



**The Town of Hilton Head Island**  
**Regular Town Council Meeting/Public Hearings**  
**August 16, 2016**  
**4:00 P.M.**  
**BENJAMIN M. RACUSIN COUNCIL CHAMBERS**  
**AGENDA**

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**As a Courtesy to Others Please Turn Off/Silence All Mobile Devices During  
the Town Council Meeting**

- 1) Call to Order**
- 2) Pledge to the Flag**
- 3) Invocation**
- 4) FOIA Compliance** – Public notification of this meeting has been published, posted and distributed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.
- 5) Proclamations and Commendations**
  - a.** Honored Islanders Awards
    - (1) Jan Cale
    - (2) Terry Herron
    - (3) Blaine Lotz
  - b.** Beaufort-Jasper Water & Sewer Authority/Hilton Head-Broad Creek-South Island Public Service Districts– *Imagine a Day Without Water Campaign*
- 6) Approval of Minutes**
  - a.** Town Council Meeting, July 19, 2016
- 7) Report of the Town Manager**
  - a.** Planning Commission Semi-Annual Update – Alex Brown, Chairman
  - b.** USCB Quarterly Update
  - c.** Proposed 2017 Town Council Regular Meeting Dates
  - d.** Town Manager’s Items of Interest
    - (1) Town News
    - (2) Noteworthy Events
- 8) Reports from Members of Council**
  - a.** General Reports from Council
  - b.** Report of the Intergovernmental Relations Committee – Bill Harkins, Chairman
  - c.** Report of the Community Services Committee – Kim Likins, Chairman
  - d.** Report of the Public Planning Committee – Tom Lennox, Chairman
  - e.** Report of the Public Facilities Committee – David Ames, Chairman
  - f.** Report of the Public Safety Committee - Marc Grant, Chairman
  - g.** Report of the Finance and Administrative Committee - John McCann, Chairman

## **9) Unfinished Business**

### **a. Second Reading of Proposed Ordinance 2016-11**

Second Reading of Proposed Ordinance 2016-11 of the Town Of Hilton Head Island adopting the 2016 Beach Management Plan; and to provide for severability and an effective date.

### **b. Second Reading of Proposed Ordinance 2016-20 – To be considered after Agenda Item 12) 5:00 p.m. Public Hearing – Beach Management Plan**

Second Reading of Proposed Ordinance 2016-20 of the Town of Hilton Head Island, South Carolina, authorizing the execution of a lease with Diamond Towers IV LLC, for property owned by the Town of Hilton Head Island, South Carolina, known as a portion of the Islander's Beach Park Tract, and authorizing the execution of two easements in favor of Diamond Towers IV LLC, encumbering town owned land, known as a portion of the Islander's Beach Park Tract, pursuant to the authority of S.C. Code Ann. Sec. 5-7-40 (Supp. 2012), and Sec. 2-7-20, Code of the Town of Hilton Head Island, South Carolina, (1983); and providing for severability and an effective date.

## **10) New Business**

### **a. Consideration of a Recommendation – Circle to Circle Committee**

Consideration of a Recommendation Town Council consider the final report and recommendations from the Circle to Circle Committee.

### **b. Consideration of a Resolution – Circle to Circle Committee**

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, SC to dissolve the Circle to Circle Committee.

### **c. Consideration of a Recommendation –BCSO Audit Firm**

Consideration of a Recommendation of the Finance Administrative Committee that Town Council authorize the Town Manager to enter into a contract with Public Safety Strategies Group.

### **d. Consideration of a Recommendation – Lock-Outs**

Consideration of a Recommendation that Town Council approve the recommendation of the Public Safety Committee from its July 11, 2016 meeting concerning lock-outs.

### **e. First Reading of Proposed Ordinance 2016-22 – To be considered after Agenda Item 13) 5:30 p.m. Public Hearing – Beaufort County Hazard Mitigation Plan 2015 Update**

First Reading of Proposed Ordinance 2016-22 of the Town of Hilton Head Island to adopt the “Beaufort County Hazard Mitigation Plan 2015 Update” as an appendix of the “Hilton Head Island Comprehensive Plan”; and to provide for severability and an effective date.

### **f. First Reading of Proposed Ordinance 2016-23**

First Reading of Proposed Ordinance 2016-23 of the Town of Hilton Head Island, South Carolina, authorizing the execution of a utility easement agreement with Hilton Head Public Service District to encumber property owned by the Town of Hilton Head Island, South Carolina, pursuant to the authority of S.C. Code Ann. Sec. 5-7-40 (Supp. 2012), and Sec. 2-7-20, code of the Town of Hilton Head Island, South Carolina, (1983); and providing for severability and an effective date.

**g. First Reading of Proposed Ordinance 2016-24**

First Reading of Proposed Ordinance 2016-24 of the Town of Hilton Head Island, South Carolina, authorizing the execution of a Memorandum of Understanding with, and the lease of town-owned real property to, The Sandbox: A Hilton Head Area Children's Museum, Inc., related to the development and lease of real property owned by the Town of Hilton Head Island, South Carolina, pursuant to the authority of S.C. Code Ann. Sec. 5-7-40 (Supp. 2012), and Sec. 2-7-20, *Code of the Town of Hilton Head Island, South Carolina*, (1983); and providing for severability and an effective date.

**11) Appearance by Citizens**

**12) 5:00 p.m. – Public Hearing – 2016 Beach Management Plan**

**13) 5:30 p.m. - Public Hearing – Beaufort County Hazard Mitigation Plan 2015 Update**

**14) Executive Session**

**a. Land Acquisition**

Discussion of negotiations incident to the proposed sale, lease or purchase of property:

- (1) related to a parcel in the Folly Field Area.
- (2) related to parcels near the intersection of US 278 and Folly Field Road.
- (3) related to a parcel in the Skull Creek area.
- (4) related to a parcels in the Coligny area.
- (5) related to a parcel near Dillon Road.

**b. Legal Matters**

Receipt of Legal Advice:

- (1) related to pending litigation concerning a BZA appeal.
- (2) related to pending litigation concerning a Town Council member.
- (3) related to potential litigation associated with violations of the Building Code and Land Management Ordinance.

**c. Economic Development**

Discussion of matters relating to the proposed location, expansion, or the provision of services encouraging the location of expansion of industries or other business in the area served by the public body.

**d. Personnel Matters**

Town Manager's Evaluation and Employment Status

**15) Possible actions by Town Council concerning matters discussed in Executive Session**

**16) Adjournment**

# *Honored Islander Award*

*presented to*

***Jan Cale***

*In recognition and appreciation for outstanding volunteer service and  
personal commitment towards the betterment of our community.*

*Presented this 16th day of August, 2016*

*Mayor David Bennett*



# ***Honored Islander Award***

*presented to*

***Terry Herron***

*In recognition and appreciation for outstanding volunteer service and  
personal commitment towards the betterment of our community.*

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*Presented this 16th day of August, 2016*

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*Mayor David Bennett*

# ***Honored Islander Award***

*presented to*

***Blaine Lotz***

*In recognition and appreciation for outstanding volunteer service and  
personal commitment towards the betterment of our community.*

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*Presented this 16th day of August, 2016*

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*Mayor David Bennett*

# Proclamation

**BY  
THE TOWN OF HILTON HEAD ISLAND**

***WHEREAS**, Beaufort-Jasper Water & Sewer Authority (BJWSA) in conjunction with Hilton Head PSD, Broad Creek PSD, South Island PSD and the Value of Water Coalition have designated September 15, 2016 as “Imagine a Day without Water” Campaign in order to raise awareness of the impact of clean drinking water and water infrastructure; and*

***WHEREAS**, the crisis in Flint, Michigan, shows the severe impacts of what can happen to the health and well-being of a community without access to clean drinking water; and*

***WHEREAS**, changes in weather patterns are causing epic drought and widespread flooding in regions throughout the United States putting pressure on water systems that are ill-equipped and ill-prepared to manage such extreme events; and*

***WHEREAS**, utilities nationwide are grappling with aging infrastructure and lack reliable revenue and funding to maintain systems let alone upgrade their systems; and*

***WHEREAS**, one-fifth of the U.S. economy would grind to a halt without a reliable and clean source of water; and*

***WHEREAS**, managing water responsibly is critical to our nation’s environmental health and to a high quality of life through economic commerce, power generation, and recreation; and*

***WHEREAS**, investing in our drinking water and wastewater systems will secure a bright and prosperous future for generations to come; and*

***WHEREAS**, for every one job created in the water sector, another 3.68 jobs are added in the national economy. And for every \$1 spent on infrastructure improvements, the US generates \$6 in returns; and*

***WHEREAS**, awareness of the value of water infrastructure and water resources is important to chart a prosperous and sustainable future for the Town of Hilton Head Island and its Public Service Districts.*

***NOW, THEREFORE**, I, David Bennett, Mayor of the Town of Hilton Head Island, South Carolina, do hereby proclaim September 15, 2016 as the*

**Beaufort-Jasper Water & Sewer Authority,  
Hilton Head, Broad Creek and South Island Public Service Districts**

## **“IMAGINE A DAY WITHOUT WATER” CAMPAIGN**

***IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused this seal of the Town of Hilton Head Island to be affixed this **16th day of August, Two Thousand and Sixteen**.*

*David Bennett, Mayor*

*Attest: Victoria L. Pfannenschmidt, Town Clerk*



**THE TOWN OF HILTON HEAD ISLAND  
REGULAR TOWN COUNCIL MEETING**

**Date:** Tuesday, July 19, 2016

**Time:** 4:00 P.M.

**Present from Town Council:** Bill Harkins, *Mayor Pro Tem*; David Ames, Marc Grant, Tom Lennox, Kim Likins, John McCann, *Council Members*

**Absent from Town Council:** David Bennett, *Mayor*

**Present from Town Staff:** Steve Riley, *Town Manager*; Greg DeLoach, *Assistant Town Manager*; Charles Cousins, *Director of Community Development*; Scott Liggett, *Director of Public Projects and Facilities*; Brad Tadlock, *Fire Chief*; Brian Hulbert, *Staff Attorney*; Susan Simmons, *Director of Finance*; Nancy Gasen, *Director of Human Resources*; Tom Fultz, *Director of Administrative Services*; Shawn Colin, *Deputy Director of Community Development*; Julian Walls, *Facilities Manager*; Jennifer Ray, *Urban Designer*; Shea Farrar, *Senior Planner*; Jeff Buckalew, *Town Engineer*; Mike Mayers, *Deputy Fire Chief – Operations*; Joheida Fister, *Fire Marshal*; John Troyer, *Deputy Finance Director*; Derrick Coaxum, *Assistant Facilities Manager*; Melissa Cope, *Systems Analyst*; Vicki Pfannenschmidt, *Executive Assistant*

**Present from Media:** Teresa Moss, *Island Packet*

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**1) CALL TO ORDER**

Mayor Pro Tem Harkins called the meeting to order at 4:00 p.m.

**2) PLEDGE TO THE FLAG**

**3) INVOCATION**

**4) FOIA Compliance** – Public notification of this meeting has been published, posted and distributed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

**5) Proclamations and Commendations**

**a. Parks and Recreation Month**

Alan Perry, Hilton Head Island Recreation Association Board President and Heather Rath, Parks and Recreation Commission Chairperson were present and accepted the proclamation.

**6) Approval of Minutes**

**a. Town Council Meeting, June 21, 2016**

Mrs. Likins moved to approve. Mr. McCann seconded. The minutes of the June 21, 2016 regular Town Council meeting were approved by a vote of 6-0.

**7) Report of the Town Manager**

**a. Design Review Board Semi-Annual Update – Jake Gartner, Chairman**

Mr. Gartner provided an update of the activities of the Board for the previous six month period.

**b. Board of Zoning Appeals Semi-Annual Update – Glenn Stanford, Chairman**

Mr. Stanford provided an update of the activities of the Board for the previous six month period.



**c. Land Acquisition Update**

Mr. Riley referenced the materials in the packet and updated the status.

**d. Town Manager's Items of Interest**

Mr. Riley reported on some items of interest. He announced that there will be a Public Hearing at 5:00 pm on August 16th in the Benjamin M. Racusin Council Chambers of Hilton Head Island's Town Hall located at One Town Center Court, Hilton Head Island, South Carolina to consider a proposed Ordinance to adopt the 2016 Beach Management Plan and a Public Hearing at 5:30pm on August 16th in the Benjamin M. Racusin Council Chambers of Hilton Head Island's Town Hall located at One Town Center Court, Hilton Head Island, South Carolina to consider a proposed Ordinance to adopt the Beaufort County Hazard Mitigation Plan 2015 Update.

**8) Reports from Members of Council**

**a. General Reports from Council**

None.

**b. Report of the Intergovernmental Relations Committee – Bill Harkins, Chairman**

No report.

**c. Report of the Community Services Committee – Kim Likins, Chairman**

Mrs. Likins stated the Venue Committee met on July 7 and continues to have updated meetings from various art and cultural organizations from throughout the community. She added that the public relations firm of Rawle/Murdy was present and reviewed the public relations plan. She stated the next meeting is scheduled for Friday, July 22 and the Arts and Strategic Planning Committee is going to schedule a meeting to work on a job description for the executive director for the Office of Arts and Cultural Affairs.

**d. Report of the Public Planning Committee – Tom Lennox, Chairman**

Mr. Lennox reported that the Committee and staff continue to work on finalizing the Steering Committee application and job description. He noted it would be reviewed at the upcoming meeting on August 4. He said they also anticipate having a preliminary review of RFP responses for the vision consultant.

**e. Report of the Public Facilities Committee – David Ames, Chairman**

Mr. Ames said the Committee met on July 18 and voted unanimously to recommend to Council to enter into a lease agreement and MOU with the Sandbox Children's Museum and to recommend a conveyance of an easement with Hilton Head Island Public Service District.

**f. Report of the Public Safety Committee - Marc Grant, Chairman**

Mr. Grant said the Committee met on July 8 and one topic of discussion was vehicle access to Mustang Lane. He said they also addressed lockout units and the Committee recommended to ask the Town Manager to work with Oceanwalk representatives regarding the issue with a member of Council in attendance.

**g. Report of the Finance and Administrative Committee - John McCann, Chairman**

Mr. McCann stated the Committee met earlier in the day and had a general discussion regarding a fund balance policy and reviewed and made recommendations regarding the BCSO performance audit which will be coming forward to Council at the August meeting.

