



The Town of Hilton Head Island

Regular Town Council Meeting

April 4, 2017

4:00 P.M. EXECUTIVE SESSION

5:00 P.M. REGULAR MEETING

BENJAMIN M. RACUSIN COUNCIL CHAMBERS

AGENDA

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

1) Call to Order

- 2) 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.

3) Executive Session

a. Legal Matters

The receipt of legal advice related to pending, threatened or potential claim related to:

- 1. Karen Watson vs. the Town of Hilton Head Island**
- 2. Arbornature vs. the Town of Hilton Head Island**
- 3. Carolina Building Corp. vs. Enmark and the Town of Hilton Head Island**

4) Pledge to the Flag – 5:00 P.M.

5) Invocation

6) Proclamations and Commendations

- a. National Public Safety Telecommunications Week**
- b. Child Abuse Prevention and Sexual Assault Awareness Month**

7) Approval of Minutes

- a. Town Council Meeting, March 7, 2017**

8) Report of the Town Manager

- a. Boards and Commissions Semi-Annual Update Memos**
- b. Town Manager's Items of Interest**
 - (1) Town News**
 - (2) Noteworthy Events**

9) Reports from Members of Council

- a. General Reports from Council Report**
- b. Report of the Intergovernmental and Public Safety Committee – Bill Harkins, Chairman**
- c. Report of the Community Services Committee – Kim Likins, Chairman**

- d. Report of the Public Planning Committee – David Ames, Chairman
- e. Report of the Public Facilities Committee – Marc Grant, Chairman
- f. Report of the Finance and Administrative Committee - John McCann, Chairman

10) Appearance by Citizens

11) Unfinished Business

a. Second Reading of Proposed Ordinance 2017-03

Second Reading of Proposed Ordinance 2017-03 of the Town of Hilton Head Island, South Carolina, authorizing the execution of a memorandum of understanding and lease with the Mitchelville Preservation Project, Inc., related to the 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.

12) New Business

a. Consideration of a Recommendation – Coastal Discovery Museum

Consideration of a Recommendation that Town Council authorize the Town Manager to execute this Memorandum of Understanding (MOU) between the Town of Hilton Head Island (Town) and the Coastal Discovery Museum (Museum).

b. Consideration of a Resolution – Fair Housing Month

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina to proclaim April 2017 as Fair Housing Month.

c. First Reading of Proposed Ordinance 2017-06

First Reading of Proposed Ordinance 2017-06 to amend Title 16 of the Municipal Code of the Town of Hilton Head Island, South Carolina, the Land Management Ordinance (LMO), Chapter 3 to revise LMO Section 16-3-105.1. These amendments, commonly referred to as the *Use Conversion Amendments* as noticed in the Island Packet on June 19, 2016, include changes that provide for flexibility for redevelopment, and providing for severability and an effective date.

d. First Reading of Proposed Ordinance 2017-07

First Reading of Proposed Ordinance 2017-07 to amend the budget for the Town of Hilton Head Island, South Carolina, for the fiscal year ending June 30, 2017; to provide for the expenditures of certain funds; to allocate the sources of revenue for the said funds; and providing for severability and an effective date.

e. Consideration of a Recommendation – Emergency Beach Renourishment

Consideration of a Recommendation from the Public Facilities Committee that Town Council approve the direct placement of sand along approximately 10,000 feet of the Island's southern oceanfront adjacent to Sea Pines. The adjacent upland landmarks that roughly frame the limits of the proposed project are between Tower Beach Club and East Beach Lagoon Drive. This action is in response to the beach and dune damage done by the passing of Hurricane Matthew.

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

14) Adjournment

Proclamation

BY
THE TOWN OF HILTON HEAD ISLAND

***WHEREAS,** emergencies can occur at any time that require police, fire or emergency medical services; and*

***WHEREAS,** Public Safety Telecommunicators are the first and most critical contact our citizens have with emergency services; and*

***WHEREAS,** the Telecommunicators in the 9-1-1 Communications Center on Hilton Head Island serve the citizens of Hilton Head Island by answering their telephone calls for Police, Fire, Rescue and Emergency Medical Services by dispatching the appropriate assistance as quickly as possible and offering comfort and aid to those in need until help arrives; and*

***WHEREAS,** the Association of Public-Safety Communications Officials International, an organization of more than 20,000 people engaged in the design, installation and operation of emergency response communications systems, has set aside a week in April to recognize Telecommunicators and their crucial role in the protection of life and property.*

***WHEREAS,** the President and Congress have designated the second full week in April as National Public Safety Telecommunicators Week.*

NOW THEREFORE, I, David Bennett, Mayor of the Town of Hilton Head Island, hereby proclaim that the week of April 9 through April 15, 2017 shall be known as

National Public Safety Telecommunicators Week

on Hilton Head Island and encourage all citizens to participate in an appropriate manner to recognize and express their appreciation for the vital contributions made daily by the Town of Hilton Head Island's Communications Dispatchers.

IN TESTIMONY WHEREOF,** I have hereunto set my hand and caused this seal of the Town of Hilton Head Island to be affixed this **fourth day of April, in the year of our Lord, two thousand and seventeen.

David Bennett, Mayor

Attest:

Victoria L. Pfannenschmidt, Town Clerk

Proclamation

By
The Town of Hilton Head Island

***WHEREAS**, South Carolina's future prosperity is dependent on nurturing the healthy development of the 1.1 million children currently residing in the diverse communities across our state; and*

***WHEREAS**, preventing child abuse, neglect, and sexual assault must be a community priority that requires individuals, families, child-serving organizations, schools, faith-based groups, businesses, government agencies, colleges, and civic leaders to support the physical, emotional, social and educational development and competency of all children and adults; and*

***WHEREAS**, child abuse and sexual assault are public health issues with serious societal consequences, as data shows the link between the abuse, neglect, and assault of children and adults and a wide range of costly medical, emotional, psychological and behavioral problems into adulthood; and*

***WHEREAS**, one in ten children will be sexually abused before their 18th birthday, one in four women in their lifetime, and one in 33 men in their lifetime; and*

***WHEREAS**, parents and caregivers who have a circle of family and friends, know how to find help in times of need, and understand how their children grow are better equipped to take on life's challenges and provide a safe, caring environment for their children; and*

***WHEREAS**, child abuse and violence prevention programs not only give individuals, families, and children the knowledge and resources to learn, grow, and thrive but also serve as a proven and effective way to reduce child abuse and neglect; and*

***WHEREAS**, in fiscal year 2016, there were 18,398 children in founded investigations of child maltreatment in South Carolina; and*

***WHEREAS**, in 2016, Hopeful Horizons served 720 victims of child and sexual assault; and*

NOW, THEREFORE, I, David Bennett, Mayor of Hilton Head South Carolina, do hereby proclaim April 2017 as

CHILD ABUSE PREVENTION MONTH

AND

SEXUAL ASSAULT AWARENESS MONTH

in Hilton Head Island, South Carolina while urging all citizens to dedicate themselves to protect quality of life for every child and every adult.

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

David Bennett, Mayor

Attest:

Victoria L. Pfannenschmidt, Town Clerk

THE TOWN OF HILTON HEAD ISLAND
REGULAR TOWN COUNCIL MEETING

Date: Tuesday, March 21, 2017

Time: 4:00 P.M

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

Present from Town Staff: Greg DeLoach, *Assistant Town Manager*; Charles Cousins, *Director of Community Development*; Mike Mayers, *Deputy Fire Chief- Operations*; Scott Liggett, *Director of Public Projects and Facilities*; John Troyer, *Director of Finance*; Steven Markiw, *Deputy Director of Finance*; Shawn Colin, *Deputy Director of Community Development*; Jayme Lopko, *Senior Planner*; Brian Hulbert, *Staff Attorney*; Shawn Colin, *Deputy Director of Community Development*; Jennifer Ray, *Planning and Special Projects Manager*; Jeff Buckalew, *Town Engineer*; Darrin Shoemaker, *Traffic & Transportation Engineer*; Teri Lewis, *LMO Official*; Melissa Cope, *Systems Analyst*; Vicki Pfannenschmidt, *Executive Assistant/ Town Clerk*

Present from Media: Theresa Moss, *Island Packet*

1) Call to Order

Mayor Bennett called the meeting to order at 4:00 p.m.

2) 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.

Mrs. Likins moved to amend the agenda to allow for a Workshop on Item 11.a. to occur after Executive Session and before the 5:00 p.m. Town Council meeting. Mr. McCann seconded. The motion was unanimously approved by a vote of 7-0.

3) Executive Session

Mr. DeLoach stated he needed an Executive Session for the discussion of negotiations incident to the proposed sale, lease or purchase of property related to property near Mathews Drive and related to property near Wild Horse Road; and personnel matters related to appointments to boards and commissions.

At 4:03 p.m. Mrs. Likins moved to go into Executive Session for matters mentioned by the Assistant Town Manager. Mr. McCann seconded. The motion was approved by a vote of 7-0.

Council returned to the dais at 4:33 p.m. Mayor Bennett explained that he had revised the priorities received from the facilitator at the December planning workshop and sent them to all of Council for review. He said he wanted to make sure the priorities were clearly defined and measurable. He added that he was not changing the priorities but creating wording so all would understand them. He said he asked Council for comments to his revisions and received none.

Council addressed Priority #2 and after lengthy discussion, it was the consensus of Council to invite a non-profit group for community outreach and to bring in a consultant to work with the Planning Commission to develop modifications to the LMO or other items for consideration for the Council to act upon.

Council addressed Priority #4 and Mayor Bennett stated his definition of assessments included the upcoming stormwater study that Beaufort County is preparing. Mr. McCann added that the Finance & Administrative Committee was informed the study would not be completed until the end of the year. Mr. Harkins stated the he felt with the work the Town staff is doing and the County assessment the Town should be in a position by year end to have an idea of what the need may be in terms of capital upgrades. After discussion, it was the consensus of Council to leave the priority as stated by the facilitator.

Council address Priority #6 and Mayor Bennett stated that LRTA has indicated they are not interested at this point in time to increase transportation routes to Hilton Head Island. Mr. Ames noted that they need to identify how Council is going to approach transportation systems along with workforce housing and he felt that that would be best handled by an ad-hoc committee of volunteers. Charles Cousins said he contacted the LRTA director and there is not report to review and he suggested the director of the LRTA be invited to speak to the Public Planning Committee regarding future transportation plans. Council discussed the various recommendations regarding transportation issues. After further discussion, it was the consensus of Council to focus in on the Coligny area recommendations that have been brought forward from the Circle to Circle Committee. Mr. Cousins suggested that the goal be revised to read that staff will work with LRTA and by the end of the year develop a plan over the coming years on how to implement three shuttle systems: 1) off island employee transportation; 2) beach transportation; and 3) inter-Island shopping/tourist transportation. Council was in agreement with the change.

4) Pledge to the Flag – 5:00 P.M.

5) Invocation

6) Proclamations and Commendations

a. Louise Miller Cohen

Ms. Miller Cohen was present to accept the Commendation.

7) Approval of Minutes

a. Town Council Meeting, March 7, 2017

Mrs. Likins moved to approve. Mr. McCann seconded. The minutes of the March 7, 2017 regular Town Council meeting were approved by a vote of 6-0-1. Mayor Bennett abstained as he was not present at the meeting.

8) Report of the Town Manager

a. Concours d'Elegance Governor's Cup Award

b. Non-Capital Traffic Flow Improvement Recommendations – William Hilton Parkway from Graves Bridge to Cross – Island Parkway

Darrin Shoemaker addressed Council and summarized the recommendations in his memo regarding traffic flow. After discussion, the Mayor asked that Mr. Riley direct Mr. Shoemaker to send a letter to the Beaufort County School District with his findings along with a letter to the SCDOT requesting signage.

c. Town Manager's Items of Interest

Mr. DeLoach reported on some items of interest and upcoming events.

9) Reports from Members of Council

a. General Reports from Council Report

Mr. Lennox congratulated the Hilton Head Island – Bluffton Chamber of Commerce for hosting the Workforce Solution seminar. He complimented the speakers and those present and stated he felt some good solutions and suggested will result from the seminar.

