence or rail must surround the top of the press box.
- Concession Stand
  - Shall include a concession area in the front with bathrooms on each side

- 1           • Area between bathrooms will be used for locker room on game nights,  
2           cheerleading practice area in the fall and wrestling area in the winter.  
3           • A space for officials will be provided.  
4           • A storage space adjacent to the concession area will be provided.  
5  
6           Ticket Booth  
7           • Two booths with three ticket windows for AAAA and AAA  
8           • Two booths with two ticket windows for AA and A  
9  
10          Lighting  
11          • Four poles - 70' high  
12          • Foot-candle = 50 maintained  
13  
14          Fencing  
15          • 2' barrier separating spectators from playing field  
16          • 6' fence surrounding entire stadium complex to include two separate  
17          double gate sections for entrance and emergency exits. (Must be an  
18          easy access for emergency vehicles to enter and leave playing area.)  
19  
20          CROSS COUNTRY  
21          • Course must be complete with start and finish line (3.1 miles)  
22  
23          TENNIS  
24          • Four regulation courts with proper markings  
25          • 6' fence surrounding tennis complex  
26          • Windscreens on service end of courts  
27          • Lighting  
28  
29          GYM  
30          • Includes volleyball, basketball, wrestling  
31              o Regulation basketball court with markings  
32              o One regulation volleyball court  
33              o Seating  
34              o Restroom facilities for spectators, other than locker area  
35              o Concession area  
36              o Ticket Booth  
37  
38          BASEBALL/SOFTBALL  
39          • Fields must be properly graded so that water runs off playing surface  
40  
41          Dimensions  
42              o Baseball - 290' Left/Right Field  
43                              305' Centerfield  
44              o Softball - 185' Home to outfield  
45  
46          Fence  
47              o 6' outfield fence  
48              o 4' down baselines  
49              o Backstop - softball 15'

- 1 baseball 20'
- 2
- 3 Irrigation
- 4 o All heads must be even or below playing surface.
- 5 o Each head coverage shall overlap another zone.
- 6 o Entire playing surface must have coverage.
- 7
- 8 Seating
- 9 o 100 per field
- 10 o Portable aluminum
- 11
- 12 Lighting
- 13 o Baseball foot-candles infield = 45 maintained
- 14 o Baseball foot-candles outfield = 20 maintained
- 15 o Softball foot-candles infield = 45 maintained
- 16 o Softball foot-candles outfield = 20 maintained
- 17
- 18 Dug-outs
- 19 o 40' x 10' long to include a 10' x 10' storage area
- 20
- 21 Restrooms/Concessions
- 22 o There must be a place where restrooms may be used by spectators
- 23 o Two toilets - women; one toilet, one urinal - men
- 24 o Concession/scoreboard operator space
- 25
- 26 SOCCER
- 27 o Will practice on practice field area
- 28 o Games will be played on football game field
- 29
- 30 TRACK
- 31 o Completely marked eight-lane track
- 32 o Type 4 asphalt
- 33 o Straightaway for sprints (start and finish lines)
- 34 o Runway complete with landing area
- 35 o Shot and discus circle
- 36 o Safety net for discus area
- 37 o High jump approach and landing area
- 38 o Long jump approach and landing area
- 39
- 40 PRACTICE FIELD
- 41 o One 100 yard long/50 yard wide area
- 42 o Properly graded with irrigation
- 43 o Grass covering entire playing area
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## Project Budget

### Improvements to Doug Shaw Memorial Stadium

1. Improvements to Meet District Standards -	\$1,195,150.00
2. Additional Improvements Beyond District Standards -	<u>\$2,182,000.00</u>
Total	\$3,377,150.00

### Sources of Funds

1. Horry County School District -	\$1,195,000.00
2. City of Myrtle Beach -	<u>\$2,182,000.00</u>
Total	\$3,377,150.00