**h. Report of the Circle to Circle Committee - Tom Lennox, Town Council Liaison**

Mr. Lennox announced the Committee has completed its work and presented the report to the Planning Commission and the report would be coming forward to Council at the August meeting.

**9) Unfinished Business**

None

**10) New Business**

**a. Consideration of a Recommendation – Beaufort County Storm Water Agreement**

Consideration of a Recommendation that Town Council amend the Town's Storm Water Management and Utility Intergovernmental Agreement (IGA Agreement) with Beaufort County.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 6-0.

**b. First Reading of Proposed Ordinance 2016-11**

First Reading of Proposed Ordinance 2016-11 of the Town Of Hilton Head Island adopting the 2016 Beach Management Plan; and to provide for severability and an effective date.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 6-0.

**11) Appearance by Citizens**

Mr. Tai Scott addressed council regarding Native Islander issues.

**12) Executive Session**

It was the consensus of Council there was not a need for Executive Session and to proceed with the items listed under Item 13.

**13) Possible actions by Town Council concerning matters discussed in Executive Session**

**a. Consideration of a Recommendation – Municipal Judge**

Consideration of a Recommendation that Council consider the renewal of a contract with Municipal Judge, Maureen Coffey, for a 2 year term.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 6-0.

**b. First Reading of Proposed Ordinance 2016-20**

First Reading of Proposed Ordinance 2016-20 of the Town of Hilton Head Island, South Carolina, authorizing the execution of a lease with Diamond Towers IV LLC, for property owned by the Town of Hilton Head Island, South Carolina, known as a portion of the Islander's Beach Park Tract, and authorizing the execution of two easements in favor of Diamond Towers IV LLC, encumbering town owned land, known as a portion of the Islander's Beach Park Tract, pursuant to the authority of S.C. Code Ann. Sec. 5-7-40 (Supp. 2012), and Sec. 2-7-20, Code of the Town of Hilton Head Island, South Carolina, (1983); and providing for severability and an effective date.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 6-0.

**c. Consideration of a Resolution – License Agreement Fire Station 2**

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina, authorizing the execution of a license agreement with Marriott Ownership Resorts, Inc. for the purpose of utilizing certain real property owned by Marriott Ownership Resorts, Inc. for use as a temporary fire station.

Mr. Riley explained the bids regarding Fire Station 2 came in well over budget and because of that they are not ready to execute the agreement referenced above. He asked that the item be removed from the agenda. Mrs. Likins moved to remove item 13.c. from the agenda. Mr. McCann seconded. The motion was approved by a vote of 6-0.

**d. Consideration of a Resolution – BCSD Lease w Island Rec**

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina, authorizing the execution of a lease and facility use agreement with the Beaufort County School District Board of Education and Hilton Head Island Recreation Association for the purpose of leasing certain real property owned by Beaufort County School District Board of Education and to be used and operated by the Hilton Head Island Recreation Association.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 6-0.

**e. Consideration of a Resolution – Pope Avenue/Office Park Road/New Orleans Road Intersection Improvement Project**

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina, authorizing condemnation, pursuant to S.C. Code Section 28-2-10, *et seq.*, of easement rights and right of way ownership over portions of parcels at the intersection of Office Park Road, New Orleans Road and Pope Avenue on Hilton Head Island to facilitate the Town of Hilton Head Island's Pope Avenue – Office Park Road – New Orleans Road Intersection Improvements Project.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 6-0.

**f. Consideration of a Recommendation – Heritage Classic Foundation**

Consideration of a Recommendation that Town Council consider entering into an agreement with the Heritage Classic Foundation (Heritage).

Mr. Likins moved to approve. Mr. McCann seconded. The motion was approved by a vote of 6-0. Simon Fraser thanked Council and the citizens of Hilton Head Island for their continued support. He said he received a study from the PGA Tour noting the benefit of the tournament for just pure publicity is in excess of 11 million dollars world-wide.

**14) Adjournment**

Mr. Likins moved to adjourn. Mr. McCann seconded. The motion was approved by a vote of 6-0 and the meeting was adjourned at 4:42 p.m.

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Vicki L. Pfannenschmidt  
Executive Assistant/Town Clerk

Approved:

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William D. Harkins, Mayor Pro-Tem





To: Steve Riley  
Hilton Head Island Town Manager

From: Dr. Charles Calvert, Chair  
Department of Hospitality Management  
University of South Carolina Beaufort

Date: August 10, 2016

Subject: Quarterly Project Update  
USCB Hilton Head Island Campus

Project Approvals and Milestones. USCB met with all project stakeholders on July 7, 2016. The purpose of this meeting was to finalize building plans/design. The architect has been released to complete the full design of the facility. The design team's design development documents due in September.

The demolition of the existing buildings on the parcel has been completed.

On the morning of August 9, 2016 the Sea Pines Architectural Review Board heard a presentation from Liollo Architecture on behalf of the USCB Hilton Head Island Hospitality Management Building project and reviewed the building and site schematics. They will provide a list of items for consideration in written format to Liollo Architecture. That same afternoon, the Town of Hilton Head Island Design Review Board considered the building and site schematics as presented by Jennifer Ray, Town Planner. The applicant, Liollo Architecture, answered board questions about the "USCB to HHI" project. The Town of Hilton Head Board motion to "approve 'USCB to HHI' conceptual designs as submitted with a short list of considerations" passed.

USCB Department of Hospitality Management Faculty Expansion. USCB has completed the search for a new faculty member for instruction and course development beginning fall 2016.

Enrollment Management. USCB entered into an articulation agreement with the National Restaurant Association's ProStart Restaurant. This agreement will benefit high school students studying hospitality management through the Prostart Program with transfer credits.

USCB Student Recruitment. Print and electronic USCB student recruitment materials featuring the HHI campus have been produced by national higher education marketing firm STAMATS.



# TOWN OF HILTON HEAD ISLAND

## *Community Development Department*

**TO:** Stephen G. Riley, ICMA~CM, *Town Manager*  
**VIA:** Charles Cousins, AICP, *Community Development Director*  
**FROM:** Jennifer Ray, ASLA, *Urban Designer*  
**DATE:** August 4, 2016  
**SUBJECT:** USCB-Office Park Road quarterly project update

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- Asbestos abatement and demolition of the Carolina Complex and Time Warner Building is complete.
- Additional survey work regarding lagoon storage capacity is underway and expected to be completed by early-August.
- Wetland permitting is underway.
- A submittal for New Development-Conceptual has been submitted to the DRB and will be reviewed at the August 9<sup>th</sup> regular DRB meeting.
- Staff participated in a phase 2 kick-off meeting/design charrette with the team in Charleston to finalize details of the site plan.
- Staff participated in review meetings with USCB officials and architects to review final floor plans.
- Staff participated in a site visit with USCB representatives and architects/engineers to field check conditions critical to site plan.



## **TOWN OF HILTON HEAD ISLAND**

### **2017 TOWN COUNCIL MEETING DATES**

<b>January 3</b>	<b>July 4 - cancelled</b>
<b>January 17</b>	<b>July 18</b>
<b>February 7</b>	<b>August 1 - cancelled</b>
<b>February 21</b>	<b>August 15</b>
<b>March 7</b>	<b>September 5 - cancelled</b>
<b>March 21</b>	<b>September 19*</b>
<b>April 4</b>	<b>October 3</b>
<b>April 18</b>	<b>October 17</b>
<b>May 2</b>	<b>November 7</b>
<b>May 16</b>	<b>November 21</b>
<b>June 6</b>	<b>December 5</b>
<b>June 20</b>	<b>December 19</b>

**Meetings are generally held the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday of the month at 4:00 PM, subject to change with notice.**

**\* September 19<sup>th</sup> meeting will start at 4:00 pm or upon completion of the Constitution Day Celebration; whichever is later.**



## ITEMS OF INTEREST

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### AUGUST 16, 2016

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### Town News

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The 2017 Accommodations Tax Grant applications became available online Monday, August 15, 2016 at 8:00 AM at [www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov).

The Accommodations Tax Advisory Committee will hold an applicant's workshop, Tuesday August 23, 2016 at 9:00 AM in the Benjamin M. Racusin Council Chambers.

The Accommodations Tax application filing deadline is Friday, September 16, 2016 at 4:00 PM. All applications must be completed online at [www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov) and submitted electronically.

**Contact: Susan Simmons, Finance Director, at [susans@hiltonheadislandsc.gov](mailto:susans@hiltonheadislandsc.gov) or 843-341-4645.**

### Noteworthy Events

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Some of the upcoming meetings at Town Hall:

- Planning Commission – August 17, 2016, 3:00 p.m.
- Venue Committee – August 18, 2016, 9:00 a.m.
- Public Facilities Committee – August 22, 2016, 10:00 a.m.
- Board of Zoning Appeals – August 22, 2016, 2:30 p.m.
- Design Review Board – August 23, 2016, 1:15 p.m.
- Construction Board of Adjustments and Appeals, August 23, 2016, 5:30 p.m.
- Accommodations Tax Advisory Committee – August 25, 2016, 9:00 a.m.
- Public Planning Committee – September 1, 2016, 10:00 a.m.
- Town Administrative Offices Closed – September 5, 2016 in observance of Labor Day
- Finance and Administrative Committee – September 6, 2016 - CANCELLED
- Town Council – September 6, 2016 – CANCELLED
- Planning Commission – September 7, 2016, 9:00 a.m.
- Parks and Recreation Commission – September 8, 2016, 3:30 p.m.
- Venue Committee – September 9, 2016, 4:00 p.m.
- Community Services Committee – September 12, 2016, 9:00 a.m.
- Public Safety Committee – September 12, 2016, 10:00 a.m.
- Design Review Board – September 13, 2016, 1:15 p.m.
- ATAX Grant Application Deadline – September 16, 2016
- Finance and Administrative Committee – September 20, 2016, 2:00 p.m.
- Constitution Day Celebration - September 20, 2016, 3:30 p.m.
- Town Council – September 20, 2016 - Meeting will start at 4:00 p.m. or at the conclusion of the Constitution Day Celebration - whichever is later.

(Additional meetings may be scheduled and all meetings are subject to change and/or cancellation. Please visit the Town of Hilton Head Island website at [www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov) for Committee meeting dates and agendas.



## 2016 Hilton Head Island Events

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4 <sup>th</sup> Thursdays thru October 27, 2016 5:00pm-9:00pm	Carolina Dreamers Car Club Show	Shelter Cove Community Park
Tuesdays thru August 9, 2016 4:30pm-10:00pm	Community Market & Summer Jams Island Recreation Association	Shelter Cove Community Park
Tuesdays Thru August 16, 2016 5:00pm-10:00pm	HarbourFest 2016	Shelter Cove Harbour
Thursdays Thru August 11, 2016 9:00pm-10:30pm	Movies in the Park	Shelter Cove Community Park
Fridays Thru August 26, 2016	Sunset Celebrations	Shelter Cove Community Park
Saturday, September 17, 2016 11:00am-4:00pm	Italian Heritage Festival	Honey Horn
Sunday, September 18, 2016 11:00am-6:00pm	7 <sup>th</sup> Annual Latinos Unidos Food Festival	Shelter Cove Community Park



# **TOWN OF HILTON HEAD ISLAND**

## *Community Development Department*

<b>TO:</b>	Stephen G. Riley, ICMA-CM, Town Manager
<b>VIA:</b>	Charles Cousins, Director of Community Development
<b>FROM:</b>	Shawn Colin, Deputy Director of Community Development
<b>DATE:</b>	July 25, 2016
<b>SUBJECT:</b>	Second Reading of Proposed Ordinance: 2016-11 - Beach Management Plan Approval

There were no changes made to Proposed Ordinance 2016-11 during the first reading on July 19, 2016.

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND**

**ORDINANCE 2016-**

**PROPOSED ORDINANCE 2016-11**

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND  
ADOPTING THE 2016 BEACH MANAGEMENT PLAN; AND TO  
PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, in November of 2008, Town Council adopted the Beach Management Plan as an Appendix to the Town of Hilton Head Island Comprehensive Plan, and addressed the needs for management of the Island's shoreline and the provision of public access to the beach, including an inventory of public access locations and parking; and

**WHEREAS**, the Beach Management Plan was amended in March of 2011 to address changes related to public beach parking for beach renourishment funding; and

**WHEREAS**, the Town of Hilton Head Island Comprehensive Plan is required to be adopted in accordance with Section 6-29-520, and 6-29-530 of the Code of Laws of South Carolina; and

**WHEREAS**, the Town Council of the Town of Hilton Head Island wishes to be in compliance with the Coastal Zone Management Act which mandates the Town's Beach Management Plan which has a definition of full and complete public beach access; and

**WHEREAS**, on April 6, 2016, the Planning Commission approved a resolution recommending adoption of the 2016 Beach Management Plan to the Town Council of the Town of Hilton Head Island; and

**WHEREAS**, on May 5, 2016, the Public Planning Committee of Town Council held a meeting at which time a presentation was made by staff on the 2016 Beach Management Plan, and thereby recommended adoption to Town Council; and

**WHEREAS**, on August 16, 2016, the Town Council held a public hearing to receive comments on the amendments to the 2016 Beach Management Plan, and Town Council now desires to adopt these amendments.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE  
TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SC; AND IT IS  
ORDAINED BY SAID AUTHORITY OF THE SAID COUNCIL:**

**Section 1. Adoption.** The 2016 Beach Management Plan is hereby adopted as shown in Attachment A pursuant to Article 2 of Chapter 1 of Title 16 (adopted July 21, 1998) of the Municipal Code of the Town of Hilton Head Island, South Carolina and Sections 629-510, 6-29-520, and 6-29-530 of the Code of Laws of South Carolina.

**Section 2. Severability.** If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holdings shall not affect the validity of the remaining portions thereof.