Mr. Ames stated he attended a meeting and learned that there were 2,245 households on Hilton Head Island that applied for FEMA assistance. He stated the meeting was held with a group of non-profits that are trying to identify those households and they are struggling to be able to do so. He stated that since they are citizens of Hilton Head Island we should be more in tune with helping them.

Mrs. Likins reported she was contacted by some of her constituents that live at Bradley Circle that were extremely concerned with changes that resulted from the LMO re-write. She said the rezoning from residential to resort management has resulted in very large units being built on the lots. She stated the residents are requesting the area be changed back to residential zoning. Mrs. Likins said she has been meeting with staff and they are bringing it back to the Planning Commission for reconsideration and there will be a meeting held on April 5 for resident input.

Mr. McCann asked the Mayor to update all on the meeting held with the Beaufort County EDC. Mayor Bennett reported a budget has been prepared, they identified steps to join the Southern Carolina Alliance and are scheduled to make a presentation to the Beaufort County Intergovernmental Committee on April 3 at 4:00 p.m. regarding the budget and joining the Southern Carolina Alliance and for a recommendation for approval to Beaufort County Council.

Mr. Grant stated he met with Eric Esquivel regarding the process for protests. Mayor Bennett asked Brian Hulbert to come forward and explain the procedure required to hold protests. Mayor Bennett assigned the item to the Public Facilities Committee for review of the process.

Mayor Bennett acknowledged that the Town of Bluffton took advantage of funding from the Rural and Critical Lands Board stating that he hopes that Hilton Head Island will do the same.

Mayor Bennett stated that the Heritage Tourism Task Force and Mayors had met and Dick Stewart of FirstShore Corporation has offered to make his organization available to the group and Dr. Beall will evaluate the possibility. He added that the group will also be requesting funding for a county-wide heritage tourism study.

b. Report of the Intergovernmental and Public Safety Committee – Bill Harkins, Chairman

Mr. Harkins reported that meetings will be scheduled with the municipalities throughout the county regarding regional initiatives.

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

Mrs. Likins reported the Committee met to and conducted an overview of the application for boards and commission and the Cultural Arts and Strategic Planning Committee will use the form for committee applicants. She said the application process is now open and many citizens are applying and they will conduct interviews in the next couple months. She said the Venue Committee met in preparation for Webb Consultants' presentation which will be held on March 23 at 4:00 p.m. at Hilton Head Presbyterian Church.

d. Report of the Public Planning Committee – David Ames, Chairman

Mr. Ames stated the Vision Project Management Team met and Sandy West was elected Chairman. He stated there are 20 submittals for the Project Lead at this time. He added that the Team will meet the third Friday of every month at 2:00m p.m. in Council Chambers.

e. Report of the Public Facilities Committee – Marc Grant, Chairman

Mr. Grant stated the next meeting will take place on Monday and they will address the south island emergency beach renourishment.

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

Mr. McCann stated they met earlier in the day with a review and presentation on storm water management.

10) Appearance by Citizens

Tai Scott addressed Council regarding Native Islander issues.

Ibrahim Abdul-Malik addressed Council regarding NAN proposals.

Theresa White of the Pan African Family Empowerment and Land Preservation Network addressed Council regarding the LMO.

Louis Johnson, Eric Turpin, Herbert Ford, and Alex Brown addressed Council regarding the relationship between the Town of Hilton Head Island and the Native Islander Community.

11) Unfinished Business

a. 2017 Town Council Priorities

Mr. Grant proposed the elimination of all LMO requirements for Native Islanders and to assign it to the Planning Commission. Mr. DeLoach explained that it was a legal issue and time would be needed for review before the Mayor could assign it to the Planning Commission.

After discussion, Mrs. Likins moved to approve the 2017 Town Council Priorities as modified in earlier discussion. Tai Scott commented on Priority #2 regarding heirs property. Mr. Harkins seconded. The motion was unanimously approved by a vote of 7-0.

b. Second Reading of Proposed Ordinance 2017-04

Second Reading of Proposed Ordinance 2017-04 authorizing the issuance and sale of not exceeding \$20,000,000 Taxable General Obligation Bond Anticipation Note(S), in one or more series, with appropriate series designations, of the Town of Hilton Head Island, South Carolina; fixing the form and details of the note(s); authorizing the Town Manager to determine certain matters relating to the note(s); providing for the payment of the note(s) and the disposition of the proceeds thereof; and other matters relating thereto.

Mrs. Likins moved to approve. Mr. McCann seconded. The motion was unanimously approved by a vote of 7-0.

12) New Business

a. Consideration of a Resolution – Emergency Permitting Process

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, South Carolina to extend the emergency permitting application submittal period.

Mrs. Likins moved to approve. Mr. Harkins seconded. The motion was unanimously approved by a vote of 7-0.

b. First Reading of Proposed Ordinance 2017-03

First Reading of Proposed Ordinance 2017-03 of the Town of Hilton Head Island, South Carolina, authorizing the execution of a memorandum of understanding and lease with the Mitchelville Preservation Project, Inc., related to the 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.

Mrs. Likins moved to approve. Mr. Harkins seconded.

Mr. Ames moved to approve and add the following statement to the lease:

The lessee will develop strategies that are consistent with the Town's published and defined goals on sustainability. In so doing consideration shall be given to balancing environmental, economic and social impacts.

Mr. McCann seconded. Mr. Grant suggested the statement be included in all contracts. Mrs. Likins requested quarterly updates from the Mitchelville Preservation Project, Inc. Shirley Peterson, on behalf of the organization, expressed her appreciation and agreed they would provide quarterly updates.

The motion with the lease as modified by Mr. Ames was unanimously approved by a vote of 7-0.

c. First Reading of Proposed Ordinance 2017-05

First Reading of Proposed Ordinance 2017-05 to amend Title 16 of the Municipal Code of the Town of Hilton Head Island, South Carolina, the Land Management Ordinance (LMO) , Chapters 3, 4, 5, 6 and 10 to revise various sections. These amendments, commonly referred to as *2016 LMO Amendments – Second Set* as noticed in the Island Packet on November 6, 2016, include changes that provide for general amendments to a variety of sections in the LMO, and providing for severability and an effective date.

Mrs. Likins moved to approve. Mr. McCann seconded. Mr. Ames moved to postpone the decision on lockout units. Mr. McCann, Mr. Harkins, Mrs. Likins and Mr. Lennox spoke in support of the amendments. Mayor Bennett spoke in support of Mr. Ames motion to postpone.

Cathy Barr spoke in opposition to the amendments.

Jim Gant spoke on behalf of the LMO Committee and the recommendations.

A citizen that did not identify himself requested a traffic study before consideration of the amendments.

Bruce Tuttle spoke in favor of the amendments.

Alex Brown spoke in support of Mr. Ames motion to postpone.

Mr. Ames motion died for lack of a second.

The original motion was approved by a vote of 5-2. (Mayor Bennett and Mr. Ames were opposed.)

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

Mr. Ames moved to have Town Council appoint John Lundin to the Vision Project Management Team to take place of Lisa Drakeman who resigned. Mrs. Likins seconded. The motion was unanimously approved by a vote of 7-0.

14) Adjournment

Mrs. Likins moved to adjourn. Mr. Harkins seconded. The meeting was adjourned at 7:38 p.m.

Vicki L. Pfannenschmidt
Executive Assistant/Town Clerk

Approved:

David Bennett, Mayor



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, ICMA-CM, *Town Manager*
VIA: Charles Cousins, AICP, *Director of Community Development*
FROM: Nicole Dixon, *DR Administrator*
DATE: March 27, 2017
SUBJECT: Board of Zoning Appeals Update

Summary:

The attached written report provides an update of the Board of Zoning Appeals activity from July 2016 through December 2016.

Board of Zoning Appeals Activity Report
July – December 2016
Provided to Town Council
Tuesday, April 4, 2017

The July 27th, October 24th and December 19th meetings were canceled due to a lack of agenda items.

August 22

Request from Chester C. Williams: Motion for Stay or Postponement - filed on behalf of Arbor Nature LLC, the Appellant in connection with Application for Appeal APL-001006-2016, which was originally scheduled to be heard by the BZA on June 27, 2016. The Appellant moves for a stay or postponement of further action by the BZA until the issues subject to the appeal are decided by the court in the pending lawsuit

Vice Chairman Cutrer made a motion to deny the request from Chester C. Williams: Motion for Stay or Postponement in connection with the application for appeal APL-001006-2016. Mr. White seconded the motion. The motion passed with a vote of 5-1-0

Vice Chairman Cutrer made a motion to approve the Chairman of the BZA Glenn Stanford, to sign subpoenas for live testimony of witnesses, with the parties requesting witnesses to provide the names and the relevance of the expected testimony to the case at hand. Mr. Fingerhut amended the motion to add that the Board has no authority to sign subpoenas for prehearing discovery, just for live testimony. Vice Chairman Cutrer accepted the amendment to the motion. Mr. Fingerhut seconded. The motion passed with a vote of 6-0-0

August 29 – Special Meeting

Request from Chester C. Williams: Motion for Stay or Postponement - filed on behalf of Arbor Nature LLC, the Appellant in connection with Application for Appeal APL-001006-2016. At the August 22, 2016 meeting, the BZA voted to deny the request to postpone further action by the BZA until the issues subject to the appeal are decided by the court in the pending lawsuit. The BZA voted to hear the appeal at the September 26, 2016 regular meeting. Subsequently, the BZA was informed that the appellant's counsel is unavailable. The BZA will not vote on a request for postponement until the October 24, 2016 regular meeting. The BZA will also vote on a 1:00pm meeting start time.

Mr. Fingerhut made a motion to approve the amended request from Chester C. Williams: Motion for Stay or Postponement to have APL-001006-2016 heard at the BZA Special Meeting for Monday, September 19, 2016 at 9am. Vice Chairman Cutrer seconded the motion. The motion passed with a vote of 6-0-0

September 19 – Special Meeting

APL-001006-2016 – Request for Appeal from Chester C. Williams on behalf of Adam Congrove, owner of ArborNature, LLC. The appellant is appealing staff's determination, dated May 13, 2016, that the subject property located at 76 Leg O Mutton Road is not in conformance with the Town's Land Management Ordinance (LMO).

Vice Chairman Cutrer made a motion to affirm the decision of the LMO Administrator set forth in her May 13, 2016 letter. Mr. Fingerhut seconded the motion. The motion passed with a vote of 4-1-0

September 26

VAR-1613-2016 - Linda Piekut, on behalf of the Heritage Library Foundation, is requesting a variance from Land Management Ordinance Section 16-5-103.E, Adjacent Use Buffer, to allow parking for the Zion Chapel-of-Ease Cemetery to encroach into the adjacent use buffer. The subject parcel is Beaufort County Parcel 18 on Tax Map 8 and is located at 574 William Hilton Parkway.

Ms. Laudermilch made a motion to approve the application based on the Findings of Fact and Conclusions of Law contained in the staff report. Mr. Fingerhut seconded the motion. The motion passed with a vote of 6-0-0

November 28

VAR-1756-2016 - Don Baker, on behalf of Amir Bitton, is requesting a variance from Land Management Ordinance Section 16-5-103, Buffer Standards, to allow a new stairway and landing to encroach into an adjacent use buffer. The subject parcel is located at 7 Cobblestone Court. It is Parcel 85 on Beaufort County Tax Map 11.

*Vice Chairman Cutrer made a motion to **approve** the application based on the Findings of Fact and Conclusions of Law contained in the staff report with the following condition: the site plan submitted by the applicant shows the*

*proposed landing extending 30 inches beyond the western edge of the house. To reduce the total area of buffer encroachments, the landing should only extend to the western edge of the house. Ms. Laudermilch **seconded** the motion. The motion **passed** with a vote of 6-0-0.*

VAR-1810-2016 - Eric Walsnovich of Wood and Partners Inc, on behalf of the Palmetto Hall Plantation Property Owners Association, is requesting a variance from LMO Sections 16-5-113, Fence and Wall Standards, 16-5-102, Allowable Setback Encroachments and 16-5-103.D, Adjacent Street Buffers, to install a fence in the adjacent street setback that is taller than the allowed 4 foot maximum height and within the adjacent street buffer. The properties are located along Beach City Road and Fish Haul Road in proximity to the airport, and are identified as Parcel# 278 on Beaufort County Tax Map# 5 and Parcels# 304, 300 and 328 on Beaufort County Tax Map# 4.