**Section 3. Effective Date.** This Ordinance shall be effective upon adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

**PASSED, APPROVED, AND ADOPTED, BY THE TOWN COUNCIL OF  
THE TOWN OF HILTON HEAD ISLAND THIS \_\_\_\_\_ DAY OF  
\_\_\_\_\_, 2016.**

\_\_\_\_\_  
David Bennett, Mayor

**ATTEST:**

\_\_\_\_\_  
Victoria Pfannenschmidt, Town Clerk

**Public Hearing:** \_\_\_\_\_

**First Reading:** \_\_\_\_\_

**Second Reading:** \_\_\_\_\_

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Gregory M. Alford, Town Attorney

Introduced by Council Member: \_\_\_\_\_





# **TOWN OF HILTON HEAD ISLAND**

## *Community Development Department*

<b>TO:</b>	Stephen G. Riley, ICMA-CM, Town Manager
<b>VIA:</b>	Charles Cousins, Director of Community Development
<b>FROM:</b>	Shawn Colin, Deputy Director of Community Development
<b>DATE:</b>	July 25, 2016
<b>SUBJECT:</b>	Second Reading of Proposed Tower Easement: 2016-20

There were no changes made to Proposed Ordinance 2016-20 during the first reading on July 19, 2016.

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AUTHORIZING THE EXECUTION OF A LEASE WITH DIAMOND TOWERS IV LLC, FOR PROPERTY OWNED BY THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, KNOWN AS A PORTION OF THE ISLANDER’S BEACH PARK TRACT, AND AUTHORIZING THE EXECUTION OF TWO EASEMENTS IN FAVOR OF DIAMOND TOWERS IV LLC, ENCUMBERING TOWN OWNED LAND, KNOWN AS A PORTION OF THE ISLANDER’S BEACH PARK TRACT, PURSUANT TO THE AUTHORITY OF S.C. CODE ANN. SEC. 5-7-40 (SUPP. 2012), AND SEC. 2-7-20, CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, (1983); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, the Town of Hilton Head Island, South Carolina (“Town”), owns a parcel of real property known as the Islander’s Beach Park Tract; and

WHEREAS, Diamond Towers IV LLC, desires to construct and operate a telecommunications tower on a portion of this Town-owned property as described in, and pursuant to, that certain Communication Tower Ground Lease attached hereto as Exhibit “A”; and,

WHEREAS, the Town Council for the Town has determined that it is in the best interests of the Town to enter into a Communication Tower Ground Lease with Diamond Towers IV LLC for operation of a telecommunications tower on the Town's property, and also to execute and deliver easements providing Diamond Towers IV LLC with rights for parking and access, and with rights to install underground utilities on the Town’s property.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND ITS IS ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL:**

**Section 1 - Execution, Delivery and Performance of Lease.**

(a) The Mayor and/or Town Manager are hereby authorized to execute and deliver the “Communication Tower Ground Lease” in substantial conformance with the attached Exhibit

“A”; and

(b) The Town Manager is hereby authorized to take such other and further actions as may be necessary to complete the performance of the Town's obligations under the terms and conditions of the Lease.

**Section 2 - Execution, Delivery and Performance of Easements.**

(a) The Mayor and/or Town Manager are hereby authorized to execute and deliver the ingress/egress easement and the underground utility easement in substantial conformance with the attached Exhibits “B” and “C”; and,

(b) The Town Manager is hereby authorized to take such other and further actions as may be necessary to complete the performance of the Town's obligations under the terms and conditions of the Easements.

**Section 3 - Severability.**

If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(SIGNATURE PAGE FOLLOWS)

**Section 4 - Effective Date.**

This Ordinance shall be effective upon adoption thereof by the Town Council for the Town of Hilton Head Island, South Carolina.

**PASSED AND APPROVED BY THE TOWN COUNCIL FOR THE TOWN OF  
HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS \_\_\_\_ DAY OF  
\_\_\_\_\_, 2016.**

\_\_\_\_\_  
David Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Victoria L. Pfannenschmidt, Town Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Approved as to form: \_\_\_\_\_  
Gregory M. Alford, Town Attorney

Introduced by Council Member: \_\_\_\_\_



# TOWN OF HILTON HEAD ISLAND

## *Community Development Department*

**TO:** Stephen G. Riley, ICMA~CM, *Town Manager*  
**FROM:** Shawn Colin, AICP, *Deputy Director of Community Development*  
**VIA:** Charles Cousins, AICP, *Director of Community Development*  
**DATE:** July 6, 2016  
**SUBJECT:** Final Report and Recommendations from the Circle to Circle Committee

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**Recommendation:** Staff recommends Town Council consider the final report and recommendations from the Circle to Circle Committee.

This information was presented to the Planning Commission on June 15<sup>th</sup> who recommended it be forwarded to Town Council for acceptance.

**Summary:** The Circle to Circle Committee, chartered by Town Council in February of 2015, has completed the work requested by Town Council and has drafted a final report and recommendations for Town Council to consider for implementation.

**Background:** On February 17, 2015 Town Council created the Circle to Circle Committee under the oversight of the Planning Commission to develop a vision, incorporating community input, for the future of the Coligny Circle to Sea Pines Circle over the next 20 years. The Committee conducted dozens of public meetings over the past 16 months, including two series of community forums. In addition, the Committee solicited the services of Design Workshop, Inc., an urban planning firm, to assist in identifying and exploring issues and developing options to address them. The Committee along with help from the public, the consultants and Town staff vetted the options and developed the final report and recommendations. The final report includes a summary of community input sessions, pertinent data and observations and specific recommendations related to creating a vision for the area, transportation improvements (roadways, connectivity, shuttles, trails, parking), and character area concepts. The report and recommendations were presented to the Planning Commission on June 15, 2016, who recommended it be forwarded to Town Council for acceptance.



Below is the link to the Circle to Circle Committee final report which is posted on our website in pdf format.

<http://hiltonheadislandsc.gov/publications/reports/CircleToCircleFinalReport.pdf>

A printed copy is available in the Administrative Office at Town Hall for viewing.



# TOWN OF HILTON HEAD ISLAND

*Community Development Department*

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**TO:** Stephen G. Riley, ICMA~CM, *Town Manager*  
**FROM:** Shawn Colin, AICP, *Deputy Director Community Development*  
**CC:** Charles Cousins, AICP, *Community Development Director*  
**DATE:** July 6, 2016  
**SUBJECT:** Circle to Circle Committee Dissolution

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**Recommendation:** Staff recommends that Town Council dissolve the Circle to Circle Committee as they have completed the assigned work and delivered a final report and recommendations to Town Council.

**Summary:** The Circle to Circle Committee, chartered by Town Council in February of 2015, has completed the work requested by Town Council and has drafted a final report and recommendations for Town Council to consider for implementation. This information was presented to the Planning Commission who recommended it be forwarded to Town Council for acceptance.

**Background:** The Committee conducted dozens of public meetings over the past 16 months, including two series of community forums. The Committee encouraged public participation at every step during the process and in addition to their public meetings also held several public workshops during which time the public was invited to comment on the issues and proposed solutions. The members of this Committee worked diligently to complete their task and should be commended for their tireless efforts related to this project.

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SC TO DISSOLVE THE CIRCLE TO CIRCLE COMMITTEE**

**WHEREAS**, the Circle to Circle Committee was established on February 17, 2015, as a temporary committee under the oversight of the Planning Commission to develop a vision, incorporating community input for the future of the Coligny Circle to Sea Pines Circle Area over the next 20 years; and

**WHEREAS**, the Circle to Circle Committee has completed the task of developing this area vision and plan; and

**WHEREAS**, the Planning Commission and Town Council have been presented the plan; and

**NOW, THEREFORE, BE IT, AND IT HEREBY RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA:**

SECTION 1: THAT THE TOWN EXTENDS ITS THANKS TO THE MEMBERS OF THE CIRCLE TO CIRCLE COMMITTEE FOR THEIR EFFORTS IN COMPLETING THEIR TASK AND DOES HEREBY PUBLICLY COMMEND THEM FOR THEIR EFFORTS.

SECTION 2: THE CIRCLE TO CIRCLE COMMITTEE IS TO BE DISSOLVED ON JULY 19, 2016.

**MOVED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS 19<sup>th</sup> DAY OF JULY 2016.**

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**David Bennett, Mayor**

**ATTEST:**

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**Victoria L. Pfannenschmidt, Town Clerk**

**Approved as to form:**

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**Gregory M. Alford, Town Attorney**

**Introduced by Council Member: \_\_\_\_\_**

## **MEMORANDUM**

**TO: Town Council**  
**FROM: Finance and Administrative Committee**  
**DATE: August 12, 2016**  
**SUBJECT: Performance Audit of Sheriff's Contract**

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Town Council budgeted \$30,000.00 for the purpose of conducting a performance audit of the Town's contract with the Beaufort County Sheriff's Office for police services. To that end, an RFP was developed and eight firms submitted proposals. The Finance and Administrative Committee tasked Mrs. Likins, Greg DeLoach and Tom Fultz with conducting the preliminary detailed review of those proposals and presenting their findings to the Committee.

On July 19, 2016 the Finance and Administrative Committee was briefed on the results of that review. From the eight proposals received the selection team determined three firms were susceptible for award. All three firms were determined to be responsive and all had submitted a proposal fee that was within the authorized budget. A complete review to include a validation of all references was conducted on three firms. Those three firms were Public Safety Strategies Group, Alexander Weiss Consulting and Management Partners. From those firms the selection team recommended Public Safety Strategies Group as the most qualified firm to conduct the performance audit. Some of the rational for recommending them was as follows:

Most focused work plan for accomplishing all tasks in the RFP. Proposed project team has significant hands on experience in law enforcement and an extensive resume of performing similar audits as a team.

The firm's references were excellent and the scope of their previous work met or exceeded what is required for the Town's project. The same project team proposed for our project worked on the referenced projects. The clients for the referenced projects were very satisfied with the results of the audit and highly recommended the firm for work of a similar nature.

The Committee recommends the Town Manager be authorized to enter into a contract with Public Safety Strategies Group.



# TOWN OF HILTON HEAD ISLAND

## *Community Development Department*

**TO:** Town Council  
**FROM:** Stephen G. Riley, ICMA~CM, *Town Manager*  
**CC:** Charles Cousins, AICP, *Community Development Director*  
**DATE:** August 3, 2016  
**SUBJECT:** Public Safety Committee Recommendation on Lock-Outs

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**Recommendation:** Staff recommends the Town Council approve the recommendation of the Public Safety Committee from its July 11, 2016 meeting concerning lock-outs.

**Summary:** At its meeting on July 11, 2016 the Public Safety Committee recommended to Town Council that the Mayor ask the Town Manager to direct Staff with a Town Council representative to work with the Oceanwalk Board within the context of their inherent roles and responsibilities, to identify potential opportunities for development of a remedy related to issues surrounding the lock-out units. Also, to review the LMO within the context of lock-out units being used as short-term rentals as opposed to long-term rentals. Also, to obtain from the Sheriff's Department incident reports for the past three years related to lock-out units at Oceanwalk. Further, to ask the law firm of Robinson McFadden to provide a risk assessment opinion related to the drafting of new legislation related to the rental of lock-out units.



# **TOWN OF HILTON HEAD ISLAND**

## *Community Development Department*

**TO:** Stephen G. Riley, ICMA-CM, *Town Manager*  
**VIA:** Shawn Colin, *Deputy Director of Community Development*  
**FROM:** Marcy Benson, *Senior Grants Administrator*  
**CC:** Charles Cousins, *Director of Community Development*  
**DATE:** August 4, 2016  
**SUBJECT:** Beaufort County Hazard Mitigation Plan 2015 Update – First Reading

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**Recommendation:** The Town of Hilton Head Island Public Planning Committee met on August 4, 2016 and approved a recommendation to Town Council for adoption of the Beaufort County Hazard Mitigation Plan 2015 Update as an appendix to the Town of Hilton Head Island Comprehensive Plan.

The Town of Hilton Head Island Planning Commission met on July 20, 2016 and voted unanimously to approve a resolution recommending adoption of the Beaufort County Hazard Mitigation Plan 2015 Update as an appendix to the Town of Hilton Head Island Comprehensive Plan.

Staff recommends Town Council approve the Beaufort County Hazard Mitigation Plan 2015 Update and adopt the Plan as an appendix to the Town of Hilton Head Island Comprehensive Plan.

**Summary:** The Lowcountry Council of Governments on behalf of Beaufort County and its incorporated communities prepared the Beaufort County Hazard Mitigation Plan 2015 Update. This Plan assesses the communities' vulnerabilities to natural hazards; and includes long term strategies to address these hazards and to prevent future damage and loss of life. This Plan was created through participation from County and municipal officials and residents and represents the community's consensus. The 2015 update has been approved by the South Carolina Emergency Management Division (SCEMD) and the Federal Emergency Management Agency (FEMA).

**Background:** The Beaufort County Hazard Mitigation Plan 2015 Update will replace the Beaufort County Hazard Mitigation Plan adopted in 2011 as an appendix to the Town of Hilton Head Island Comprehensive Plan. The adoption of the 2015 Plan will fulfill the continuing requirements that qualify the Town of Hilton Head Island for FEMA pre-disaster mitigation grants, post-disaster reconstruction assistance and continued participation in the Community Rating System (CRS).



**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND**

**ORDINANCE NO. 2016-**

**PROPOSED ORDINANCE NO. 2016 - 22**

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND TO ADOPT THE “BEAUFORT COUNTY HAZARD MITIGATION PLAN 2015 UPDATE” AS AN APPENDIX OF THE “HILTON HEAD ISLAND COMPREHENSIVE PLAN”; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, in 2010, the Town Council of the Town of Hilton Head Island, South Carolina adopted the Town of Hilton Head Island Comprehensive Plan; and

**WHEREAS**, in 2012, the Town Council of the Town of Hilton Head Island, South Carolina adopted the revised and updated Town of Hilton Head Island Comprehensive Plan; and

**WHEREAS**, the Beaufort County Hazard Mitigation Plan was adopted in 2011 as an Appendix to the Town of Hilton Head Island Comprehensive Plan; and

**WHEREAS**, the Beaufort County Hazard Mitigation Plan is required to be re-evaluated by the Disaster Mitigation Act of 2000 every five years to assess the communities’ vulnerabilities to natural hazards and to prepare a long term strategy to address these hazards and prevent future damage and loss of life; and

**WHEREAS**, the Beaufort County Hazard Mitigation Plan was re-evaluated and revised through participation from County and municipal officials, and residents and represents the community’s consensus; and

**WHEREAS**, the adoption of the Beaufort County Hazard Mitigation Plan 2015 Update will fulfill the requirements for continued participation in the Community Rating System as well as qualify the Town of Hilton Head Island for FEMA pre-disaster grants and post-disaster reconstruction assistance; and

**WHEREAS**, the Hilton Head Island Planning Commission reviewed the Beaufort County Hazard Mitigation Plan 2015 Update at their July 20, 2016 meeting and recommended the Plan be sent to the Public Planning Committee of the Town Council for their consideration; and

**WHEREAS**, on August 4, 2016, the Public Planning Committee recommended Town Council adopt the Beaufort County Hazard Mitigation Plan 2015 Update; and

**WHEREAS**, Town Council now desires to adopt the Beaufort County Hazard Mitigation Plan 2015 Update as an appendix to the Town of Hilton Head Island Comprehensive Plan as recommended by the Public Planning Committee.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID COUNCIL:**

**Section 1. Adoption.** That the Beaufort County Hazard Mitigation Plan 2015 Update is hereby adopted as an appendix to the Town of Hilton Head Island Comprehensive Plan of the Town of Hilton Head Island, South Carolina.

**Section 2. Severability.** If any section, phrase, sentence or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 3. Effective Date.** This Ordinance shall be effective upon its adoption by the Town Council of the Town of Hilton Head Island, South Carolina.

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2016.**

THE TOWN OF HILTON HEAD  
ISLAND, SOUTH CAROLINA

\_\_\_\_\_  
David Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Victoria L. Pfannenschmidt, Town Clerk

Public Hearing: August 16, 2016

First Reading: August 16, 2016

Second Reading:

APPROVED AS TO FORM:

\_\_\_\_\_  
Gregory M. Alford, Town Attorney

Introduced by Council Member: \_\_\_\_\_

Below is the link to the Circle to Circle Committee final report which is posted on our website in pdf format.

<http://hiltonheadislandsc.gov/misc/BftCntyHazMitPlan.pdf>

A printed copy is available in the Administrative Office at Town Hall for viewing.



# TOWN OF HILTON HEAD ISLAND

## *Community Development Department*

<b>TO:</b>	Stephen G. Riley, ICMA-CM, Town Manager
<b>VIA:</b>	Charles Cousins, <i>Community Development Director</i>
<b>FROM:</b>	Shawn Colin, AICP, <i>Deputy Director of Community Development</i>
<b>DATE:</b>	July 25, 2016
<b>SUBJECT:</b>	Dillon Road Sewer Easement First Reading: Proposed Ordinance 2016-23

### **Recommendation:**

Public Facilities recommends Town Council approve first reading of Proposed Ordinance 2016 – 23 for the conveyance of permanent easement rights to Hilton Head Island Public Service District (HHPSD) for a linear easement across Town property associated with the Dillon Road Sewer Project.

The Public Facilities Committee voted unanimously to make this recommendation at its July 18, 2016 meeting.

### **Summary:**

The Dillon Road Sewer Project will expand the availability of sewer service in an unserved area. There is the need to cross a Town-owned property along Dillon Road to connect this new infrastructure to an existing sewer pump station off of Summit Drive. HHPSD has requested that the Town grant the conveyance of permanent easement rights for access to the property and for the installation and maintenance of sewer infrastructure.

### **Background:**

Over the years, the Town has worked with various public service districts to help improve the availability of sewer service on the Island. In 2015, Town Council adopted updated sewer policies in a joint effort with HHPSD to increase the availability of sewer service in unserved areas. This project was identified as one of multiple projects in a 5 year plan to accomplish this goal.

Attachments “A” and “B” depict the Town-owned property and the proposed easement location. The proposed easement would allow HHPSD to install and maintain sewer infrastructure within the easement area, as well as access the property.

### **Attachments include:**

- A- Proposed Ordinance 2016-23
- B- Proposed Sewer Easement

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AUTHORIZING THE EXECUTION OF A UTILITY EASEMENT AGREEMENT WITH HILTON HEAD PUBLIC SERVICE DISTRICT TO ENCUMBER PROPERTY OWNED BY THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, PURSUANT TO THE AUTHORITY OF S.C. CODE ANN. SEC. 5-7-40 (SUPP. 2012), AND SEC. 2-7-20, CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, (1983); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, the Town of Hilton Head Island, South Carolina (“Town”), owns a parcel of real property known generally as Beaufort County PIN R510-009-000-1034-0000; and

WHEREAS, Hilton Head Public Service District (“HHPD”) has planned and desires to undertake the Dillon Road Sewer Project which involves the installation, upgrade and maintenance of sewer and/or water lines located in the vicinity of Dillon Road, which project is for the benefit and use of the general public; and

WHEREAS, the Town has determined that it is in the best interest of the Town to grant an easement to HHPD for the aforementioned purposes pursuant to that certain Utility Easement Agreement attached hereto as Exhibit “A”.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND ITS IS ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL:**

**Section 1 – Execution, Delivery and Performance of Easement.**

- (a) The Mayor and/or Town Manager are hereby authorized to execute and deliver the Utility Easement Agreement in substantial conformance with the attached Exhibit “A”; and,
- (b) The Town Manager is hereby authorized to take such other and further actions as may be necessary to complete the performance of the Town's obligations under the terms and conditions

of the Easement.

**Section 2 – Severability.**

If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 3 - Effective Date.**

This Ordinance shall be effective upon adoption thereof by the Town Council for the Town of Hilton Head Island, South Carolina.

**PASSED AND APPROVED BY THE TOWN COUNCIL FOR THE TOWN OF  
HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS \_\_\_\_ DAY OF  
\_\_\_\_\_, 2016.**

\_\_\_\_\_  
David Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Victoria L. Pfannenschmidt, Town Clerk

First Reading: \_\_\_\_\_

Second Reading:\_\_\_\_\_

Approved as to form: \_\_\_\_\_  
Gregory M. Alford, Town Attorney

Introduced by Council Member:\_\_\_\_\_

**EXHIBIT “A”**



**STATE OF SOUTH CAROLINA** )  
 ) **UTILITY EASEMENT AGREEMENT**  
**COUNTY OF BEAUFORT** )

This Easement Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between **The Town of Hilton Head Island, South Carolina** (hereinafter referred to as the “Town”), having an address of 1 Town Center Court, Hilton Head Island, South Carolina 29928, and **Hilton Head Public Service District**, having an address of P.O. Box 21264, Hilton Head Island, South Carolina 29925, (hereinafter referred to as the “HHPSD”).

**WITNESSETH**

WHEREAS, HHPSD has planned and desires to undertake the Dillon Road Sewer Project (the “Project”) which involves the installation, upgrade and maintenance of sewer and/or water lines located in the vicinity of Dillon Road, which Project is for the benefit and use of the general public; and,

WHEREAS, The utility lines will be located and/or traverse on, across and through a portion of property of the Town, as described below; and,

WHEREAS, the Town has agreed to convey to HHPSD a permanent easement for the construction, maintenance and use of the below described Improvements, subject to the terms and conditions set forth herein;

NOW, THEREFORE, know all men by these presents, the Town, for and in consideration of the sum of Ten and No/100 (\$10.00) Dollars and no other consideration, the receipt and sufficiency

whereof is acknowledged, has bargained, granted, and sold and by these presents does hereby bargain, grant, and sell to HHPSD, its successors and assigns, a perpetual, non-exclusive easement on, under, over and across that portion of the Town's property, which is described as follows:

ALL those certain pieces, parcels or tracts of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, shown and described as "10' UTILITY EASEMENT 0.11 AC. 4,983 S.F." "10' UTILITY EASEMENT 0.15 AC. 6,522 S.F." "UTILITY EASEMENT 0.01 AC. 433 S.F." and "UTILITY EASEMENT 0.05 AC. 2,136 S.F." on a Plat entitled "Permanent Utility Easements Over Parcel 1034, Dillon Road, Hilton Head Island, Beaufort County South Carolina" dated May 31, 2016, prepared by Mark R. Renew, Sea Island Land Survey, S.C.P.L.S. #25437, which is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book \_\_\_\_\_ at Page \_\_\_\_\_.

(hereinafter, collectively the "Easement Property.")

The easement granted herein is for the right, privilege and authority, from time to time, to enter upon, construct, extend, inspect, operate, replace, relocate, repair, and perpetually maintain upon, over, along, across, through, and under any and all of said Easement Property now existing or hereinafter laid out, various service lines, manholes, hydrants, valves, meters, and other usual fixtures and appurtenances as may from time to time be or become convenient or necessary for the provision of water and sewer services (the "Improvements"), together with the right of ingress, egress and access to and from such Easement Property across and upon lands of the Town as may be reasonably necessary or convenient for the purposes connected therewith.

The easement is granted and accepted subject to the following terms:

1. This easement is conveyed subject to all other easements, licenses, and conveyances of record and is subject to the rights herein reserved by the Town, its successors and assigns, to utilize the Town's properties at any time, in any manner, and for any purpose, provided, however, that such use

by the Town shall not be inconsistent with nor prevent the full utilization by HHPSD, of the rights and privileges granted herein. HHPSD agrees that the use of and access to the Improvements will be under the exclusive control of HHPSD and that they will at all times comply with all applicable laws, rules, codes and regulations.

2. HHPSD agrees to cause all work contemplated hereunder to be performed in a workmanlike fashion with minimal interference to the Town, its successors, assigns, invitees, guests, licensees, and agents. HHPSD further agrees to cause the work contemplated hereunder to be completed in an expeditious and timely fashion, that the Improvements shall at all times be maintained in a safe condition, and that all debris and construction materials relating to work undertaken by HHPSD pursuant to the rights granted hereunder shall be promptly removed. HHPSD shall restore any other part of the Town's property which may be damaged as a result of HHPSD's exercise of the rights granted hereunder to its pre-existing state.

3. The Town represents and warrants to HHPSD that the Town is the lawful owner in fee simple of the Easement Property and that all requisite approval and authority has been obtained for the Town to grant the easement rights specified herein.

To have and to hold, all and singular, the rights, privileges, and easements aforesaid unto the HHPSD, its successors and assigns, forever.

In Witness whereof, the parties hereto have caused the within Easement Agreement to be executed by their duly authorized officers on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

*SIGNATURES ON FOLLOWING PAGES*

WITNESSES:

TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

2) \_\_\_\_\_  
*Signature of Witness #1*

1) By: \_\_\_\_\_  
Stephen G. Riley, ICMA-CM  
Its: Town Manager

3) \_\_\_\_\_  
*Signature of Notary Public*

**STATE OF SOUTH CAROLINA**           )  
  )  
**COUNTY OF BEAUFORT**                )

**UNIFORM ACKNOWLEDGMENT**  
**S. C. CODE ANN. § 30-5-30 (SUPP. 2015)**

I, the undersigned Notary Public do hereby certify that Stephen G. Riley personally appeared before me on this day and duly acknowledged the execution of the foregoing instrument on behalf of the Town of Hilton Head Island, South Carolina.

Sworn to and Subscribed before me  
on this \_\_\_\_ Day of \_\_\_\_\_, 2016.

4) \_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_

WITNESSES

HILTON HEAD PUBLIC SERVICE  
DISTRICT

\_\_\_\_\_  
(Signature of Witness #1)

By: \_\_\_\_\_  
Pete Nardi, General Manager

\_\_\_\_\_  
(Signature of Notary Public)

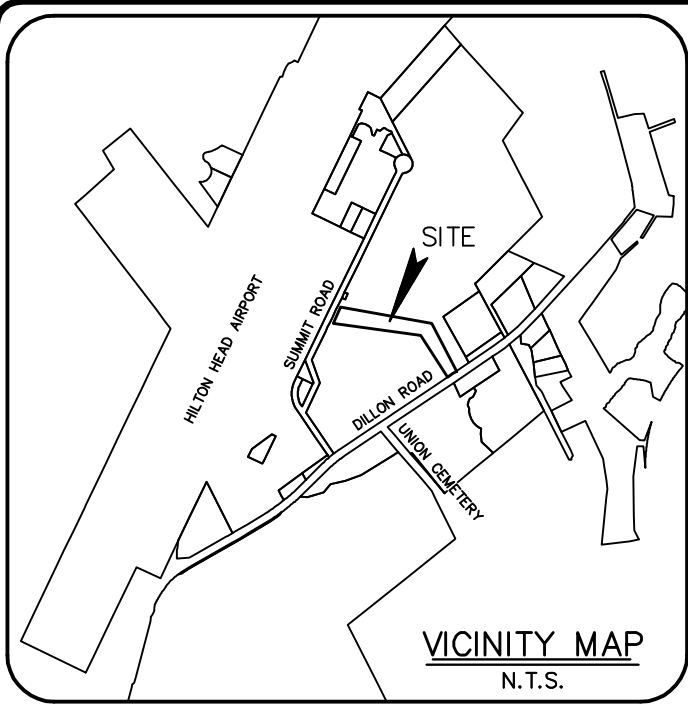
**STATE OF SOUTH CAROLINA** )  
 )  
**COUNTY OF BEAUFORT** )

**UNIFORM ACKNOWLEDGMENT**  
**S. C. CODE ANN. § 30-5-30 (SUPP. 2015)**

I, the undersigned Notary Public do hereby certify that Pete Nardi personally appeared before me on this day and duly acknowledged the execution of the foregoing instrument on behalf of Hilton Head No. 1 Public Service District.

Sworn to and Subscribed before me  
on this \_\_\_\_ Day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_



#### NOTES:

- 1). THIS PLAT HAS BEEN PREPARED WITHOUT BENEFIT OF A COMPLETE TITLE SEARCH BY SEA ISLAND LAND SURVEY, LLC.
- 2). THIS PROPERTY MAY BE SUBJECT TO EASEMENTS OF RECORD AND COVENANT RESTRICTIONS AS RECORDED IN THE OFFICE OF THE ROD FOR BEAUFORT COUNTY.
- 3). HORIZONTAL DATUM IS S.C. STATE PLANE NAD 83.