*Mr. Fingerhut made a motion to **approve** the application based on the Findings of Fact and Conclusions of Law contained in the staff report, subject to staff condition to obtain a Minor Corridor Review approval. Mr. Johnson **seconded** the motion. The motion **passed** with a vote of 6-0-0*

APL-001673-2016 - Request for Appeal from Chester C. Williams on behalf of Beachwalk Hotel & Condominiums Association, Inc. and Beachwalk Hilton Head, LLC. The appellant is appealing staff's determination, dated August 23, 2016, that the proposed development of the Spinnaker Welcome Center at 30 Waterside Drive is permitted as proposed with Development Plan Review Application DPR-001056-2016.

*Vice Chairman Cutrer made a motion to affirm the decision of the LMO Administrator set forth in her August 23, 2016 letter. Mr. Wilson **seconded** the motion. The motion passed with a vote of 4-2-0*

Motion to Reconsider APL 1006-2016 - ArborNature LLC and Adam Congrove are requesting that the Board of Zoning Appeals reconsider their decision to uphold the decision of the Official related to APL 1006-2016.

*Mr. Fingerhut made a motion to **recess and continue the item** at the next meeting of the BZA. Ms. Laudermilch **seconded** the motion. The motion passed with a vote of 3-1-2*



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, ICMA-CM, *Town Manager*
VIA: Charles Cousins, AICP, *Director of Community Development*
VIA: Nicole Dixon, *DRZ Administrator*
FROM: Chris Darnell, *Urban Designer*
DATE: March 27, 2017
SUBJECT: Design Review Board Update

Summary:

The attached written report provides an update of the Design Review Board activity from July 2016 through December 2016.

**Town of Hilton Head Island
Design Review Board
Semi-Annual Activity Report
Report Period: July 2016 - December 2016**

DRB Project Category	Action Taken by DRB	Action Taken by Owner
Alterations or Additions	11 Approved	2 Withdrawn
New Development Conceptual	4 Approved	
New Development Final	3 Approved	1 Withdrawn
Signs	2 Approved	

Significant Projects include:

- New Port Royal Tennis Facility
- New USCB Hospitality Facility
- Heritage Plaza Redevelopment
- Sea Pines Country Club Addition
- Westin Hotel Addition



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, ICMA-CM, *Town Manager*
VIA: Charles Cousins, AICP, *Director of Community Development*
VIA: Jennifer Ray, *Planning & Special Project Manager*
FROM: Marcy Benson, *Senior Grants Administrator*
DATE: March 17, 2017
SUBJECT: Parks & Recreation Commission Update

Summary:

The attached written report provides an update of the Parks and Recreation Commission activity from September 2016 through the most recent commission meeting held on February 9, 2017.

The most recent Parks & Recreation Commission update to Town Council was on September 9, 2016. The regularly scheduled November 10, 2016 and January 12, 2017 Parks & Recreation Commission meetings were cancelled due to Hurricane Matthew. On February 9, 2017 there was a Parks & Recreation Commission meeting and that has been the only meeting since the last Town Council update from the Parks & Recreation Commission. Below is a summary of items discussed at that meeting.

- **Beaufort County Parks & Recreation Proposal Response:** There is not enough proposed funding coming from Beaufort County to keep Town parks in proper upkeep. The value Beaufort County put on equipment they use does not benefit the Town in maintaining parks. Beaufort County ends their commitment in five years. A motion was made to create an official response to include: 1) It is in the best interest for our citizens to control our own recreation spaces on Hilton Head Island. 2) We are unsure of the numbers at this time reflected in the proposal and we cannot make a determination of what our fair share is in financial commitment between programming and public works; this does not need to term after five years. The motion passed unanimously.
- **Recreation Task Force Recommendation:** This Task Force conducted a number of surveys to find out the needs of the community and how to move forward. In late September the Parks & Recreation Commission asked Town Council to form a task force and received positive feedback from Town Council. The Parks & Recreation Commission is seeking guidance on how to weigh recreation requests from residents and how to use Town property. It was noted other organizations that are more organized in the private and public sector in other areas have more attention from Town Council than recreation - our task force did not make a priority with Town Council. Chairman Rath will talk to the Visioning Committee to make sure the Parks & Recreation Commission is part of the visioning process and talk about best practices and moving forward and come back with a recommendation. The Parks & Recreation Commission wants to have a task force in place for parks & recreation as a whole on Hilton Head Island.
- **Visioning Process Update**
Chairman Rath stated the Public Planning Commission will be holding many meetings regarding the Visioning Process and encouraged Commissioners to sign up to receive e-mail notifications of meetings and be a part of this public process.
- **Parks Updates**
The sailing and rowing center will be up and running in a few months as repairs are made; the Chaplin Tennis Court and Dog Park will be open the first week in March; Jarvis Creek Park is all set; and Driessen is getting a new playground.
- **2017 Southeast Biking Symposium**
Coming together to showcase the Southeast as a leader in biking and cycling tourism and exchange ideas on the future of bike-friendly communities.
When: March 23rd – 25th, 2017
Where: The Beach House, Hilton Head Island

In 2017, Hilton Head Island, the only Gold-Level Bike Friendly Community in the Southeast, will host a unique conference, bringing together thought-leaders, change-makers and community stakeholders throughout the Southeast in the interest of realizing our region's bicycling tourism potential, impact on economic development and interest in safety. This exchange of ideas will give participants the chance to build on our region's rich bicycling tradition together, whether it be for active cyclists, seasoned riders or recreational biking.



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, ICMA-CM, *Town Manager*
VIA: Charles Cousins, AICP, *Director of Community Development*
VIA: Jennifer Ray, *Planning & Special Project Manager*
FROM: Jayme Lopko, *Senior Planner*
DATE: March 17, 2017
SUBJECT: Planning Commission Update

Summary:

The attached written report provides an update of the Planning Commission activity from July 2016 through the most recent commission meeting held on January 4, 2017.

Planning Commission

July 20, 2016

- LMO amendments: Chapter 3 to allow an existing office, eating establishment or commercial services use that is accessory to and within an existing residential structure to be converted to a residential unit or units upon the Administrator's determination that the development can support the required amount of parking. PC approved as presented.
- Beaufort County Hazard Mitigation Plan 2015 Update: review and consider a recommendation to TC for adoption as an appendix to the Comp Plan. PC approved as presented.

August 17, 2016

- Wildlife View - Street name: located off Tansyleaf Drive that will provide access to ten new homes. PC approved as presented.
- Coligny Park Road - Street name: located off Pope Ave connecting to Tanglewood Drive that will provide access to the new Town park. PC approved as presented.

November 16, 2016

- Individual Assessment of Impact Fees: applicant requesting a reduction of impact fees for Phase 3 of the Dillon Rd Self Storage facility located at 159 Dillon Rd. PC approved as submitted.

December 7, 2016

- LMO Amendments: Chapters 3, 4, 5, 6, 10 and Appendix D. Multi-Level self-service storage: Tie vote-motion failed. Underbrushing: approved as presented.

January 4, 2017

- LMO Amendments Chapters 3, 4, 5, 6, 10 and Appendix D. Interval Occupancy: approved as presented. Commercial Parking Lots: approved as presented. Other General Amendments: approved as presented.
- Commissioner Gant made a motion to remove proposed Appendix D.D-1.A for further LMO Committee review. Vice Chairman Kristian seconded. The motion passed with a vote of 7-0-0.



ITEMS OF INTEREST

APRIL 4, 2017

Town News

For the 15th consecutive year, the Town of Hilton Head Island has been named a Tree City USA by the Arbor Day Foundation. This annual recognition honors the Town's commitment to effective urban forest management. Tree City USA is a program of the Arbor Day Foundation in cooperation with the U.S. Forestry Service and the National Association of State Foresters, and recognized towns and cities across the United States that meets the standards of the program.

(Contact: Marcy Benson Senior Grants Administrator, 843-341-4689 or marcyb@hiltonheadislandsc.gov)

Town Council will hold a public hearing at 5:30pm on Tuesday April 18th to review and adopt updates to the Town's Comprehensive Plan, with all appendices including the Beach Management Plan.

(Contact: Jayme Lopko, Senior Planner, 843-341-4695 or jaymel@hiltonheadislandsc.gov)

On March 7, 2017, Nicole Dixon, Development Review Administrator and Certified Floodplain Manager, was elected Region 5 Representative on the Board of Directors of the South Carolina Association for Hazard Mitigation (SCAHM). Region 5 consists of the coastal counties of SC. The SCAHM is a professional organization dedicated to educating South Carolina communities about hazard mitigation and loss prevention. It is a Chapter Member of the Association of State Floodplain Managers, Inc. (ASFPM), the primary professional association of floodplain managers in the US.

(Contact: Nicole Dixon, CFM, Development Review Administrator, (843) 341-4686 or nicoled@hiltonheadislandsc.gov)

Noteworthy Events

Some of the upcoming meetings:

- Planning Commission – April 5, 2017, 9:00 a.m.
- Venue Committee – April 5, 2017, 3:00 p.m.
- Accommodations Tax Advisory Committee – April 6, 2017, 9:00 a.m.
- Public Planning Committee – April 6, 2017, 3:00 p.m.
- Community Services Committee – April 10, 2017, 9:00 a.m.
- Finance & Administrative Committee – April 18, 2017, 2:00 p.m.
- Town Council Executive Session– April 18, 2017, 4:00 p.m.
- Town Council Regular Meeting – April 18, 2017, 5:00 p.m.

(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 for Committee meeting dates and agendas.

Hilton Head Island Events

April 4 & 5, 2017 6:00 p.m. – 10:00 p.m.	Symphony Under the Stars Hilton Head Symphony Orchestra	Shelter Cove Veterans Memorial Park
April 8, 2017 10:00 a.m. – 1:00 p.m.	Easter Extravaganza	Shelter Cove Community Park
April 10-16, 2017 7:00 a.m. – 7:00 p.m.	49 th RBC Heritage presented by Boeing PGA Golf Tournament	Harbourtown



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, CM, *Town Manager*
VIA: Charles Cousins, AICP, *Director of Community Development*
CC: Jennifer Ray, *Planning & Special Projects Manager*
FROM: Jayme Lopko, AICP, *Senior Planner*
DATE: March 22, 2017
SUBJECT: Second Reading Proposed Ordinance 2017-03 - Fish Haul Creek Park
MOU/Lease to Mitchelville Preservation Project

There were no changes made to Proposed Ordinance 2017-03 or the Memorandum of Understanding during the first reading on March 21, 2017.

At the March 21st Town Council meeting, a motion was made to include a statement in the Lease regarding sustainability. The following was added:

Article 4.12(h)

(h) **Sustainability:** Develop strategies that are consistent with the Town's published and defined goals on sustainability. In doing so, consideration shall be given to balancing environmental, economic and social impacts.

Attachments:

Attachment A: Ordinance

Attachment B: Memorandum of Understanding

Attachment C: Lease

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO. 2017- ____

PROPOSED ORDINANCE NO. 2017-03

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AUTHORIZING THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING AND LEASE WITH THE MITCHELVILLE PRESERVATION PROJECT, INC., RELATED TO THE 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 known generally as “Fish Haul Creek Park” (“Property”); and

WHEREAS, the Town desires to lease the Property to The Mitchelville Preservation Project, Inc., (“Mitchelville”), for the operation of a cultural and historical museum in the Town of Hilton Head Island in accordance with that certain Memorandum of Understanding and 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 Memorandum of Understanding and Lease with Mitchelville for the operation of a cultural and historical museum in the Town of Hilton Head Island in substantial conformance with the attached Exhibit “A”.

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 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 “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 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 the attached Exhibit “B”; 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 - 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.

(SIGNATURE PAGE FOLLOWS)

**PASSED AND APPROVED BY THE TOWN COUNCIL FOR THE TOWN OF
HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS ____ DAY OF
_____, 2017.**

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)
) MEMORANDUM OF UNDERSTANDING
COUNTY OF BEAUFORT)
)

This Memorandum of Understanding (the “Memorandum”) is entered into by and between the Town of Hilton Head Island (hereinafter referred to as the “Town,”) and the Mitchelville Preservation Project, Inc., a South Carolina not-for-profit corporation (hereinafter referred to as “Mitchelville”) regarding the Town’s assumption of responsibility and payment for janitorial, landscaping, general maintenance, and current capital costs at Fish Haul Creek Park.

1. **Governing Document.** It is the intent of the parties that this Memorandum shall not replace the Lease between the Town and Mitchelville regarding the use of Fish Haul Creek Park. This Memorandum shall only govern circumstances wherein the Town assumes the responsibility for janitorial, landscaping, general maintenance, and current capital costs at Fish Haul Creek Park during the term of this Memorandum. Any additional capital and operating costs will be the responsibility of Mitchelville.
2. **General.** The Town owns Fish Haul Creek Park and has entered into a Lease with Mitchelville for the creation of a historical and cultural museum at Fish Haul Creek Park. This Memorandum does not replace or terminate the Lease between the Town and Mitchelville pertaining to Fish Haul Creek Park.
3. **Maintenance.** During the term of this Memorandum, the Town shall, at its sole cost and expense:
 - a. Provide for the janitorial and landscaping services at Fish Haul Creek Park.
 - b. Provide for general maintenance of the park including driveway and parking area scraping and stocking of paper products in the restroom.
 - c. Continue the 10 year Capital Improvements planned for the park, including: roof replacement, partition replacement, light fixtures, plumbing fixtures, exterior/interior painting, structure repairs, pathway/sidewalk repairs, parking lot repairs, amenities/signage replacements, and landscape replacements.
4. **Programming.**
 - a. The Park shall be open daily unless otherwise listed, hours of operation shall be as follows: Monday through Sunday dawn to dusk.
 - b. Mitchelville may schedule programs or have facility rentals that occur outside normal operating hours.
5. **Operations.**

Exhibit A

- a. Other entities, public or private, may contribute to the annual operating budget of Mitchelville.
- b. It is understood by the Town and Mitchelville that the Town will contract for and pay all expenses related to janitorial, landscaping, general maintenance, and current capital costs at Fish Haul Creek Park. Any new capital projects would be at the sole cost and expense of Mitchelville.
- c. Mitchelville shall be entitled to charge User Fees for the use of the Park and its facilities to defray the cost of event set up, event cleanup, and supervision of the Park and facilities during events. Prior to charging any User Fees for the use of the Park and facilities, Mitchelville shall prepare a schedule of such fees and present the same to the Town for approval by the Town Council. Any changes to the approved schedule of fees shall be submitted to the Town Council for its approval.

6. **Miscellaneous.**

- a. Mitchelville shall provide the Town with current copies of all insurance policies of Mitchelville relating to their operations within thirty (30) days of signing of the Memorandum and copy the Town upon each renewal of said insurance policies.
- b. Mitchelville shall remain a not-for-profit independent entity whose policies and procedures shall be determined by its Executive Director and Board of Directors.
- c. Financial Statements:
 - i. Mitchelville shall cause a financial statement to be prepared each year at the conclusion of Mitchelville's fiscal year by an entity independent of, and unconnected to, Mitchelville. Mitchelville's fiscal year ends on December 31 of each calendar year. Mitchelville shall deliver a copy of its financial statement to the Town within thirty (30) days of the completion of the financial statement each calendar year.
 - ii. Mitchelville shall submit an annual operating budget to the Town. The submission of this budget shall coincide with the Town's annual budget process. The Town Manager shall inform Mitchelville of the procedures to be followed in regard to the budgeting process.
 - iii. Mitchelville shall provide the Town with an annual independent audit report or review report prepared by a Certified Public Accountant (CPA) acceptable to the Town. An annual report shall be submitted no less than every third year.

Exhibit A

- iv. Upon request of the Town, Mitchelville shall make its financial books and records available to the Town for Review. The Town shall give Mitchelville written notice of its intention to review Mitchelville's financial books and records. Mitchelville shall make its financial books and records available for review by the Town within twenty (20) days of the Town's written notice.
7. **Notices.** All notices required under this Memorandum shall be deemed to have been given if in writing and
- a. delivered personally; or
 - b. mailed first class, postage prepaid, to the address of record set forth below, in which case delivery shall be deemed to have occurred two calendar days after the date of postmark.

MITCHELVILLE PRESERVATION PROJECT, INC.
Executive Director
539 William Hilton Parkway, Suite 134
Hilton Head Island, SC 29928

TOWN OF HILTON HEAD ISLAND
Town Manager
One Town Center Court
Hilton Head Island, SC 29928

The address of record may be changed by written notice to the other party.

8. **Term.** The term of this Memorandum of Understanding shall be for a period of two (2) years from the date of execution, April 4, 2017. Prior to April 4, 2019, this Memorandum will be reviewed by the Town and Mitchelville. Changes may be made only with and by the mutual consent of both parties.
9. **Termination.** In addition to any other rights of termination set forth in this Memorandum, each party shall have the right to terminate this Memorandum, by written notice to the other party, if the other party is in default of any term or provision of this Memorandum, and the defaulting party fails to cure or correct such default within fourteen (14) days of notice thereof from the non-defaulting party. A party may elect to disregard a default for the period of time without waiving its right to declare a default at a subsequent time or upon reoccurrence of the default.

(SIGNATURE PAGES FOLLOW)

Exhibit A

IN WITNESS WHEREOF, Mitchelville has caused this Agreement to be signed and sealed this _____ day of _____, 20____.

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

**MITCHELVILLE PRESERVATION
PROJECT, INC.**

By: _____
Shirley Peterson
President, Board of Directors

Attest: _____

Print Name: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF _____)

ACKNOWLEDGEMENT

I, the undersigned Notary Public, do hereby certify that Shirley Peterson and _____ personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the Mitchelville Preservation Project, Inc.

Witness my hand and seal this day of _____, 20_____.

Notary Public for South Carolina
My Commission Expires: _____

Exhibit A

IN WITNESS WHEREOF, the Town has caused this Agreement to be signed and sealed this _____ day of _____, 20_____.

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

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

By: _____
David Bennett, Mayor

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

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

ACKNOWLEDGEMENT

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

Witness my hand and seal this _____ day of _____, 20_____.

Notary Public for South Carolina
My Commission Expires: _____

Exhibit B

A LONG TERM LEASE

BY AND BETWEEN

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

AND

MITCHELVILLE PRESERVATION PROJECT, INC.

DATED THIS _____ DAY OF _____, 2017

Exhibit B

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Exhibit B

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

LONG TERM LEASE

This Long Term Lease, dated this ____ day of _____, 2017 (together with any amendments made in accordance herewith, hereinafter, the "Lease"), is made and entered into by and between The Town of Hilton Head Island, South Carolina (hereinafter, the "Town"), and the Mitchelville Preservation Project, Inc., (hereinafter, the "Mitchelville").

WITNESSETH

WHEREAS, the Town is a body politic and a political subdivision of the State of South Carolina, existing as such under and by virtue of the Constitution, statutes, and laws of the State of South Carolina; and,

WHEREAS, Mitchelville is a nonprofit corporation, existing as such under and by virtue of the Constitution, statutes and laws of the State of South Carolina; and,

WHEREAS, under the authority of S. C. Code Ann. § 5-7-20 (Supp. 2010), and Section 2-3-30, *Code of the Town of Hilton Head Island* (1983), the Town is authorized to lease land belonging to the Town; and,

WHEREAS, on September 7, 2010, the Town authorized the negotiation of a long term lease of Town owned land known as Fish Haul Creek Park to Mitchelville; and

WHEREAS, on _____, 2017, the Town Council of the Town adopted Ordinance No. _____ authorizing the execution and delivery of this Lease; and

WHEREAS, on _____, 2017, the Board of Directors of Mitchelville, by resolution duly adopted, authorized the execution and delivery of this Lease;

NOW THEREFORE, for and in consideration of the sum of One and no/100 (\$1.00) Dollar paid by Mitchelville to the Town, and the full and faithful performance of the mutual promises, conditions, and covenants herein set forth, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Town and Mitchelville, the Parties hereto agree as follows:

Exhibit B

ARTICLE 1

1.1. **The Property:** The improved real property leased by Mitchelville pursuant hereto is known and described as follows:

PARCEL 1

ALL that certain piece, parcel or lot of land lying above the mean high water line of Port Royal Sound and the marshes of Fish Haul Creek, containing 16.481 acres, more or less, and which is more particularly shown and described on the Plat thereof entitled "16.481 AC. PARCEL, FISH HAUL PLANTATION FISH HAUL CREEK AND PORT ROYAL SOUND HILTON HEAD ISLAND BEAUFORT COUNTY SOUTH CAROLINA", prepared by Millard A. Dunham, P. L. S., and which is recorded in the Office of the Register Of Deeds for Beaufort County, South Carolina, in Plat Book 63 at Page 93.

PARCEL 2

ALL that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 3.008 acres, more or less, shown and described as "3.00 ACRES" on that certain plat entitled "A Plat of the Property of Dr. J. H. Brewton" prepared by Richardson & Associates, Jerry L. Richardson, S.C.R.L.S. 4784, dated September 5, 1973, and which is recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 22 at Page 100.

PARCEL 3

ALL that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 8.458 acres, more or less, shown and described as "PARCEL 'B'" on that certain plat entitled "Plat --Parcels A, B & C", prepared by Freiesleben-Yerkes, Inc., E. H. Freiesleben, S.C.R.L.S. 4624, dated July 20, 1979, as revised, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 29 at Page 117.

AND ALSO, ALL that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 0.119 acres more or less, shown and described as "35' ACCESS EASEMENT" on the Plat recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 29 at Page 117.

SAVE AND EXCEPT, ALL that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 0.100 acre, more or less, being a portion of that

Exhibit B

property shown and described as "PROPOSE EASEMENT TRADE" on the Plat recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Plat Book 29 at Page 117.

PARCEL 4

ALL that certain piece, parcel or tract of land situate, lying and being on Hilton Head Island, Beaufort County, South Carolina, containing 5.00 acres, more or less, shown and described as "PARCEL 'C'" on that certain plat entitled "Plat --Parcels A, B & C" prepared by Freiesleben-Yerkes, Inc., E. H. Freiesleben, S.C.R.L.S. 4624, dated July 20, 1979, as revised, and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 29 at Page 117.

Parcels 1, 2, 3, and 4 described above are known generally as "Fish Haul Creek Park", Beaufort County PIN R510-005-000-0208-0000, and are collectively referred to herein as the "Property".

1.2. Mitchelville Accepts the Property "As Is": Mitchelville represents and warrants that it has performed, or has had the opportunity to perform, an examination of (1) the Property, (2) title to the Property, and (3) the existing use restrictions on the Property, and accepts the Property "as is", and without recourse to or against the Town as to the title thereto, availability of water, sewer, electricity, or telecommunication services, the nature, condition, or usability thereof, or the uses to which Property may be put. In no event shall the Town have any liability to Mitchelville for any defect in the Property, or the title to the Property, or conditions existing in, on, under, over, or about the Property or any limitation on the uses that may be made of the Property. Mitchelville accepts this limitation on the Town's liability and acknowledges that this limitation of the Town's liability is a material term of this Lease without which the Town would not have entered into this Lease.

1.3. The Property to Continue as a Public Park: Mitchelville acknowledges that the Property is, as of the date of the commencement of this Lease, a public park. Mitchelville acknowledges and accepts that the Property shall at all times of normal daily operations during the term of this Lease remain open as a public park, with the public's right to enter the Property for parking and use of the amenities of the public park and access to the marshes of Fish Haul Creek and Port Royal Sound being preserved.