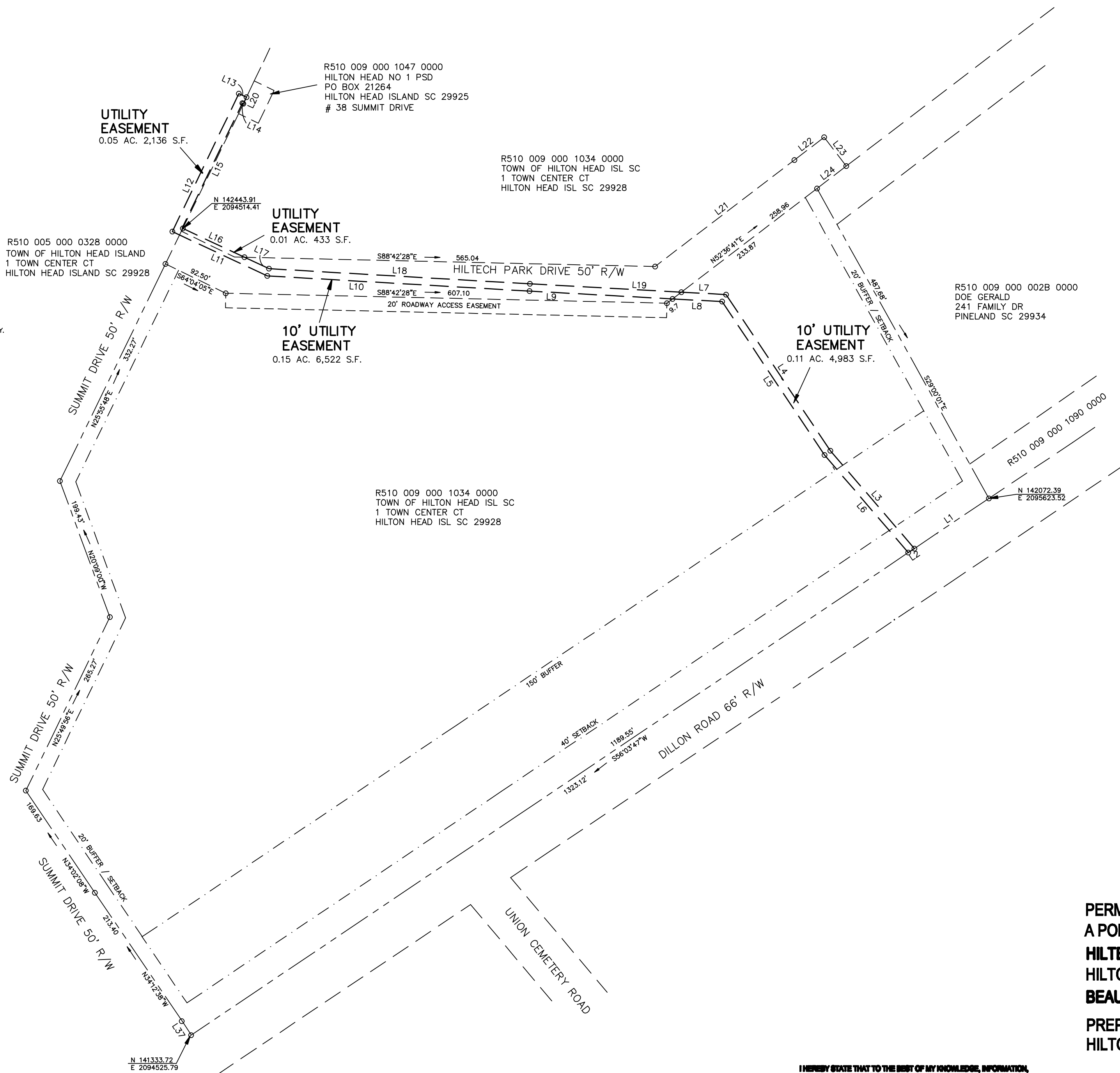
SOME OR ALL AREAS ON THIS PLAT ARE FLOOD HAZARD AREAS AND HAVE BEEN IDENTIFIED AS HAVING AT LEAST A ONE PERCENT CHANCE OF BEING FLOODED IN ANY GIVEN YEAR BY RISING TIDAL WATERS ASSOCIATED WITH POSSIBLE HURRICANES. LOCAL REGULATIONS REQUIRE THAT CERTAIN FLOOD HAZARD PROTECTIVE MEASURES BE INCORPORATED IN THE DESIGN AND CONSTRUCTION OF STRUCTURES IN THESE DESIGNATED AREAS. REFERENCE SHALL BE MADE TO THE DEVELOPMENT COVENANTS AND RESTRICTIONS OF THIS DEVELOPMENT AND REQUIREMENTS OF THE TOWN BUILDING OFFICIAL. IN ADDITION, FEDERAL LAW REQUIRES MANDATORY PURCHASE OF FLOOD INSURANCE AS A PREREQUISITE TO FEDERALLY INSURED MORTGAGE FINANCING IN THESE DESIGNATED FLOOD HAZARD AREAS.

LINE TABLE		
LINE	LENGTH	BEARING
L1	123.50	S 56°03'47" W
L2	10.07	S 56°03'47" W
L3	177.46	N 40°38'48" W
L4	258.37	N 33°43'40" W
L5	253.98	N 33°43'40" W
L6	176.89	N 40°38'48" W
L7	61.59	N 86°52'48" W
L8	68.29	N 86°52'48" W
L9	196.95	S 86°52'48" E
L10	361.63	S 86°40'20" E
L11	144.09	S 64°59'33" E
L12	210.92	S 25°45'15" W
L13	11.56	N 64°43'47" W
L14	1.59	N 64°43'47" W
L15	190.88	S 25°45'15" W
L16	94.83	N 64°59'33" W
L17	37.21	S 64°59'33" E
L18	359.69	S 86°40'20" E
L19	208.64	S 86°52'48" E
L20	10.00	N 25°34'20" E
L21	241.29	N 52°36'41" E
L22	51.69	N 52°37'04" E
L23	49.95	S 37°26'19" E
L24	51.74	S 52°33'41" W
L37	23.12	S 33°33'52" E

#### REFERENCE PLATS

- 1) A RECOMBINATION SURVEY OF 66.14 ACRES, DILLON ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. DRAWN: 11/11/02  
RECORDED IN BOOK 92, PAGE 18, DATED 03/10/03  
ROD. BEAUFORT COUNTY, SC  
BY: DONALD R. COOK, JR S.C.R.L.S. # 19010
- 2) A SUBDIVISION PLAT OF 10.48 ACRES, OLD FISH HALL PLANTATION, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. DRAWN: 9/29/83, LAST REVISED: 8/10/84  
RECORDED IN BOOK 32, PAGE 119, DATED 8/24/84  
ROD. BEAUFORT COUNTY, SC  
BY: JERRY L. RICHARDSON S.C.R.L.S. # 4784
- 3) A BOUNDARY SURVEY OF 2.992 ACRES, PHASE 1-B, DILLON ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. DRAWN: 5/19/94  
RECORDED IN BOOK 51, PAGE 78, DATED 12/02/94  
ROD. BEAUFORT COUNTY, SC  
BY: TERRY G. HATCHELL S.C.R.L.S. # 11059

**ADDRESS: 12 GATEWAY CIRCLE**  
**TOTAL EASEMENT AREA: 0.32 AC. 14,074 S.F.**  
**DISTRICT: 510, MAPS: 5 & 9, PARCELS: 328 & 1034**  
**THIS PROPERTY LIES IN F.E.M.A. ZONE A7 & C**  
**BASE FLOOD ELEVATION = 14.0' & N/A**  
**COMMUNITY NO. 450250, PANEL 0009D, DATED: 9/29/86**



I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE HANDBOOK STANDARD MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "C" SURVEY AS SPECIFIED THEREIN. THERE ARE NO UNLAWFUL ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.

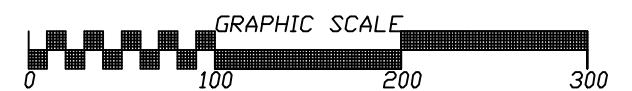


NOT VALID UNLESS EMBOSSED.

**PERMANENT UTILITY EASEMENT OVER:  
A PORTION OF PARCEL 1034,  
HILTECH PARK DRIVE & SUMMIT DRIVE,  
HILTON HEAD ISLAND,  
BEAUFORT COUNTY, SOUTH CAROLINA**

**PREPARED FOR:  
HILTON HEAD PUBLIC SERVICE DISTRICT**

**DATE: 5/31/16 SCALE: 1" = 100'**



**SILS** Sea Island Land Survey, LLC.  
4D Mathews Court, Hilton Head Island, SC 29926  
Tel (843) 681-3248  
Fax (843) 689-3871  
E-mail: sils@sprynet.com  
FILE No.: 15268/2  
DWG No.: 4-1880

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## **TOWN OF HILTON HEAD ISLAND**

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### *Community Development Department*

**TO:** Stephen G. Riley, CM, *Town Manager*  
**VIA:** Charles Cousins, AICP, *Director of Community Development*  
**FROM:** Jennifer B. Ray, ASLA, *Urban Designer*  
**DATE:** August 4, 2016  
**SUBJECT:** Coligny Redevelopment Project – Sandbox MOU/Lease Agreement

---

**Recommendation:** Staff recommends Town Council enter into a Memorandum of Understanding (MOU) including a Lease Agreement with the Sandbox: A Hilton Head Area Children's Museum, Inc. regarding operation of a children's museum in the Town of Hilton Head Island as part of the Coligny Redevelopment Project.

**Summary:** The Town desires to include a building for use by the Sandbox children's museum in the public park/open space improvements on Town-owned land in the Coligny area for the purpose of operating a children's museum to service residents and visitors. A MOU has been drafted that outlines the responsibilities of the Town as well as those of the Sandbox as the project moves from the design phase into construction. On July 18, 2016 the Public Facilities Committee voted unanimously to recommend Town Council enter into the MOU and Lease Agreement.

**Background:** In October 2014, Town Council approved the master plan for Coligny District improvements which included the children's museum. At its annual workshop in November, 2014, Town Council outlined its desire to move forward with improvements in the northwest quadrant of the Coligny District, specifically including the park, destination playground, and Sandbox Children's Museum.

A design team led by Wood+Partners, including Thomas & Hutton Engineering and Watson Tate Savory Architects, has provided professional design services to facilitate the design of the Town's Coligny Redevelopment Project. The design team and staff have worked closely with representatives from the Sandbox regarding the design of the building, the needs of the museum, and its integration into the park, as well as the details of the agreements.

Major elements of the MOU and Lease Agreement are as follows:

- The Town will be responsible for the design, permitting, and construction of a shell structure and associated outdoor patio space.
- The Town will lease the structure, and associated outdoor patio space to the Sandbox to operate a children's museum. The Sandbox may also use +/- 35 parking spaces in adjacent lot and the adjacent dumpster. The Sandbox has exclusive use of the private play area adjacent to the Building.



- The Town will fund the cost of design, permitting, clearing, and construction of the structure as well as parking, landscaping, etc. surrounding the structure.
- The Sandbox will provide funds of no less than \$150,000 to improve the structure to occupy it as a children's museum. Construction will not begin until at least 50% of funds have been deposited in an account ready for immediate use.
- The Sandbox will enter into a lease agreement with the Town. The Sandbox will operate, maintain, and repair all facilities constructed by the Town for a children's museum.
- The Sandbox shall continuously occupy and use the premises as a children's museum.
- The lease will automatically be renewed for successive renewal terms of five years each.

At the Public Facilities Committee meeting, members expressed the following concerns:

- When defining permitted uses as all "normal daily operations", the Agreement should not preclude other operations that are normal but not daily. The Lease Agreement, Exhibit B to the MOU, has been revised to include special events, birthday parties, fundraisers, etc.
- The Agreement should address the responsibility for insuring the building in the same manner as the agreement with the Coastal Discovery Museum. The Lease Agreement, Exhibit B to the MOU, has been revised to include the responsibility of the Museum to provide building insurance.

Due to the competitive bidding climate and pricing that the TOHH has seen recently, an additional change was made. A clause was added to the MOU under obligations of the Town that indicates the Town's commitment to funding will be within the parameters of the approved budget.

**AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING WITH, AND THE LEASE OF TOWN-OWNED REAL PROPERTY TO, THE SANDBOX: A HILTON HEAD AREA CHILDREN’S MUSEUM, INC., RELATED TO THE DEVELOPMENT AND LEASE OF REAL PROPERTY OWNED BY THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, PURSUANT TO THE AUTHORITY OF S.C. CODE ANN. SEC. 5-7-40 (SUPP. 2012), AND SEC. 2-7-20, CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, (1983); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, the Town of Hilton Head Island, South Carolina (“Town”), owns one or more parcels of real property (“Town Property”) located in the Coligny area of Hilton Head Island; and

WHEREAS, the Town desires to develop portions of the Town Property by constructing one or more structures for use by The Sandbox: A Hilton Head Area Children’s Museum, Inc. (“Sandbox”), and the Town desires to lease portions of the Town Property to the Sandbox, all for the operation of a children’s museum in the Town of Hilton Head Island in accordance with that certain Memorandum of Understanding, a copy of which is attached hereto as Exhibit “1”; and

WHEREAS, the Town Council for the Town has determined that it is in the best interests of the Town to enter into a Memorandum of Understanding and Lease with the Sandbox for operation of a children’s museum in the Town of Hilton Head Island.

**NOW, THEREFORE, BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND ITS IS ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL:**

**Section 1 - Execution, Delivery and Performance of Memorandum of Understanding.**

- (a) The Mayor and/or Town Manager are hereby authorized to execute and deliver the Memorandum of Understanding in substantial conformance with the attached Exhibit “1”; and
- (b) The Town Manager is hereby authorized to take such other and further actions as may be

necessary to complete the performance of the Town's obligations under the terms and conditions of the Memorandum of Understanding.

**Section 2 - Execution, Delivery and Performance of Lease.**

(a) The Mayor and/or Town Manager are hereby authorized to execute and deliver the Lease in substantial conformance with Exhibit “B” of the attached Exhibit “1”; and,

(b) The Town Manager is hereby authorized to take such other and further actions as may be necessary to complete the performance of the Town's obligations under the terms and conditions of the Lease.

**Section 3 - Severability.**

If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

**Section 4 - Effective Date.**

This Ordinance shall be effective upon adoption thereof by the Town Council for the Town of Hilton Head Island, South Carolina.

(SIGNATURE PAGE FOLLOWS)

**PASSED AND APPROVED BY THE TOWN COUNCIL FOR THE TOWN OF  
HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS \_\_\_\_ DAY OF  
\_\_\_\_\_, 2016.**

\_\_\_\_\_  
David Bennett, Mayor

ATTEST:

\_\_\_\_\_  
Victoria L. Pfannenschmidt, Town Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Approved as to form: \_\_\_\_\_  
Gregory M. Alford, Town Attorney

Introduced by Council Member: \_\_\_\_\_

# EXHIBIT “1”

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF BEAUFORT ) MEMORANDUM OF  
 UNDERSTANDING

This Memorandum of Understanding (“Agreement”) is entered into by and between The Sandbox: A Hilton Head Area Children’s Museum, Inc. (“Sandbox”), and the Town of Hilton Head Island, South Carolina (“Town”), and shall be effective upon its execution by both parties hereto.