- (a) **Certain Restrictions Permitted:** The foregoing language of Article 1.3 notwithstanding, Mitchelville shall be permitted to restrict the

Exhibit B

public's access to any portion of the Property during times when and where construction activity or any other similar hazardous work is being undertaken by Mitchelville.

- (b) **Special Events Permitted:** The foregoing language of Article 1.3 shall not be interpreted to prevent Mitchelville from holding special events from time to time at the Property for which a charge or admission fee must be paid by any person attending the event. During any such special event, access to the Property may be restricted by Mitchelville to those persons paying the applicable charge or admission fee.

1.4. **Application of Laws and Other Matters:** This Lease is made by the Town and accepted by Mitchelville subject to all existing ordinances, regulations, and statutes, including zoning regulations and restrictive covenants affecting the Property that are now in force and which may be enacted in the future.

1.5. **No Other Interest in Real Property Created:** Other than the leasehold interest established by this Lease, Mitchelville shall have no interest in the Property.

1.6. **Rent:** Mitchelville shall pay to the Town Rent in the sum of One Dollar per year for the term of this Lease. Rent shall be due on January 1 of each year during any term of this Lease.

1.7. **National Park Service Designation:** The Town and Mitchelville acknowledge and agree that the Town and/or Mitchelville may seek and apply for the Property and/or Mitchelville's use thereon to become part of the National Park Service Reconstruction Era Monument (or similar designation). The Parties agree to cooperate and work in good faith to achieve this designation, including but not limited to executing any necessary easements, agreements or the like.

ARTICLE 2

2.1. **Effective Date:** The "Effective Date" of this Lease shall be the date upon which the duly authorized officials of the Town execute and deliver this Lease to Mitchelville.

ARTICLE 3

3.1. **Limited Obligation of the Town:** The Town shall not be required to furnish, and has no obligation to furnish, to Mitchelville any facilities or services of any kind,

Exhibit B

including, but not limited to, water, sewage disposal, sewage capacity, solid waste collection and disposal, recycling collection, electricity, light, power, or telecommunication services.

3.2. Utilities and Other Services: Mitchelville shall at its sole cost and expense arrange for the provision of utilities and other services to the Property, including, but not limited to, water, sewage disposal, sewage capacity, solid waste collection and disposal, recycling collection, electricity, light, power, and telecommunication services. Any fees for reservation of water or sewage or electrical capacity, or any other arrangements that must be made with the provider of any utility or any other service shall be the sole responsibility of Mitchelville.

3.3. Mitchelville is Responsible for the Payment of all Expenses: Mitchelville shall be solely responsible for the payment of any and all costs, expenses, and charges for any utility or other service, including water, sewage disposal, sewage capacity, solid waste collection and disposal, recycling collection, electricity, light, power, and telecommunication services that are used, rendered, or supplied to or upon the Property or in connection with Mitchelville's use of the Property, and *ad valorem* real property taxes (including but not limited to stormwater utility (SWU) fees), if any.

3.4. Indemnification and Hold Harmless: Mitchelville shall indemnify and hold the Town harmless from any claims for loss, damage, or liability, including reasonable attorney's fees and costs incurred by the Town 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 property of any person, resulting from the use of the Property by Mitchelville and Mitchelville's operation thereon, or arising from any act or omission of Mitchelville with respect to the exercise of Mitchelville's rights hereunder; provided, however, in no event will Mitchelville indemnify or hold harmless the Town for acts or omissions of the Town or its employees or agents.

ARTICLE 4

4.1. Construction of Improvements or Facilities on the Property Prior to Approval of Master Plan and Business Plan by Town Council:

- (a) Prior to approval by the Town Council of the Town (the "Town Council") of the Master Plan (as defined in Article 4.2) and the Business Plan (as defined in Article 4.3), and before undertaking construction of any improvements or facilities on the Property,

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Mitchelville shall submit to the Town Council for review and approval the plans and specifications of the proposed improvements or facilities, as well as information describing how Mitchelville will fund such construction and related operations. The Town Council may approve or disapprove all or any part of the proposed improvements or facilities as the Town Council, in its sole discretion, may deem advisable.

- (b) Any proposed improvements or facilities on the Property must be substantially in furtherance of the operation of a cultural and historical museum on the Property.
- (c) Any proposed improvements or facilities on the Property shall, in addition to approval by the Town Council, be subject to all applicable provisions of the Land Management Ordinance of the Town (the “LMO”), any applicable restrictive covenants, and any other applicable State, Federal or local statutes, ordinances, or regulations. Approval of any proposed improvements or facilities on the Property by the Town Council, in and of itself, shall not constitute an authorization to commence any work at the Property for which any other approval or permit of any nature is required.
- (d) The provisions of this Article 4.1 shall be inapplicable after the Master Plan is approved by Town Council as described below in Article 4.2.

4.2. The Master Plan: Prior to undertaking construction of (1) any improvements or facilities on the Property costing in excess of Four Hundred Thousand Dollars (\$400,000.00), or (2) any permanent structure on the Property which is enclosed (containing heating, ventilation, and air conditioning) and intended for public occupancy, Mitchelville shall prepare a Master Plan providing the details of the development, use, and operation of the Property as a cultural and historical museum and the development of the amenities on the Property substantially in furtherance of the operation of a cultural and historical museum (the “Master Plan”), and shall submit the Master Plan to the Town Council for review and approval. The Town Council may approve or disapprove all or any part of the Master Plan, as the Town Council, in its sole discretion, may deem advisable. Town Council approval of the Master Plan is a pre-condition to Mitchelville undertaking construction of (1) any improvements or facilities on the Property costing in excess of Four Hundred Thousand Dollars (\$400,000.00), or (2) any permanent structure on the Property which is enclosed (containing heating,

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ventilation, and air conditioning) and intended for public occupancy. Mitchelville shall submit its Master Plan as required herein and obtain the approval of the Town Council of the Master Plan within four (4) years after the Effective Date of this Lease.

- (a) **Amendments to the Master Plan:** Any proposed Material Amendments to the Master Plan shall be submitted to the Town Council for review and approval, which the Town Council may, in its reasonable discretion, approve or disapprove all or any part of. As used in this Article 4.2(a), a “Material Amendment to the Master Plan” shall mean any departure from the proposed uses and densities shown on the Master Plan as previously approved by the Town Council. Any amendments to the Master Plan that are not Material Amendments shall be subject to review and approval of the Town Manager of the Town or his or her designee, which approval shall not be unreasonably withheld. The Town Manager may, but is not obligated to, submit any amendments to the Master Plan that are not Material Amendments to the Town Council for review and approval. Matters related to site planning shall be handled through the Development Review process as established in the LMO and shall not be considered Material Amendments to the Master Plan. All amendments to the Master Plan (whether Material Amendments or not) shall be subject to all applicable provisions of the LMO, any applicable restrictive covenants, and any other applicable State, Federal or local statutes, ordinances or regulations.
- (b) **Other Approvals Required:** The Master Plan and any Material Amendments to the Master Plan shall, in addition to approval by the Town Council, be subject to all applicable provisions of the Land Management Ordinance of the Town, any applicable State, Federal or local statutes, ordinances or regulations. Approval of the Master Plan by Town Council, in and of itself, shall not constitute any authorization to commence any work at the Property for which any other approval or permit of any nature is required.

4.3. **The Business Plan:** Prior to undertaking construction of (1) any improvements or facilities on the Property costing in excess of Four Hundred Thousand Dollars (\$400,000.00), or (2) any permanent structure on the Property which is enclosed (containing heating, ventilation, and air conditioning) and intended for public

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occupancy, Mitchelville shall develop a long-range Business Plan for the operation of a cultural and historical museum and for the funding of the capital improvements and other amenities to be built at the Property (the "Business Plan"), and shall submit the same to Town Council for its review and approval. The Town Council may approve or disapprove all or any part of the Business Plan, as the Town Council, in its sole discretion, may deem advisable. Town Council approval of the Business Plan is a pre-condition to Mitchelville undertaking construction of (1) any improvements or facilities on the Property costing in excess of Four Hundred Thousand Dollars (\$400,000.00), or (2) any permanent structure on the Property which is enclosed (containing heating, ventilation, and air conditioning) and intended for public occupancy. Mitchelville shall submit its Business Plan as required herein and obtain the approval of the Town Council of the Business Plan within two (2) years after the Effective Date of this Lease.

4.4. Permitted Use: Mitchelville may use the Property for the following purposes (hereinafter, each a "Permitted Use"): establishing, building, and operating a cultural and historical museum and ancillary and related uses, and any manner consistent with the Master Plan approved by the Town Council.

4.5. General Management: Mitchelville shall have, and hereby agrees to undertake and assume, full and complete control and discretion in the management and operation of the Property during the term of this Lease. Without limiting the generality of the foregoing, Mitchelville shall have the following rights and duties with respect to the use, management, and operation of the Property:

- (a) **Determination of Policies:** To determine and carry out policies relating to primary and ancillary activities and services offered by Mitchelville, including those in accordance with the Permitted Use and those allowed as accessory uses under the applicable zoning for the Property.
- (b) **Financing:** To have, in its sole discretion, the right to obtain financing utilizing as collateral any fixtures or personal property that Mitchelville has or may acquire;
- (c) **Improvement of Property:** To erect, establish, maintain, modify, build, construct, or remove trails, paths, private use antennae, walkways, roadways, fences, docks, boardwalks, observation centers, decks, parking areas, drainage structures, and other such things, at the

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sole cost and expense of Mitchelville, in furtherance of the use and operation of the Property by Mitchelville;

- (d) **Compliance with Permitted Use:** In general, to act in accordance with the Permitted Use.

4.6. **Financial Statements:**

- (a) Mitchelville shall cause a financial statement to be prepared each year at the conclusion of Mitchelville's fiscal year by an entity independent of, and unconnected to, Mitchelville. Mitchelville's fiscal year ends on December 31 of each calendar year. Mitchelville shall deliver a copy of its financial statement to the Town within thirty (30) days of the completion of the financial statement each calendar year.
- (b) Mitchelville shall submit an annual operating budget to the Town. The submission of this budget shall coincide with the Town's annual budget process. The Town Manager shall inform Mitchelville of the procedures to be followed in regard to the budgeting process.
- (c) Mitchelville shall provide the Town with an annual independent audit report or review report prepared by a Certified Public Accountant (CPA) acceptable to the Town. An annual report shall be submitted no less than every third year.
- (e) Upon request of the Town, Mitchelville shall make its financial books and records available to the Town for Review. The Town shall give Mitchelville written notice of its intention to review Mitchelville's financial books and records. Mitchelville shall make its financial books and records available for review by the Town within twenty (20) days of the Town's written notice.

4.7. **Other Improvements to the Property Permitted:** Subject to the restrictions imposed by existing restrictive covenants, ordinances, and State or Federal statutes, including zoning regulations affecting the property, that are now in force or which may be enacted in the future, Mitchelville shall have the right to make such improvements as are approved by the Town Council or included in the Master Plan approved by the Town Council, at the sole cost and expense of Mitchelville.

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4.8. Building Permits: Prior to submitting an application for any building permit in an amount greater than Fifty Thousand and no/100 (\$50,000.00) Dollars for construction on the Property, Mitchelville shall provide the Town Manager with an executed Irrevocable Bank Letter of Credit in favor of the Town, in an amount equal to the cost of construction as shown in the application for the building permit, or other document deemed satisfactory by the Town Manager, confirming that funds in such amount are available and reserved for the purpose of such construction, which Irrevocable Bank Letter of Credit or other documents shall permit the Town to utilize such funds in such amount, less funds expended for the purpose of construction described in the application for building permit and for which Mitchelville has produced executed lien waivers from the contractors, sub-contractors, and materialmen involved, to complete the construction described in the application for the building permit and to pay any claims made by contractors, laborers, or materialmen, but only in the event of any failure by Mitchelville to complete the structure described in the application for the building permit or to pay contractors, laborers, or materialmen.

- (a) **Contract Splitting Prohibited:** Mitchelville may not split or incrementalize construction contracts or building permit applications in order to keep projects below the Fifty Thousand and no/100 (\$50,000.00) Dollar threshold set forth above.
- (b) **Increases in Cost of Project:** If the cost of any project undertaken by Mitchelville is increased by more than ten (10%) percent of the original contract price as shown on the original application for the building permit through changes, overruns, or otherwise, Mitchelville shall increase the amount of the Irrevocable Bank Letter of Credit or other document so as to be in an amount sufficient to cover the increased cost.

4.9. Permits: It shall be the sole responsibility of Mitchelville to procure and pay for any required municipal, state, federal, or other governmental permits and authorizations of the various municipal departments and governmental subdivisions having jurisdiction over the Property with respect to Mitchelville's occupation and use of the Property. The Town will provide "owner's authorizations" indicating the Town's consent to any permit being sought by Mitchelville where such "owner's consent" is required under any applicable permitting regulations. The delivery of such "owner's consent" by the Town shall not be deemed a waiver of any applicable development standard or zoning or other requirements.

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4.10. Mechanic's or Other Liens Prohibited: Mitchelville shall not suffer or permit any mechanic's lien or other lien to be placed against the Property arising out of any construction upon or use of the Property by Mitchelville. If any such lien is filed, Mitchelville shall promptly cause the same to be released of record or bonded off, and shall further indemnify and hold the Town harmless from any costs or expenses, damages, suits, or reasonable attorney's fees arising from the filing or enforcement of any mechanic's lien or any other lien affecting the Property.

4.11. Maintenance of the Property and Compliance with Laws: During the term of this Lease, Mitchelville shall, at its sole cost and expense, provide for the maintenance and upkeep of the Property, and shall at all times comply with any and all applicable fire, building, health, and sanitation codes as the same may from time to time be in effect.

4.12. Rules, Regulations, and Restrictions: Mitchelville shall at all times during the term of this Lease:

- (a) **Maintenance of the Property and Improvements:** In keeping with the Permitted Use on the Property, maintain the Property and any structures and buildings on the Property, in a clean, neat, safe, sanitary, and orderly condition, it being understood that no use shall be made or permitted of the Property or any part thereof, nor any acts done, which will violate any statutes, ordinance, or regulation, or violate or make inoperative or otherwise impair any insurance policy at any time held by or in any way for the benefit of the Town pursuant to any provision of this Lease;
- (b) **Storage of Hazardous Substances Prohibited:** Other than materials and equipment used, or to be used, in the improvements, maintenance, and use of the Property, the improvements, and the personal property thereon, Mitchelville shall not sell, or suffer or permit to be stored, kept, used, or sold in, upon, or about the Property, or in any structure or building located on the Property, any gasoline, distillate, any substances defined as a "Hazardous Substance" under any Federal, State or local law, ordinance, or regulation, or any other substance or material of an explosive, inflammable, or radiological nature which may contaminate or endanger any part of the Property, any structure or building on the Property, or any person on or about

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the Property, or present any unusual fire, explosion, or other damaging or dangerous hazard; and, Mitchelville shall, at its sole cost and expense, cause the removal and cleanup of any hazardous substances allowed to contaminate the Property by Mitchelville;

- (c) **Compliance with Laws:** Comply with all governmental rules, regulations, ordinances, statutes, and laws now or hereafter in effect pertaining to the Property or Mitchelville's use thereof;
- (d) **Waste Dumping or Disposal Prohibited:** Refrain from dumping, disposal, reduction, incineration or other burning of any trash, hazardous material or substance, papers, refuse, or garbage or any kind in, on, or about the Property, in violation of any applicable statute, regulation, or ordinance;
- (e) **Waste Storage Prohibited:** Refrain from storing any trash, garbage, or hazardous material or substance on the Property or in any structure or building located on the Property, nor create or permit the creation of any health or fire hazard, in violation of any applicable statute, regulation, or ordinance;
- (f) **Waste and Nuisances:** Refrain from committing or suffering to commit any waste upon, or making any unlawful, improper or offensive use of, the Property or any structure or building on the Property, or creating any public or private nuisance or act or thing upon the Property or in any structure or building on the Property;
- (g) **Compliance with Restrictive Covenants and Local Ordinances:** Maintain the Property so as to comply with and remain in compliance with any restrictive covenants encumbering the Property and all local ordinances promulgated by the Town, or any other applicable law, rule, regulation, or agreement concerning the Property.
- (h) **Sustainability:** Develop strategies that are consistent with the Town's published and defined goals on sustainability. In so doing, consideration shall be given to balancing environmental, economic and social impacts.

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4.13. **Additional Rules:** In addition to the foregoing, Mitchelville shall at all times during the term hereof comply with all other reasonable rules and regulations which the Town may at any time or from time to time establish concerning the use of the Property; provided however, that any such rule or regulation so made shall not be inconsistent with any part of this Lease, and shall not unreasonably interfere with Mitchelville's use and enjoyment of the Property.

4.14. **Town's Waiver of Interest in Personal Property:** The Town waives any right, title, or interest in any and all equipment, displays, furniture, fixtures, moveable non-permanent items and structures, and personal property owned by, loaned to, or leased to Mitchelville; and, said property shall, at all times, remain the property of Mitchelville, such entity that has loaned the property to Mitchelville, or such entity that has leased the property to Mitchelville. The Town further waives any right that it may have to retain or distrain any of the property owned by, leased to, or leased by Mitchelville.

ARTICLE 5

5.1. **Initial Term of This Lease:** Subject to Articles 5.2, 5.4, and 10.1 below, the term of this lease shall be for a period of Forty Five (45) years, with such term commencing on _____ 2017, and ending on _____, 2062 (the "Initial Lease Term"), provided that all terms and conditions of this Lease shall have been complied with by Mitchelville, or unless sooner terminated pursuant to the terms hereof.

5.2. **Renewal of Terms of Lease:** Unless this Lease is sooner terminated pursuant to the terms hereof, at the end of the Initial Lease Term, this Lease shall automatically renew for successive periods of Twenty Five (25) years (hereinafter, each a "Renewal Lease Term"), provided that all terms and conditions of this Lease shall have been complied with by the Parties hereto, unless either Party hereto shall give the other a Notice of Termination as set forth in Article 5.3 below.

5.3. **Termination of this Lease:** The initial term of this lease shall expire on _____, 2062 (hereinafter, the "Initial Termination Date"). The first Renewal Lease Term shall expire Twenty Five (25) years from the date of the Initial Termination Date, and subsequent Renewal Lease Terms shall expire each following twenty-five (25) year period. If either Party hereto gives the other Party written notice of its intention not to renew this Lease not less than twelve (12) months prior to the Initial Termination Date or the end of any Renewal Lease Term, then this Lease shall

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expire on the Initial Termination Date or at the end of the applicable Renewal Lease Term, as the case may be.

5.4. Ordinance Required: This Lease is contingent upon the adoption of an Ordinance by the Town authorizing the execution and delivery of the Lease.

5.5. Termination on Failure of Conditions: If the condition stated in Article 5.4 does not occur before December 21, 2017, then this Lease shall automatically terminate, and neither Party hereto shall have any further rights or obligations hereunder.

5.6. Termination on Failure of Approval of Master Plan or Business Plan: Notwithstanding any provision in this Lease to the contrary, this Lease shall automatically terminate in the event that either the Master Plan (described above in Article 4.2) is not approved by Town Council for the Town within four (4) years after the Effective Date of this Lease or the Business Plan (described above in Article 4.3) is not approved by Town Council for the Town within two (2) years after the Effective Date of this Lease. Upon such termination, Mitchelville shall restore, within sixty (60) days after such termination, any part of the Property which has been altered by Mitchelville and which (1) has not been maintained in a reasonably safe, neat, clean, and ordinary manner, or (2) is in a state of disrepair or in an unkempt state, or (3) consists of trash, rubbish, debris, or related items, to its state which existed immediately prior to the Effective Date of this Lease. Town Council, in its sole discretion, may choose to extend, modify, waive or extinguish this 2-year deadline by adoption of an Ordinance prior to the 2-year deadline.

ARTICLE 6

6.1. Quiet Enjoyment: The Town hereby covenants that Mitchelville shall, during the Lease terms, enjoy peaceable and quiet possession of the Property, and shall have, hold, and enjoy the Property without suit, trouble, or hindrance from the Town, except as expressly required or permitted by this Lease. The Town shall not interfere with the quiet use and enjoyment of the Property by Mitchelville during the Lease Term, so long as the Initial Lease Term or any Renewal Lease Term shall be in effect and all obligations of Mitchelville hereunder, have been fulfilled.

ARTICLE 7

7.1. Required Property Insurance: During the Initial Lease Term and any Renewal Lease Term, Mitchelville shall keep buildings and structures located on the

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Property 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. The Town shall be named as an additional insured on this policy or these policies.

7.2. Required Liability Insurance: During the Initial Lease Term and any Renewal Lease Term, Mitchelville shall maintain in full force and effect comprehensive general public liability insurance with minimum bodily injury, death, and property damage, per occurrence, of FIVE MILLION (\$5,000,000.00) DOLLARS insuring against any and all liability of Mitchelville with respect to its occupants and use of the Property and all of the improvements, structures, and buildings on the Property, or arising out of the maintenance, use, or occupancy thereof by Mitchelville. In addition to all other coverages, and if available, such insurance policy or policies shall specifically insure the performance by Mitchelville of the hold harmless and indemnity provisions set forth in Article 3.4 of this Lease.

7.3. 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, and shall be issued in the names of the Town, Mitchelville, and such other persons or firms as the Town reasonably specifies from time to time. Such policies shall be for the mutual and joint benefit and protection of the Town, Mitchelville, and others hereinabove mentioned, and executed copies of such policies of insurance or certifications thereof shall be delivered to the Town within ten (10) days after delivery of possession of the Property to Mitchelville and thereafter 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 the Town, 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 by reason of the negligence of Mitchelville. As often as any such policy shall expire or terminate, renewal or additional policies shall be procured and maintained by Mitchelville in like manner and to like extent. All policies of insurance delivered to the Town must contain a provision that the company writing said policy will give the Town 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 that the Town may carry.

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7.4. **Town May Obtain Insurance:** In lieu of Mitchelville procuring and maintaining insurance required by this Article 7, the Town may, in its sole discretion at any time and from time to time with reasonable notice to Mitchelville, choose to procure and maintain all or any part of the insurance required by this Article 7, and pay any premiums therefor, in which event Mitchelville shall repay the Town all sums so paid by the Town within ten (10) days following the Town's written demand to Mitchelville for such payment.

7.5. **Failure of Mitchelville to Obtain Insurance:** If Mitchelville fails to procure or maintain any insurance required by this Article 7, or fails to carry insurance required by law or governmental regulations, then the Town may, but without obligation to do so, at any time and from time to time without notice, procure such insurance and pay the premiums therefor, in which event Mitchelville shall repay the Town all sums so paid by the Town, together with interest thereon as provided in Article 11 hereof, and any incidental costs or expenses incurred by the Town in connection therewith, within ten (10) days following the Town's written demand to Mitchelville for such payment.

7.6. **Additional Insurance:** Mitchelville may, but is not required to, obtain additional insurance beyond what is required by this Article 7, including but not limited to contents, business interruption, and abuse/molestation insurance.

ARTICLE 8

8.1. **Assignment Prohibited:** This Lease shall not be assigned by Mitchelville.

8.2. **Sublease of the Property:** Mitchelville shall not sublet any part of the Property, without the prior written approval of the Town Manager acknowledging that the sublease complies with the Permitted Use, which approval by the Town Manager shall not be unreasonably withheld. For the purpose of this Lease, a sublease of the Property is any lease by Mitchelville of any part of the Property to a third party for a period that exceeds six (6) months. Any sublease must be in keeping with the Permitted Use. Nothing herein prohibits Mitchelville from contracting with subcontractors, licensees, vendors, or others in furtherance of the Permitted Use.