WHEREAS, the Sandbox is an interactive children’s museum serving the residents of and visitors to Hilton Head Island and the greater South Carolina lowcountry area; and

WHEREAS, the Sandbox currently operates a children’s museum within the Town, and seeks to further its cooperative efforts with and for the Town; and

WHEREAS, the Town is a municipality whose residents and visitors attend educational and related services provided by the Sandbox, and desires to build upon those efforts for the benefit of the Town, its residents and visitors; and

WHEREAS, the Town and the Sandbox desire for the Sandbox to operate a children's museum in the Town of Hilton Head Island intending to provide, among other things, children's empowerment through play, leap into learning, imagination hour, and other children's education programs benefitting the parties hereto; and

WHEREAS, this Agreement is entered into by and between the Town and the Sandbox for the purpose of providing assurances to each other so that each may proceed with actions furthering the agreements and understandings as contemplated in this Agreement; and

WHEREAS, it is anticipated that an additional agreement or agreements may be necessary to further clarify and memorialize the details with respect to the future development and operation of a children's museum in the Town of Hilton Head Island, and the parties hereto will clarify and memorialize such details as it may become necessary.

NOW THEREFORE, for and in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, including

economic and other benefits inuring to both the Town and the Sandbox as a result of this Agreement with regard to the future development and operation of a children's museum by the Sandbox, the receipt and sufficiency of such consideration being hereby mutually acknowledged, the Town and the Sandbox hereby agree as follows:

**I. RECITALS**

- A. The above WHEREAS clauses are hereby incorporated into this Agreement as if fully set forth herein.
- B. All exhibits attached hereto and/or referred to in this Agreement are hereby incorporated into this Agreement as if fully set forth herein.

**II. EFFORTS TO DATE**

- A. A conceptual plan has been developed and is attached hereto as Exhibit "A". The Town and the Sandbox acknowledge that this plan may be refined, but shall remain at all times in substantial conformance with the attached Exhibit "A".
- B. The Town has received approval of Public Project Review in accordance with the Town's Land Management Ordinance.

**III. OBLIGATIONS OF THE TOWN**

- A. Subject to Article IV(A) below, the Town shall be responsible for the design and permitting of a shell structure and associated outdoor patio space for a children's museum ("Structure") approximately 4,000 square feet, all clearing of the property, construction of the Structure, parking and infrastructure improvements, and landscaping for the site.
- B. The Town shall lease to the Sandbox the Structure necessary to operate said children's museum. The Town shall execute and deliver to the Sandbox a Lease Agreement in substantial conformance with the attached Exhibit "B".
- C. The Town shall commit to providing funding towards the cost of design, permitting, clearing, and construction of the Structure, as well as any

parking, landscaping, etc. required surrounding the Structure, within the parameters of the approved budget.

- D. The Town shall use its best efforts to cooperate with the Sandbox in effectuating the terms of this Agreement.

#### **IV. OBLIGATIONS OF THE SANDBOX**

- A. The Sandbox shall provide funds (“Sandbox Funds”) needed to improve the Structure and surrounding property for occupancy by a children’s museum (including payment of any Town and/or County Impact Fees), in an amount to be determined by mutual agreement of the parties hereto but in any event not less than One Hundred Fifty Thousand Dollars (\$150,000.00). The parties acknowledge and agree that the Town shall have no obligation to proceed with design, construction or permitting of the Structure, or providing funding for the same, until the Sandbox provides written documentation and adequate assurances (in the Town’s sole discretion) to the Town evidencing that (1) the Sandbox has deposited, into a separate account with a financial institution, at least fifty percent (50%) of the Sandbox Funds agreed upon by the parties, (2) the deposited funds are ready for immediate use, and (3) access to the deposited funds is restricted in such manner as to be used for no other purpose than performing improvements to the Structure and surrounding property for occupancy by a children’s museum in accordance with this Article IV(A). The parties acknowledge and agree that the Sandbox may not be able to complete all interior improvements of the Structure until sufficient funding is in hand.
- B. The Sandbox shall be responsible for final design and permitting of the improvements necessary for occupancy of the Structure and associated property by a children’s museum.
- C. The Sandbox shall cause the construction, installation, and implementation of the improvements within the Structure.



- D. The Sandbox shall execute and deliver to the Town a lease agreement in substantial conformance with the attached Exhibit “B”. Further, the Sandbox shall operate and maintain all facilities constructed by the Town for a children’s museum to a standard consistent with the mission and/or purpose of the Sandbox.
- E. The Sandbox shall use its best efforts to cooperate with the Town in effectuating the terms of this Agreement.

## V. GENERAL

- A. Amendment, Changes and Modifications. Except as otherwise provided herein, this Agreement may not be amended, changed, modified or altered without the written consent of both parties hereto.
- B. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina.
- C. Assignability. This Agreement may not be assigned by either party without the express written consent of both parties.
- D. Construction. The parties agree that each party and its counsel have reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto.
- E. Eminent Domain. Nothing contained in this Agreement shall limit, impair or restrict the Town’s right and power of eminent domain under the laws of the State of South Carolina.
- F. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- G. Further Assurances and Corrective Documents. The parties hereto agree to do, execute, acknowledge, deliver or cause to be done all such further acts as may be reasonably determined to be necessary to carry out this Agreement and give effect hereto.

H. No Waiver. Failure of a party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such Party to exercise at some future time said right or any other right as it may have hereunder.

I. Notices. Any notice, demand, request, consent, approval or communication which a signatory party is required to or may give to another signatory party hereunder shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other address as such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or by facsimile, or if by mail, on the fifth (5<sup>th</sup>) business day after deposit thereof in the United States Mail, postage pre-paid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals, or communications shall be addressed:

to the Town at:

Stephen G. Riley, ICMA-CM  
Town Manager, Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, South Carolina 29928

With a copy to:

Gregory M. Alford, Esquire  
Alford & Thoreson, LLC  
P.O. Drawer 8008  
Hilton Head Island, South Carolina 29938

and to Sandbox at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

---

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- J. Recording. The parties hereto may not record this Agreement in the Office of the Register of Deeds for Beaufort County, South Carolina.
- K. Severability. In the event that any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- L. Termination If either the Town or the Sandbox is unable to raise its portion of the necessary funds, or otherwise fulfill its obligations under or pursuant to this Agreement within two (2) years of the execution of this Agreement, then this Agreement shall automatically be terminated and any Lease executed between the parties pursuant to this Agreement shall be void.
- M. This Agreement reflects the intent of the parties to proceed in good faith to execute definitive written agreements and/or take further action(s) with respect to the terms and conditions contained herein. Notwithstanding anything herein to the contrary, (i) if the Town determines that it is not feasible to proceed with the improvements detailed herein or any matters in connection therewith, the Town shall have no liability under this Agreement; and (ii) if the Sandbox determines that it is not feasible to proceed with the improvements detailed herein or any matters in connection therewith, the Sandbox shall have no liability under this Agreement.

(SIGNATURE PAGES FOLLOW)

**IN WITNESS WHEREOF**, the Sandbox has caused this Agreement to be signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**SIGNED, SEALED AND  
DELIVERED IN THE PRESENCE  
OF:**

\_\_\_\_\_  
\_\_\_\_\_

**THE SANDBOX: A HILTON HEAD  
AREA CHILDREN’S MUSEUM, INC.**

By: \_\_\_\_\_  
Keri Olivetti  
President, Board of Directors

Attest: \_\_\_\_\_

Print Name: \_\_\_\_\_

**STATE OF SOUTH CAROLINA** )  
 )  
**COUNTY OF** \_\_\_\_\_ )

**ACKNOWLEDGEMENT**

I, the undersigned Notary Public, do hereby certify that Keri Olivetti and \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the Sandbox: A Hilton Head Area Children’s Museum, Inc.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_

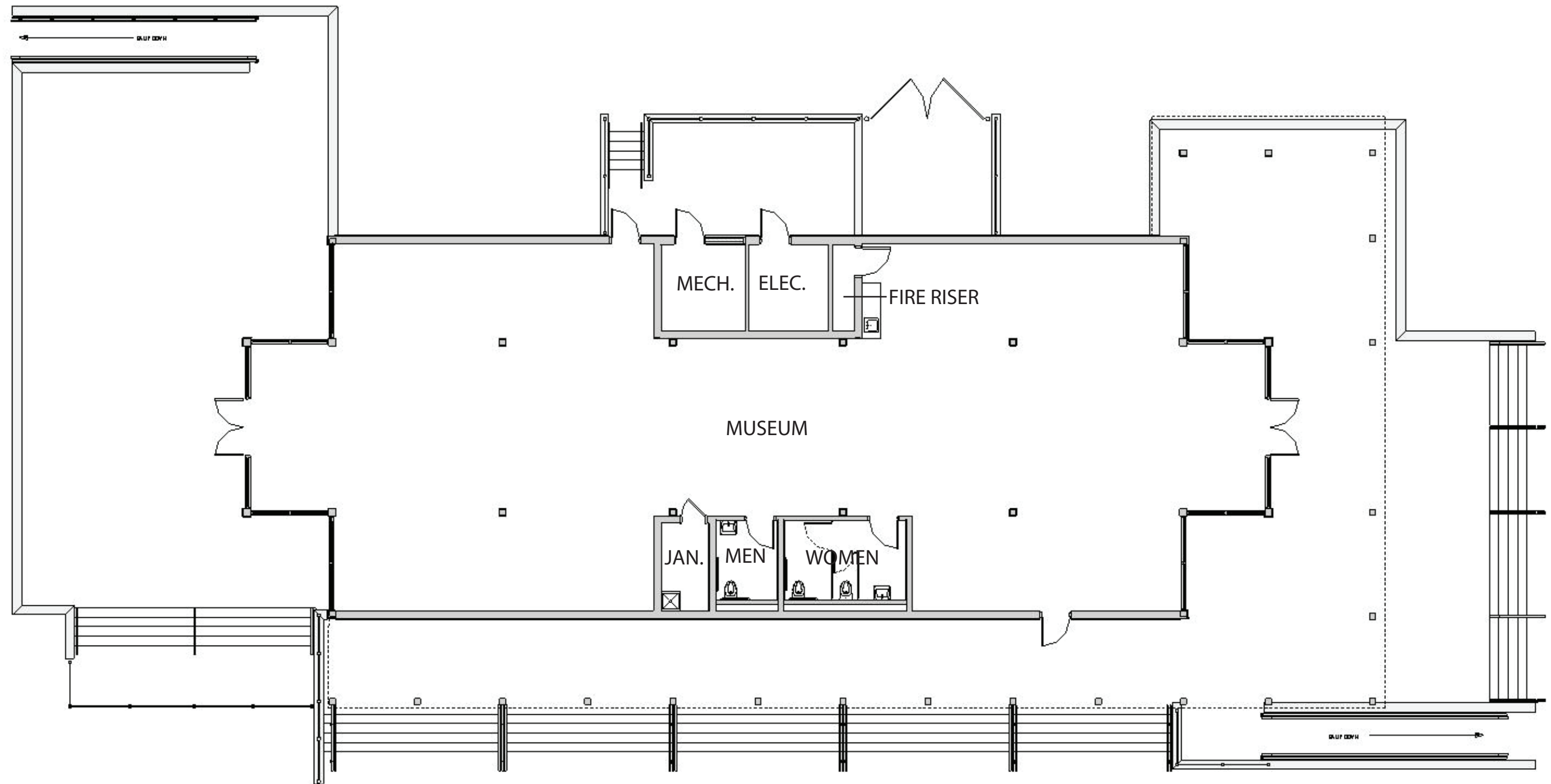
**SIGNED, SEALED AND  
DELIVERED IN THE PRESENCE  
OF:**

Attest: \_\_\_\_\_  
Stephen G. Riley, ICMA-CM  
Town Manager

## ACKNOWLEDGEMENT

Notary Public for South Carolina  
My Commission Expires: \_\_\_\_\_

**EXHIBIT “A” TO MEMORANDUM OF UNDERSTANDING**



SANDBOX CHILDREN'S MUSEUM SHOWING BUILDOUT WITH ANTICIPATED PLUMBING FIXTURES  
 COLIGNY PARK  
 19 MAY 2016

**EXHIBIT “B” TO MEMORANDUM OF UNDERSTANDING**



LEASE OF  
REAL PROPERTY AND IMPROVEMENTS THEREON  
BY AND BETWEEN  
THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA,  
AND  
THE SANDBOX: A HILTON HEAD AREA CHILDREN'S MUSEUM, INC.

DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_

STATE OF SOUTH CAROLINA

)

)

COUNTY OF BEAUFORT

)

LEASE

This Lease Agreement (hereinafter, the "Lease"), is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between the Town of Hilton Head Island, South Carolina (hereinafter, "Lessor"), and The Sandbox: A Hilton Head Area Children's Museum, Inc. (hereinafter, "Lessee").

For and in consideration of the Rent to be paid by the Lessee hereunder, and the full and faithful performance of the following terms and conditions, the Lessor and the Lessee (hereinafter collectively referred to as the "Parties"), hereto mutually understand and agree as follows:

1. LEASED PREMISES:

The Lessor hereby leases to the Lessee, and the Lessee hereby leases from the Lessor, that certain building designated as A1, and associated outdoor patio space, on the attached Exhibit "A", located on Hilton Head Island, South Carolina (hereinafter, the "Building" or "Leased Premises").

2. LEASE TERM:

(a) Initial Term. Lessee shall have and hold the Leased Premises for a term (hereinafter, the "Initial Lease Term") beginning on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (hereinafter, the "Commencement Date"), and ending at midnight on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (hereinafter, the "Initial Expiration Date").

(b) Renewal Terms. This Lease will automatically be renewed for successive renewal terms of five (5) years each, unless either party sends to the other a written notice evidencing that party's intent to terminate this Lease at least one hundred eighty (180) days prior to the end of the Lease term then in effect. The Initial Term and any Renewal Terms shall collectively be called the "Lease Term".

(c) Lessee's entry into, and taking possession of, the Leased Premises shall constitute as of the beginning of the Initial Lease Term. At the time of execution of this Lease or at any time thereafter, the Lessor shall be under no duty to make alterations or repairs to the Leased Premises that are not expressly set forth in this Lease.