8.3. **Other Encumbrances Prohibited:** Mitchelville shall not grant any easements, licenses, or rights-of-way encumbering, or enter into any agreement which would in any way affect or encumber, the title to the Property; provided, however, that the Town, as the Property owner, agrees to grant to Mitchelville or others, as the case may be, any easements, licenses, or rights-of-way that are necessary for Mitchelville to

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use the Property in accordance with, and in furtherance of, the Permitted Use, such as any easements, licenses, or rights-of-way for utility lines, on terms that are reasonably acceptable to the Town. If any request of Mitchelville contemplated in this Article 8 requires the adoption of an ordinance or other legislation, the failure of the Town to adopt any such ordinance or legislation shall not be deemed a breach of this Lease.

ARTICLE 9

9.1. **Notices:** All notices, certificates, or other communications required hereunder shall be deemed delivered when delivered in person, or mailed by regular first class mail, postage prepaid, addressed as follows, or to such other addresses as may be designated, in writing, by the Parties:

To the Town: TOWN OF HILTON HEAD ISLAND
Town Manager
One Town Center Court
Hilton Head Island, SC 29928

With copy to: Gregory M. Alford, Esq.
Alford & Thoreson, LLC
18 Executive Park Road, Building 1
PO Drawer 8008
Hilton Head Island, SC 29938-8008

To Mitchelville: Mitchelville Preservation Project, Inc.
Ms. Shirley Peterson

Hilton Head Island, SC 29928

With copy to: Chester C. Williams, Esq.
Law Office of Chester C. Williams, LLC
17 Executive Park Road, Suite 2
PO Box 6028
Hilton Head Island, SC 29938-6028

ARTICLE 10

10.1. **Events of Default Defined:** The following shall be Events of Default under this Lease:

- (a) **Failure to Observe Requirements:** The failure of Mitchelville or the Town to observe or perform any covenant, condition, obligation or

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agreement contained in this Lease, required to be observed or performed, for a period of one hundred twenty (120) days after delivery of written notice specifying such failure and demand that it be remedied.

- (b) **Dissolution of Mitchelville:** The dissolution, termination, or liquidation of Mitchelville, or the voluntary or involuntary commencement of any proceeding under any State or Federal law relating to bankruptcy, insolvency, assignment for the benefit of creditors, reorganization, readjustment of debtor any other form of creditor action or debtor relief, either by Mitchelville or against Mitchelville, or any change in the tax-exempt, not-for-profit status of Mitchelville.
- (c) **Abandonment of the Property:** The abandonment of the Property by Mitchelville, or the discontinuance of operations at the Property by Mitchelville.
- (d) **Use Inconsistent with this Lease or the Permitted Use:** Any use of all or any part of the Property or the structures and improvements thereon, other than in compliance with the Permitted Use, the Master Plan, or this Lease without the approval of the Town Council.
- (e) **Failure to Pay Amounts Due:** The failure to pay any sum due to the Town by Mitchelville under any provision of this Lease.
- (f) **Failure to Submit the Master Plan:** The failure of Mitchelville to submit the Master Plan to the Town Council for review and approval within two (2) years of the Effective Date hereof, as required in Article 4.2 of this Lease.
- (g) **Failure to Submit the Business Plan:** The failure of Mitchelville to submit the Business Plan to the Town for review and approval within two (2) years of the Effective Date hereof as required in Article 4.3 of this Lease.

10.2. **Remedies on Default:** Whenever any Event of Default described in Article 10.1 of this Lease shall have happened and continue for a period of one hundred twenty

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(120) days after delivery of written Notice of Default, the non-defaulting Party shall have the right to terminate this Lease. If the Town is the non-defaulting party, it may give notice to Mitchelville to vacate the Property, and may thereafter evict Mitchelville from the Property, take possession thereof, and exercise all the rights and remedies provided herein. At any time within sixty (60) days after such Notice of Default and demand, either Party may initiate a mandatory, non-binding mediation proceeding, which shall be completed within one hundred twenty (120) days of the date of the Notice of Default. In no event shall enforcement by the Town of its rights under this Article 10 cause Mitchelville to be relieved of any of its obligations set forth in this Lease.

10.3. No Remedy Exclusive: No remedy conferred upon or reserved to the Parties is intended to be exclusive, and every such remedy shall be cumulative and shall be in addition to every other remedy hereunder now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right and power and such right and power may be exercised from time to time and as often as may be deemed expedient in the sole discretion of the Parties.

10.4. Waivers: If any agreement contained herein is breached by either Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

10.5. Agreement to Pay Attorney's Fees and Expenses: If either Party hereto defaults under any of the provisions hereof, and the non-defaulting Party employs attorneys, or incurs other expenses for the enforcement of the performance or observance of any obligation or agreement on the part of the defaulting Party, the defaulting Party agrees that it shall pay, on demand, the reasonable fees of such attorneys and such other expenses so incurred by the non-defaulting Party in the enforcement of its rights hereunder.

10.6. Discontinuance of Proceedings: In case either Party hereto has proceeded to enforce any right under this Lease, and such proceedings shall have been discontinued or abandoned for any reason, then and in every such case the Town and Mitchelville shall be restored respectively to their several positions and rights hereunder, and all rights, obligations, remedies, and powers of the Town and Mitchelville shall continue as though no such proceeding had been taken.

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ARTICLE 11

11.1. **Interest on Past Due Obligations:** Whenever under any provisions of this Lease Mitchelville shall be obligated to make any payment or expenditure to the Town, or to do any act or thing, or to incur any liability whatsoever, and Mitchelville fails, refuses, or neglects to perform as herein required, the Town shall be entitled, but shall not be obligated, to make any such payment or expenditure, or do any such act or thing, or to incur any such liability, all on behalf and at the cost and for the account of Mitchelville, and in such event the amount thereof with interest thereon as hereinafter provided shall be deemed due upon demand for payment thereof by the Town. Any amount due from Mitchelville to the Town under this Lease which is not paid when due shall bear interest at the Applicable Federal Rate as established by the Internal Revenue Service from the date due until paid, unless otherwise specifically provided herein, but the payment of such interest shall not excuse or cure any default by Mitchelville under this Lease.

ARTICLE 12

12.1. **Binding Effect:** This Lease shall inure to the benefit of and shall be binding upon Mitchelville and the Town.

12.2. **Amendment, Changes, and Modifications:** Except as otherwise provided herein, this Lease may not be amended, changed, modified, or altered without written consent of both Parties hereto.

12.3. **Severability:** If any provision of this Lease is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

12.4. **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 but one and the same instrument.

12.5. **Applicable Law:** This Lease shall be governed by and construed in accordance with the laws of the State of South Carolina.

12.6. **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 sections of this Lease.

Exhibit B

12.7. **Recording:** Either Party may record a short form memorandum of this Lease in the Office of the Register of Deeds for Beaufort County, South Carolina.

12.8. **No Agency:** The Parties hereto intend only to provide for a Lease of real property as provided herein, and affirmatively state that no master/servant, principal/agent, or employer/employee relationship is created by this Lease. Nothing herein creates any relationship between the Town and Mitchelville other than that which is expressly stated herein. No employee, volunteer, or agent of Mitchelville shall be considered an employee or agent of the Town for any purpose whatsoever and none shall have any status, right or benefit of employment with Town.

12.9. **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.

12.10. **No Third Party Beneficiaries:** The Parties hereto affirmatively represent that this Lease is made solely for the benefit of the Parties hereto and not for the benefit of any third party who is not a signature Party hereto. No person or entity other than the Town and Mitchelville 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.

(SIGNATURE PAGES FOLLOW)

Exhibit B

In Witness whereof, the Parties hereto, by and through their duly authorized officers, have set their hands and seals as of this _____ Day of _____, 2017.

WITNESSES:

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

By: _____ (L.S.)
David Bennett, Mayor

Attest: _____ (L.S.)
Stephen G. Riley, ICMA-CM
Town Manager

WITNESSES:

**MITCHELVILLE PRESERVATION
PROJECT, INC.**

By: _____ (L.S.)
Shirley Peterson, President

Attest: _____ (L.S.)
_____, Secretary

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

This Memorandum of Understanding (the “Memorandum”) is entered into by and between the Town of Hilton Head Island (hereinafter referred to as the “Town,”) and the Coastal Discover Museum, a South Carolina not-for-profit corporation (hereinafter referred to as the “Museum”) regarding the Town assuming responsibility for the accounting and payroll functions of the Museum, the Town’s payment of an annual management fee to the Museum, and the Town’s assumption of responsibility for and payment for landscaping at Honey Horn.

1. **Governing Document.** It is the intent of the parties that this Memorandum shall not replace the existing Agreement and Lease between the Town and Museum regarding the use of Honey Horn. This Memorandum shall only govern circumstances wherein the Town assumes the accounting and payroll functions of the Museum, paying a management fee to the Museum, and the Town assumes the responsibility for landscaping at Honey Horn during the term of this Memorandum.
2. **General.** The Town owns Honey Horn and has entered into an Agreement with the Museum for the management and preservation of Honey Horn. This Memorandum does not replace or terminate the existing Agreement and Lease between the Town and Museum pertaining to Honey Horn.
3. **Maintenance.** During the term of this Memorandum, the Town shall, at its sole cost and expense, provide for the maintenance and general upkeep of all exterior landscaping at Honey Horn. This will not include irrigation or special event landscape support.
4. **Operating Funds.**
 - a. The Museum shall submit an annual operating budget to the Town. The submission of this budget shall coincide with the Town’s annual budget process. The Town Manager shall inform the Museum of the procedures to be followed in regard to the budgeting process.
 - b. The Town shall pay to the Museum a management fee of Seventy Five Thousand dollars (\$75,000.00) per annum. During the annual budget process each year, this management fee may be reviewed and adjusted as the parties may agree. The Museum shall raise the balance of its operating budget as shown on its operating account profit and loss statement from sources other than the Town for the annual operating budget of the Museum.
 - c. Other entities, public or private, may contribute to the annual operating

budget of the Museum.

d. It is understood by the Town and the Museum that the Town will contract for and pay all expenses related to the maintenance and upkeep of all exterior landscaping at Honey Horn.

5. **Accounting Services.** The Town shall provide accounting, check writing, and payroll services to the Museum. These services shall include:

- a. a monthly and annual balance sheet and profit and loss statement;
- b. a monthly and annual general ledger of transactions;
- c. monthly reconciliation of bank statements;
- d. preparation of checks, including payroll checks and payroll tax payments, including filing of withholding, FICA and similar state and federal reports;
- e. all audit preparation services necessary to comply with Town requirements; and
- f. other financial services as the Town and Museum shall agree upon.

Accounting reports shall be in a format mutually agreeable to the Town and Museum.

6. **Bank Accounts, Checks, and Payments.**

a. Bank accounts shall be maintained in such institutions as the Museum shall determine. The Town shall maintain no more than four separate banking accounts for the Museum. Checks shall be prepared by the Town on the Museum's check forms, normally based on a written request of the Museum indicating the payee, account code and invoice or other appropriate reference data. Checks shall be signed by such person(s) as the Museum shall determine.

b. A separate checking account in an amount not to exceed \$2,500 (unless otherwise authorized in writing by the Town) shall be maintained by the Museum to fund smaller ongoing cash needs. Checks on this account shall be prepared and signed by such person(s) as the Museum shall determine. The Museum may request the Town to transfer additional funds to replenish this account on a regular basis, but not more often than monthly. The Museum shall provide to the Town adequate information regarding all payees, account numbers, and invoice or reference data to permit the Museum's accounting records to be maintained properly with this account.

- c. The Museum shall provide to the Town schedules of pay rates of Museum personnel, time sheets and other information requested by the Town for proper payroll records. Such personnel shall not be deemed employees or agents of the Town.
7. **Procurement and Purchasing.** Unless otherwise authorized in writing by the Town, the Museum will in its purchase of materials and services for the Museum adhere to procurement and purchasing procedures of the Town. This shall not be interpreted to mean that the Town must execute or approve such purchases; however, unless otherwise agreed upon between the parties, all such purchases shall be deemed direct transactions between the Museum and the entity providing the materials or services.
8. **Miscellaneous.** The Museum shall provide the Town with copies of all insurance policies of the Museum relating to their operations within thirty (30) days of signing of the Memorandum. The Museum shall remain a not-for-profit independent entity whose policies and procedures shall be determined by its Chief Executive Officer and Board of Directors. The Museum shall provide the Town with an annual independent audit report.
9. **Notices.** All notices required under this Memorandum shall be deemed to have been given if in writing and
- (a) delivered personally to the Town Manager or Museum CEO, or
 - (b) mailed first class, postage prepaid, to the address of record set forth below, in which case delivery shall be deemed to have occurred two calendar days after the date of postmark.