(d) If the Lessor is unable to deliver possession of the Leased Premises upon the Commencement Date, then neither the Lessor nor its agents shall be liable for any damages caused to the Lessee by reason of the delay, nor shall this Lease become void or voidable; however, except as otherwise expressly provided, Lessee shall not be liable for the payment of Rent until the Lessor delivers possession of the Leased Premises.

(e) If the Lessee shall be in possession of the Leased Premises after the Lease Term has expired (hereinafter, the "Holdover Period"), and in the absence of any written agreement extending the Lease Term hereof, or the Lessor's demand to the Lessee to sooner vacate the Leased Premises, the tenancy under this Lease shall become one from month to month, terminable by either party on thirty (30) days' prior written notice. Such tenancy shall be subject to all other conditions, provisions and obligations of this Lease.

3. RENT:

The following Rent schedule is based on an annual Rent rate of One and 00/100 (\$1.00) Dollar. The Rent shall be payable in equal yearly payments, in advance, beginning on the Commencement Date, and thereafter, on the first (1<sup>st</sup>) day of every year throughout the entire Lease Term.

4. USE AND COMPLIANCE:

(a) PERMITTED USE: The Lessee shall continuously occupy and use the Leased Premises as the Sandbox Children's Museum (herein, the "Permitted Use"), to include all normal daily operations of the Sandbox Children's Museum as well as other operations in furtherance of the Sandbox Children's Museum (such as special events, birthday parties, fundraisers, etc.), unless the written consent of the Town is first obtained for any other use. The Leased Premises shall not be used for any use other than the Permitted Use, or which is disreputable, creates extraordinary fire hazards, results in an increased rate of insurance on the Building, or the contents therein, or for the storage of any Hazardous Materials as defined herein (other than those which might be used in the ordinary course of the Lessee's Permitted Use, and then only in compliance with all applicable laws related thereto).

(b) COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS: The Lessee shall comply with all applicable statutes, ordinances, rules, covenants, restrictions, and regulations relating to the use, condition, access to, and occupancy of the Leased Premises and shall maintain the Leased Premises free of trash, litter, and debris, and in a clean and sightly condition.

(c) SPECIFIC PROVISIONS RELATED TO THIS LEASE: In addition to other obligations set forth in this Lease, the parties agree as follows:

(i) Lessee may utilize approximately thirty-five (+/- 35) parking spaces in the parking lot adjacent to the Building. Such use shall not be exclusive to Lessee, and the parking spaces may be reserved by Lessor or other appropriate parties during special events or similar times as lawfully requested and approved.

(ii) Lessee may utilize the dumpster adjacent to the Building. Such use shall not be exclusive to Lessee, and the dumpster may be used by Lessor during special events or similar times as needed. Further, any use by Lessor does not obligate Lessor to provide special or additional dumpster collection.

(iii) Lessee may exclusively utilize the private play area adjacent to the Building; however, emergency exits will be provided and lead from this area to the adjacent park area.

5. THE LESSEE'S DUTY TO MAINTAIN AND REPAIR:

(a) REPAIRS TO LEASED PREMISES: Lessee shall keep and maintain the Leased Premises in good order, condition, and repair (including any replacement and restoration as is required for that purpose), and every part thereof and any and all appurtenances thereto wherever located, including, without limitation: the foundation, exterior walls, and roof of the building in which the Leased Premises are located, and the structural portions of the Leased Premises; the exterior and interior portion of all doors and plate glass; all plumbing and sewage facilities with the Leased Premises, including the free

flow of and to the main sewer line; fixtures; heating and air-conditioning and electrical systems premises serving the Leased Premises exclusively; sprinkler systems; wall, floor, and ceilings applicable to the Leased Premises; and all installations made by the Lessee under the terms of this Lease and any Exhibits thereto, as herein provided. The Lessee shall not make any alteration of, or addition or improvement to, the Leased Premises without securing the Lessor's prior written consent. Any and all roof penetrations must first be approved by and coordinated through the Lessor, in order not to void any warranties on the roof coverings. The Lessee shall save the Lessor harmless on account of claims for mechanics or materialmen's liens, or any other lien, in connection with any work performed by the Lessee, and any such liens shall exist only against the Lessee's leasehold interest and shall be discharged, by bond or otherwise, within thirty (30) days of filing and service of thereof. The Lessee shall keep and maintain the Leased Premises in accordance with all directions, rules, and regulations of the proper officials of any government or other agency having jurisdiction over the Building, at the sole cost and expense of the Lessee, and the Lessee shall comply with all requirements of law, statute, ordinance, covenants, restrictions or otherwise, governing the use of the Leased Premises and all appurtenances thereto. The Lessor shall have the right, but not the obligation, to enter the Leased Premises to repair, replace, maintain or restore, at Lessee's expense, any items which the Lessee is responsible for maintaining, repairing, restoring, or replacing under this Article 6 and for which Lessee has failed to perform hereunder. The Lessee shall reimburse the Lessor within thirty (30) days from the written demand by the Lessor for any cost or expense plus an administrative fee not to exceed eighteen (18%) percent of such cost of expense.

(b) LESSOR NOT LIABLE: The Lessor shall not be liable for any loss or damage to the Lessee's personal property, equipment, fixtures, and improvements to the Leased Premises.

6. LESSOR REPRESENTATIONS:

(a) ZONING: The Lessor hereby warrants and represents that the Leased Premises are properly zoned for the Lessee's Permitted Use(s) and that the Lessee's Permitted Use(s) thereof is permitted upon the Leased Premises.

(b) QUIET ENJOYMENT: The Lessor warrants and covenants that, if Lessee shall perform all of the covenants and agreements as stipulated in this Lease to be performed on the part of the Lessee, the Lessee at all times during the Lease Term shall have exclusive, peaceable, and quiet enjoyment and possession of the Leased Premises without any manner of hindrance from anyone claiming by, through, or under the Lessor.

7. SURRENDER OF LEASED PREMISES:

On or before the Expiration Date, or upon earlier termination of its interest in the Leased Premises as provided herein, the Lessee shall peaceably surrender possession of the Leased Premises to the Lessor with all improvements located therein, in good repair and in the same condition in which delivered to the Lessee, ordinary wear and tear excepted, and the Lessee shall deliver to the Lessor all keys to the Leased Premises. Regardless of the foregoing, at any time prior to the expiration of the Lease Term, the Lessee may, at its cost and expense, remove in a careful manner any trade fixtures, furniture, and personal property placed within the Leased Premises by the Lessee during the Lease Term, and prior to such expiration shall repair any damage caused to the Leased Premises by such removal. All items not

so removed shall, at the Lessor's option, be deemed to have been abandoned by the Lessee and may be destroyed or otherwise disposed of by the Lessor without notice to the Lessee, and without any obligation to account for such items, or liability to the Lessee therefore. The provisions of this Article of the Lease shall survive the expiration or termination of this Lease.

8. LESSOR'S RIGHT OF ENTRY:

The Lessor or its employees/agents may enter the Leased Premises at any mutually agreeable time for the purpose of inspecting or maintaining the Leased Premises. In the event of an emergency, however, the Lessor or its employees/agents may enter the Leased Premises without consent or agreement of the Lessee. Keys for this purpose must be held by the Lessor or its employees/agents. In the event that the Lessee desires to change or alter any locks to the Leased Premises, the Lessee will notify the Lessor of the Lessee's request, and the Lessor or the Lessor's employee(s)/agent(s) will have the locks changed or altered at the Lessee's expense.

9. UTILITIES:

(a) UTILITY CONNECTIONS: The Lessor shall at all times cause or make available to the Building for the use of the Lessee, connections for adequate water, electric, gas, telephone, and sewage.

(b) ARRANGEMENT AND PAYMENT FOR UTILITIES: The Lessee shall arrange for the provision of all utilities to be furnished to the Leased Premises during the term of the Lease. The Lessee shall pay for its own telephone, internet, janitorial, cable TV, water, sewage, garbage/dumpster disposal, electricity services, and any other utility services for the Leased Premises. The Lessor shall have no obligation to provide or pay for any utility service in connection with the Leased Premises.

10. SIGNS:

The Lessee shall not erect any signs or advertisements on any exterior door, wall, or window of the Leased Premises without the prior written consent of the Lessor. If the Lessor approves any such signage, all related costs for the installation and fabrication for the signage shall be the sole financial responsibility of the Lessee. The Lessee agrees to maintain such signs as approved by the Lessor in good condition and repair. Any such sign shall otherwise comply with all requirements of any law, statute, ordinance, covenants, restrictions, or otherwise, governing the use of the Leased Premises.

11. CONTROL OF THE LEASED PREMISES:

(a) THE LESSEE'S EXCLUSIVE CONTROL: The Lessee warrants and represents that during any Term of this Lease, the daily operations, use, and occupancy of the Leased Premises shall be under the sole and exclusive control of the Lessee.

(b) SURVIVAL: The warranties and representations set forth in this Article shall survive the expiration, cancellation, or termination of this Lease.

12. DAMAGE OR DESTRUCTION OF THE LEASED PREMISES:

(a) DESTRUCTION OF LEASED PREMISES: In the event that the Leased Premises are destroyed, or that damage to the Leased Premises is so extensive that restoration or repairs cannot be accomplished within ninety (90) days, as certified by the opinion of the Building Official of the Town of Hilton Head Island, South Carolina, then the Lessee or the Lessor may terminate this Lease by giving the other written notice before any restoration or repair is commenced, and in that event, any applicable insurance proceeds shall be paid to the Lessor.

(b) DAMAGE TO THE LEASED PREMISES: In the event of an insured loss and subject to the termination provisions set forth herein, the Lessor shall repair or restore the Building to as good a condition as existed before such damage occurred, to the extent of any available insurance proceeds. Should the Lessor provide the Lessee with the opinion of an experienced insurance adjuster that such insurance proceeds will not be sufficient to pay for such repairs or restoration, then the Lessor or the Lessee may terminate this Lease by written notice, in which event all insurance proceeds will be paid to the Lessor.

13. EMINENT DOMAIN:

(a) TERMINATION OF LEASE: If any portion of the Leased Premises is taken for any public or quasi-public use under any governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase under threat or initiation of exercise of the right of eminent domain, this Lease shall terminate upon the election of either Party, effective on the date possession of the Leased Premises, or any portion thereof, is taken by the condemning authority or private purchaser as aforesaid. In the case of such partial condemnation and an election by the Parties hereto not to terminate this Lease, then the Rent payable hereunder shall, during the unexpired portion of the Lease, be pro-rated, based upon percentage of square feet of the Leased Premises so taken, of the whole of the Leased Premises stated in this Lease. The Lessor shall promptly provide the Lessee a copy of any and all notices from any such condemning authority, or private purchaser as mentioned above, respecting any requirements that the Lessor surrendered its right to all or any portion of the Leased Premises pursuant to this Article.

(b) NOTICE OF ELECTION: Any notice of election by the Lessee to terminate this Lease as provided in this Article shall be given by the Lessee to the Lessor within thirty (30) days after written notice by the Lessor to the Lessee as provided in this Article, or within thirty (30) days after receipt by Lessee of actual knowledge of any requirement that the Lessor surrendered its right to possession to all or any part of the Leased Premises, whichever shall first occur. In the event this Lease is not terminated pursuant to this Article, after taking of a portion of the Leased Premises, the Lessor shall make such reasonable repairs or alterations as may be necessary to make the structure of the Leased Premises and architectural whole, and this Lease shall thereafter be in full force and effect, as provided herein.

(c) CONDEMNATION: Any payment or award from the condemning authority shall be the property of the Lessor.

14. SUBLETTING PROHIBITED:

Lessee shall not sublet all or any portion of the Leased Premises, or assign or otherwise transfer any of its rights under this Lease, in whole or in part, to any third party without the prior written consent of the Lessor. Any and all documents utilized by the Lessee to evidence any subletting or assignment to which the Lessor has consented shall be subject to prior written approval by the Lessor and its counsel.

15. DEFAULT OF LESSEE:

Occurrence of any of the following shall constitute a Default under the terms of this Lease:

(a) FAILURE TO PAY RENT OR FOR ANY OTHER MONEY DUE: If the Lessee shall fail to pay any payment of Rent, or any other sum of money due and payable under this Lease, whether to the Lessor or otherwise, when due and payable, and such failure shall continue for a period of ten (10) days from the due date thereof;

(b) VIOLATION OF LEASE: If the Lessee shall violate any term of this Lease, or fail to perform any term, condition, covenant, obligation, or agreement to be performed or observed by the Lessee under this Lease, and such failure shall continue for a period of thirty (30) days after the delivery of written notice thereof;

(c) ABANDONMENT OF LEASED PREMISES: If the Lessee shall desert, vacate, or not regularly use the Leased Premises for a period of thirty (30) days or more, even though the Lessee continues to timely pay all Rent Payments when due;

(d) DISSOLUTION: The dissolution of the Lessee for any reason; or

(e) WARRANTIES AND REPRESENTATIONS: Any of the representations or warranties of Lessee as set forth in this Lease are or become untrue or incorrect in any material respect during the term of this Lease.

16. DEFAULT OF THE LESSOR:

Occurrence of any of the following shall constitute a Default under the terms of this Lease:

(a) If the Lessor should fail to perform or observe any of the conditions or terms of this Lease, and such failure to perform or observe shall continue for a period of thirty (30) days after written notice to the Lessor by the Lessee of such.

17. RIGHTS OF THE PARTIES ON DEFAULT:

(a) ALL REMEDIES PRESERVED: Upon Default of the other Party, the Lessor or the Lessee, as the case may be, shall be entitled to pursue any remedy at law or in equity available to it.

(b) ATTORNEY'S FEES AND COSTS: If any legal action or other proceeding is brought for the enforcement of this Lease, or because of a dispute, breach, default, or misrepresentation in connection with all or any of the provisions of this Lease, the successful or prevailing party shall be entitled to recover its reasonable attorney's fees and any costs incurred as a result of any such legal action

or other proceeding, whether incurred before the institution of a suit or after the commencement of suit, including appellate proceedings, in addition to any other relief to which prevailing party may be entitled.

18. INTERPRETATION:

The Lessee acknowledges that the Lessee has reviewed and agreed to all the terms and provisions of this Lease and that the Lessee has had a full opportunity to consult with an attorney of the Lessee's choosing concerning the legal consequences of entering into this Lease with the Lessor. As a result of the foregoing, it is the intent of the Parties hereto that this Lease shall not be construed or interpreted against either Party in any dispute concerning any term or provision of this Lease.

19. NO WAIVER:

The Lessor's acceptance of any payment of Rent (or other money due) following any Default by the Lessee shall not waive the Lessor's rights regarding such a Default. No waiver by the Lessor of any violation or breach of any of the terms contained in this Lease shall waive the Lessor's rights regarding any future violation of such term, or any violation of any other term contained within this Lease. The Lessor's acceptance of any partial payment of Rent shall not waive the Lessor's rights with regard to the remaining portion of the Rent regardless of any endorsement or other statement on any instrument delivered in payment of Rent, or any writing delivered to the Town in connection therewith. Accordingly, the Lessor's acceptance of any partial payment as required by this Lease shall not constitute an accord and satisfaction with respect to the full amount of any such payment.

20. MECHANIC'S LIENS OR OTHER LIENS:

The Lessee shall have no power to subject the Leased Premises or the Lessor's interest in the Leased Premises to any mechanic's lien or any other lien. If any mechanic's lien or other lien or order for the payment of money shall be filed against the Leased Premises by reason of, or arising out of, any labor or material furnished or alleged to have been furnished or to be furnished to or on behalf of the Lessee at the Leased Premises, or for or by reason of any change, alteration, or addition or the cost or expense thereof or any contract relating thereto, the Lessee shall cause the same to be discharged of record against the Leased Premises by bond or otherwise as allowed by law at the sole expense of the Lessee, within thirty (30) days after written demand therefore by the Lessor, and shall also defend on behalf of the Lessor at the Lessee's sole cost and expense, any action, suit, or proceeding that may be brought thereon or for the enforcement of any such lien or order, and the Lessee shall save the Lessor harmless from any judgment, claim, or damage resulting therefrom.

21. ESTOPPEL CERTIFICATES:

The Lessee agrees that at any time and from time to time upon not less than ten (10) days prior written request by the Lessor, to execute, acknowledge, and deliver to the Lessor a statement in writing certifying that this Lease is unmodified and is in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and stating modifications), and the dates to which the Rent and other charges have been paid in advance, if any, it being intended that any such statement delivered pursuant to this Article may be relied on by any prospective purchaser or purchasers of the Lessor's interest in the Building or the Leased Premises.



22. WAIVER OF JURY TRIAL:

TO THE EXTENT PERMITTED BY LAW, THE LESSOR AND THE LESSEE EACH AGREE TO WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LITIGATION ARISING IN CONNECTION WITH THIS LEASE, OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE ARISING OUT OF OR WITH RESPECT TO THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO.

23. HAZARDOUS MATERIALS:

(a) HAZARDOUS MATERIALS PROHIBITED: The Lessee shall not cause or permit any hazardous materials to be brought upon, kept, or used in or about the Leased Premises (other than in the ordinary course of the Lessee's Permitted Use, and then only in compliance with any and all applicable laws) without the prior written consent of the Lessor, which consent may be withheld by the Lessor for any reason. "Hazardous Materials" shall mean any substance, material, or waste which is now or hereafter classified and/or considered to be hazardous, toxic, or dangerous, under any law or regulation relating to pollution or the protection or regulation of human health, natural resources, or the environment, or which opposes or threatens to pose a hazard to the health or safety of any person on or about the Leased Premises or the Building.

(b) LESSOR'S RIGHTS: If the Lessee breaches its obligations under this Article, the Lessor may, but is not obligated to, immediately take, at the Lessee's expense, any and all actions reasonably appropriate to remedy the same, including taking any appropriate actions to clean up or remediate any contamination resulting from the Lessee's use, generation, storage, or disposal of any Hazardous Materials.

(c) INDEMNIFICATION: The Lessee shall indemnify the Lessor and pay the cost of any cleanup or remediation and shall defend the Lessor, and hold the Lessor harmless from any claims, judgments, damages, penalties, fines, or losses which arise during or after the Term of this Lease from or in connection with the presence or suspected presence of any Hazardous Materials in, on, or under the Leased Premises, or within the Building, which Hazardous Materials were brought upon, kept, or used in or about the Leased Premises or the Building, by the Lessee. This indemnity provision shall survive the termination or expiration of this Lease.

(d) SURVIVAL: The obligations of the Lessee as set forth in this Article shall survive the expiration, cancellation, or termination of this Lease.

24. INSURANCE:

(a) REQUIRED PROPERTY INSURANCE: During the Initial Term and any Renewal Term hereof, Lessee shall keep the building designated as A1 on the attached Exhibit "A" and any other buildings within the Leased Premises insured against loss or damage by fire, wind, flood (to the extent of any available federal flood insurance program) and all other perils as are typically insured against by commercial establishments operating in Beaufort County, South Carolina, to the extent of the value thereof. Lessee shall not be required to maintain such insurance on structures such as docks, benches, and picnic sheds, which may be used by the public. In the event of a casualty loss, insurance

proceeds may be used for construction of a building or buildings that is/are not the same in architectural style, character, or location except as otherwise required herein. Lessor shall be named as an additional insured on this/these policy(ies).

(b) **REQUIRED LIABILITY INSURANCE:** During the Initial Term and any Renewal Term hereof, Lessee shall maintain in full force a comprehensive general public liability insurance with minimum bodily injury, death and property damage limits, per occurrence, of Five Million Dollars (\$5,000,000.00) insuring against any and all liability of Lessee and/or its employees, agents, guests, licensees or invitees with respect to their occupancy and use of the Leased Premises and all of the improvements, structures, buildings, and contents thereon and therein, or arising out of the maintenance, use or occupancy thereof by Lessee. In addition to all other coverages, and if available, such insurance policy(ies) shall specifically insure the performance by Lessee of the hold harmless and indemnity provisions set forth in this Lease.

(c) **POLICY FORM:** All policies of insurance provided for herein shall be issued by insurance companies with a general policyholders' rating not less than A, and a financial rating of AAA as rated in the most current available "Best's Insurance Reports", and qualified to do business in the State of South Carolina. Lessor shall be named as an additional insured in any such policy. Such policies shall be for the mutual and joint benefit and protection of Lessee and Lessor, and executed copies of such policies of insurance or certificates thereof shall be delivered to Lessor within ten (10) business days after delivery of possession of the Leased Premises to Lessee and thereafter within ten (10) business days of the issuance of any such policy, or within ten (10) business days of any request by Lessor, and within thirty (30) days prior to the expiration of the term of each such policy. All public liability and property damage policies shall contain a provision that Lessor, although named as an insured, shall nevertheless be entitled to recovery under said policies for any loss occasioned to it, its servants, agents and employees or its property by reason of the negligence of Lessee. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Lessee in like manner and to like extent. All policies of insurance delivered to Lessor must contain a provision that the company writing said policy will give to the Lessor twenty (20) days notice in writing in advance of any cancellation or lapse or the effective date of any reduction in the amounts of insurance. All public liability, property damage and other casualty shall be written as primary policies, not contributing with and not in excess of coverage which Lessor may carry.

(d) **FAILURE OF LESSEE TO OBTAIN INSURANCE:** In the event that Lessee fails to procure and/or maintain any insurance required by this Article 24, or fails to carry insurance required by law or governmental regulations, Lessor may, but is not obligated to, at any time from time to time without notice, procure such insurance and pay the premiums therefor, in which event Lessee shall repay the Lessor all sums so paid by Lessor, together with interest thereon, and any incidental costs or expenses incurred by Lessor in connection therewith, within ten (10) days following Lessor's written demand to Lessee for such payment.

(e) **INDEMNIFICATION AND HOLD HARMLESS:** Lessee shall indemnify and hold Lessor harmless from any claims for loss, damage or liability, including attorney's fees and costs incurred by Lessor in responding to or defending any claim, arising out of or on account of any injury, death or damage to any person, or to the Leased Premises of any person, arising from or in any manner relating to

the use of the Leased Premises by Lessee, or arising from any act or omission of Lessee with respect to the exercise of any of Lessee's rights hereunder; provided, however, that Lessee shall not indemnify Lessor for the Lessor's sole negligence and willful misconduct.

25. MISCELLANEOUS:

(a) **BINDING EFFECT:** This Lease shall inure to the benefit of and shall be binding upon the Lessor and Lessee and their respective successors and assigns, if any are permitted hereunder.

(b) **ENTIRE AGREEMENT/AMENDMENT AND MODIFICATIONS:** This Lease supersedes all prior discussions and agreements between the Parties with respect to the Leased Premises and all other matters contained herein, and constitutes the sole and entire agreement and understanding between the Lessor and Lessee with respect to the Lease of the Leased Premises. This Lease shall not be modified or amended except by an instrument in writing signed by the Lessor and the Lessee.

(c) **SEVERABILITY:** In the event that any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

(d) **EXECUTION IN COUNTERPARTS:** This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

(e) **APPLICABLE LAW:** This Lease shall be governed by and construed in accordance with the laws of the State of South Carolina.

(f) **CAPTIONS:** The captions or headings herein are for convenience only and in no way define, limit, or describe the scope or intent of any provisions or Articles of this Lease.

(g) **RECORDING PROHIBITED:** The Parties hereto may not record this Lease in the Office of the Register of Deed for Beaufort County, South Carolina.

(h) **PLURAL/SINGULAR:** Where appropriate, the use of the singular herein shall include and be deemed to be the plural and the use of the plural herein shall be deemed to include the singular.

(i) **NO THIRD PARTY BENEFICIARIES:** The Parties hereto affirmatively represent that this Lease is made solely for the benefit of the Parties hereto and their respective successors and assigns and not for the benefit of any third party who is not a signature party hereto. No party other than the signature parties and their respective successors and assigns hereto shall have any enforceable rights hereunder, or have any right to the enforcement hereof, or any claim for damages as a result of any alleged breach hereof.

(j) **NOTICES:** All notices, applications, requests, certificates, or other communications hereunder shall be sufficiently given and shall be deemed given when delivered in person, or mailed by regular first class mail, postage prepaid (in such case, delivery shall be deemed complete upon mailing), addressed as follows, or to such other place as may be designated in writing by the Parties:

To the Lessor: THE TOWN OF HILTON HEAD ISLAND  
Stephen G. Riley, ICMA-CM, Town Manager  
One Town Center Court  
Hilton Head Island, SC 29928

With Copy to: Gregory M. Alford, Esq.  
ALFORD & THORESON, LLC  
Post Office Drawer 8008  
Hilton Head Island, SC 29938-8008

To the Lessee: THE SANDBOX: A HILTON HEAD AREA CHILDREN'S MUSEUM, INC.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With Copy to: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(k) SURVIVAL: The obligations of the Lessee as set forth in this Lease shall survive the expiration, cancellation, or termination of this Lease, whether or not expressly stated with respect to any specific obligation.

(l) FURTHER ASSURANCES AND CORRECTIVE DOCUMENTS: The Lessor and Lessee agree to do, execute, acknowledge, deliver, or cause to be done all such further acts as may be reasonably determined to be necessary to carry out this Lease and give effect hereto. The Lessor and Lessee agree that each shall, upon request, execute and deliver such other or corrective documents as may be reasonably determined to be necessary, either before or after the execution, cancellation, or termination of this Lease.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, The Town of Hilton Head Island, South Carolina and The Sandbox:  
A Hilton Head Area Children's Museum, Inc. have, or have caused their duly authorized officers and  
representatives to, execute this Lease as of the date and year first above written.

**WITNESSES:**

**THE TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA**

\_\_\_\_\_

**By:** \_\_\_\_\_  
**David Bennett, Mayor**

\_\_\_\_\_

**Attest:** \_\_\_\_\_  
**Stephen G. Riley, ICMA-CM, Town Manager**

**THE SANDBOX: A HILTON HEAD AREA  
CHILDREN'S MUSEUM, INC.**

\_\_\_\_\_

**By:** \_\_\_\_\_

\_\_\_\_\_

**Its:** \_\_\_\_\_

**EXHIBIT “A” TO LEASE**



- SITE KEY LEGEND:

ARCHITECTURE:

A1

MUSEUM BUILDING

A2

CONCERT PAVILION

A3

RESTROOM / DROP-OFF BUILDING

A4

OVERLOOK PAVILION
- SITE WORK: PAVEMENT
- S1

4" CONCRETE WALKWAY (oyster shell finish)

S2

6" CONCRETE WALKWAY (oyster shell finish)

S3

4" TURNDOWN CONCRETE WALKWAY (oyster shell finish)

S4

4" COLOR CONCRETE WALK (rock salt finish)

S5

4" STAMPED CONCRETE WALK (board form finish)

S6

SPECIALTY PAVING (VEHICULAR)  
Decorative Permeable Pavers over base

S7

SPECIALTY PAVING (PEDESTRIAN)  
Decorative paver over sub base

S8

SAND PLAYGROUND SURFACE (12" depth)

S9

POURED IN PLACE RUBBER PLAYGROUND SURFACE (SAND COLOR)

S10

ASPHALT MULTI-USE PATH
- SITE FEATURES:
- S11

GRAND EVENT LAWN

S12

GRAND LAWN ARBOR

S13

PLAYGROUND GATEWAY ARBOR

S14

CIRCULAR ARBOR

S15

PICNIC ARBOR AND SEAT WALL

S16

WATER FEATURE

S17

PILE WALL

S18

ROPE AND PILE FENCE

S19

4' PLAYGROUND ENCLOSURE FENCE OR BARRIER FENCE

S20

DISCOVERY TRAIL GATEWAY

S21

BULKHEAD

S22

CABLE RAIL SYSTEM

S23

SHADE SAIL FEATURE @ MUSEUM

S24

BOARDWALK

S25

BRIDGE

S26

PARK ID SIGN

S27

SWING TRELLIS

S28

PLAYGROUND PLAZA SEATWALL

S29

CURVED TOUNGE AND GROOVE WOOD WALL



COLIGNY PARK

OVERALL SCHEMATIC PARK PLAN

PREPARED FOR:

TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

DATE: 09-9-15

PLANNING AND LANDSCAPE ARCHITECTURE BY:

Wood Partners Inc. WPI

Landscape Architects  
Land Planners

PO Box 23949 ■ Hilton Head Island, SC 29925  
843.681.6618 ■ Fax 843.681.7086 ■ www.woodandpartners.com