COASTAL DISCOVERY MUSEUM
President and Chief Executive Officer
P. O. Box 23947
Hilton Head Island, SC 29925

TOWN OF HILTON HEAD ISLAND
Town Manager
One Town Center Court
Hilton Head Island, SC 29928

The address of record may be changed by written notice to the other party.

10. **Term.** The term of this Memorandum of Understanding shall be for a period of ten years, from July 01, 2017 to June 30, 2027. Prior to June 30, 2027, this Memorandum will be reviewed by the Town and the Museum. Changes may be made only with and by the mutual consent of both parties.

11. **Termination.** In addition any other rights of termination set forth in this Memorandum, each party shall have the right to terminate this Memorandum, by written notice to the other party, if the other party is in default of any term or provision of this Memorandum, and the defaulting party fails to cure or correct such default within sixty (60) days of notice thereof from the non-defaulting party. A party may elect to disregard a default for the period of time without waiving its right to declare a default at a subsequent time or upon reoccurrence of the default.

IN WITNESS WHEREOF, the parties hereto have hereby affixed their signatures.

COASTAL DISCOVERY MUSEUM

TOWN OF HILTON HEAD ISLAND

By _____

Rex Garniewicz

By _____

Stephen G. Riley

Its: Chief Executive Officer

Its: Town Manager

Date _____, 2017

Date _____, 2017

Address:

P. O. Box 23947

Hilton Head Island, SC 29925

Address:

One Town Center Court

Hilton Head Island, SC 29928



MEMORANDUM

TO: Town Council
FROM: Stephen G. Riley, Town Manager
VIA: Brian E. Hulbert, Esq., Staff Attorney
DATE: March 17, 2017
RE: Memorandum of Understanding between Town of Hilton Head Island and the Coastal Discovery Museum

Recommendation: Staff recommends that Town Council authorize the Town Manager to execute this Memorandum of Understanding (MOU) between the Town of Hilton Head Island (Town) and the Coastal Discovery Museum (Museum).

Summary: A MOU was first entered into between the Town and the Coastal Discovery Museum in 2007. It is set to expire June 30, 2017. This MOU between the Town and the Museum would have the Town continue to take responsibility for the accounting and payroll functions of the Museum, continue to take responsibility for the general landscaping at Honey Horn, and continue the payment of a \$75,000.00 per year management fee to Coastal Discovery Museum. This MOU would renew the agreement for another 10 year term.

Background: At its 2006 annual workshop, Town Council adopted as a Top Priority, the execution of a management agreement with the Museum. The management agreement was proposed so that the Town would assume responsibility for the accounting and payroll functions of the Museum take over responsibility for the landscaping at Honey Horn. The Town currently has an Agreement and Lease with the Museum in which they manage Honey Horn. The lease was executed on January 29, 2002 and is for a term of 45 years.

CC: Gregory D. DeLoach, Esq., Assistant Town Manager
Mr. Rex Garniewicz, President and CEO Coastal Discovery Museum
John Troyer, Director, Finance Department
Scott Liggett, Director PP&F

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

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1. **Governing Document.** It is the intent of the parties that this Memorandum shall not replace the existing Agreement and Lease between the Town and Museum regarding the use of Honey Horn. This Memorandum shall only govern circumstances wherein the Town assumes the accounting and payroll functions of the Museum, paying a management fee to the Museum, and the Town assumes the responsibility for landscaping at Honey Horn during the term of this Memorandum.
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3. **Maintenance.** During the term of this Memorandum, the Town shall, at its sole cost and expense, provide for the maintenance and general upkeep of all exterior landscaping at Honey Horn. This will not include irrigation or special event landscape support.
4. **Operating Funds.**
 - a. The Museum shall submit an annual operating budget to the Town. The submission of this budget shall coincide with the Town’s annual budget process. The Town Manager shall inform the Museum of the procedures to be followed in regard to the budgeting process.
 - b. The Town shall pay to the Museum a management fee of Seventy Five Thousand dollars (\$75,000.00) per annum. During the annual budget process each year, this management fee may be reviewed and adjusted as the parties may agree. The Museum shall raise the balance of its operating budget as shown on its operating account profit and loss statement from sources other than the Town for the annual operating budget of the Museum.
 - c. Other entities, public or private, may contribute to the annual operating

budget of the Museum.

d. It is understood by the Town and the Museum that the Town will contract for and pay all expenses related to the maintenance and upkeep of all exterior landscaping at Honey Horn.

5. **Accounting Services.** The Town shall provide accounting, check writing, and payroll services to the Museum. These services shall include:

- a. a monthly and annual balance sheet and profit and loss statement;
- b. a monthly and annual general ledger of transactions;
- c. monthly reconciliation of bank statements;
- d. preparation of checks, including payroll checks and payroll tax payments, including filing of withholding, FICA and similar state and federal reports;
- e. all audit preparation services necessary to comply with Town requirements; and
- f. other financial services as the Town and Museum shall agree upon.

Accounting reports shall be in a format mutually agreeable to the Town and Museum.

6. **Bank Accounts, Checks, and Payments.**

a. Bank accounts shall be maintained in such institutions as the Museum shall determine. The Town shall maintain no more than four separate banking accounts for the Museum. Checks shall be prepared by the Town on the Museum's check forms, normally based on a written request of the Museum indicating the payee, account code and invoice or other appropriate reference data. Checks shall be signed by such person(s) as the Museum shall determine.

b. A separate checking account in an amount not to exceed \$2,500 (unless otherwise authorized in writing by the Town) shall be maintained by the Museum to fund smaller ongoing cash needs. Checks on this account shall be prepared and signed by such person(s) as the Museum shall determine. The Museum may request the Town to transfer additional funds to replenish this account on a regular basis, but not more often than monthly. The Museum shall provide to the Town adequate information regarding all payees, account numbers, and invoice or reference data to permit the Museum's accounting records to be maintained properly with this account.

- c. The Museum shall provide to the Town schedules of pay rates of Museum personnel, time sheets and other information requested by the Town for proper payroll records. Such personnel shall not be deemed employees or agents of the Town.
7. **Procurement and Purchasing.** Unless otherwise authorized in writing by the Town, the Museum will in its purchase of materials and services for the Museum adhere to procurement and purchasing procedures of the Town. This shall not be interpreted to mean that the Town must execute or approve such purchases; however, unless otherwise agreed upon between the parties, all such purchases shall be deemed direct transactions between the Museum and the entity providing the materials or services.
8. **Miscellaneous.** The Museum shall provide the Town with copies of all insurance policies of the Museum relating to their operations within thirty (30) days of signing of the Memorandum. The Museum shall remain a not-for-profit independent entity whose policies and procedures shall be determined by its Chief Executive Officer and Board of Directors. The Museum shall provide the Town with an annual independent audit report.
9. **Notices.** All notices required under this Memorandum shall be deemed to have been given if in writing and
- (a) delivered personally to the Town Manager or Museum CEO, or
 - (b) mailed first class, postage prepaid, to the address of record set forth below, in which case delivery shall be deemed to have occurred two calendar days after the date of postmark.

COASTAL DISCOVERY MUSEUM
President and Chief Executive Officer
P. O. Box 23947
Hilton Head Island, SC 29925

TOWN OF HILTON HEAD ISLAND
Town Manager
One Town Center Court
Hilton Head Island, SC 29928

The address of record may be changed by written notice to the other party.

10. **Term.** The term of this Memorandum of Understanding shall be for a period of ten years, from July 01, 2017 to June 30, 2027. Prior to June 30, 2027, this Memorandum will be reviewed by the Town and the Museum. Changes may be made only with and by the mutual consent of both parties.

11. **Termination.** In addition any other rights of termination set forth in this Memorandum, each party shall have the right to terminate this Memorandum, by written notice to the other party, if the other party is in default of any term or provision of this Memorandum, and the defaulting party fails to cure or correct such default within sixty (60) days of notice thereof from the non-defaulting party. A party may elect to disregard a default for the period of time without waiving its right to declare a default at a subsequent time or upon reoccurrence of the default.

IN WITNESS WHEREOF, the parties hereto have hereby affixed their signatures.

COASTAL DISCOVERY MUSEUM

TOWN OF HILTON HEAD ISLAND

By _____

Rex Garniewicz

By _____

Stephen G. Riley

Its: Chief Executive Officer

Its: Town Manager

Date _____, 2017

Date _____, 2017

Address:

P. O. Box 23947

Hilton Head Island, SC 29925

Address:

One Town Center Court

Hilton Head Island, SC 29928



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Stephen G. Riley, ICMA-CM, *Town Manager*
VIA: Charles Cousins, AICP, *Director of Community Development*
VIA: Jennifer Ray, *Planning & Special Project Manager*
FROM: Marcy Benson, *Senior Grants Administrator*
DATE: March 13, 2017
SUBJECT: Fair Housing Resolution

Recommendation:

Staff requests Town Council approval of the attached Fair Housing Resolution. The Community Services Committee recommended approval of the Fair Housing Resolution at their March 13, 2017 meeting.

Summary:

In order for the Town to participate in the United States Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) Entitlement Program it is necessary to certify it will undertake action to affirmatively further fair housing. By approving and advertising this resolution the Town will meet this program component. The attached resolution is modeled on a recommended format provided by the Lowcountry Council of Governments, which has been used previously by the Town.

Background:

April is recognized as National Fair Housing Month. In order to participate in the HUD CDBG Entitlement Program it is necessary for the Town to certify it supports the rights of all individuals, regardless of race, color, religion, sex, national origin, disability or familial status to fair housing opportunities. This resolution is one of the actions that will satisfy this program component. The attached resolution is consistent with resolutions adopted by Town Council in previous years for this effort.

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD
ISLAND, SOUTH CAROLINA TO PROCLAIM APRIL 2017 AS FAIR HOUSING
MONTH**

WHEREAS, the Town of Hilton Head Island desires that all its citizens be afforded the opportunity to attain a decent, safe and sound living environment; and

WHEREAS, the Town of Hilton Head Island rejects discrimination on the basis of race, religion, color, sex, national origin, disability, and/or familial status in the sale, rental or provision of other housing services; and

WHEREAS, the State of South Carolina enacted the South Carolina Fair Housing Law in 1989; and

WHEREAS, April is recognized nationally as Fair Housing Month;

NOW THEREFORE, BE IT, AND IT HEREBY IS RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA DOES HEREBY DESIGNATE APRIL 2017 AS FAIR HOUSING MONTH.

MOVED, APPROVED AND ADOPTED THIS 4th DAY OF April, 2017.

David Bennett, Mayor

Victoria L. Pfannenschmidt, Town Clerk

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*
VIA: Charles Cousins, AICP, *Director of Community Development*
Shawn Colin, AICP, *Deputy Director of Community Development*
FROM: Teri B. Lewis, AICP, *LMO Official*
DATE: March 16, 2017
SUBJECT: Use Conversion LMO Amendments – Proposed Ordinance 2017-06

Recommendation: The Planning Commission met on March 15, 2017 to review the proposed Use Conversion LMO Amendments. The Commission voted 8-0 to recommend approval of the attached amendments.

The Public Planning Committee met on March 2, 2017 and discussed the use conversion amendments. Staff recommended making changes to the amendments that would effectively only allow the conversion to occur in the RD (Resort Development) zoning district. The Public Planning Committee agreed and voted 2-0 to send it back to Planning Commission for them to consider the recommended change.

Staff recommends that Town Council adopt the proposed amendments.

Summary: The proposed change will allow certain uses (offices, restaurants and commercial services) that are accessory to and within an existing residential structure or hotel to be converted to residential units in the RD zoning district. This conversion will be permitted if the development has the correct amount of parking and the conversion takes place entirely within the footprint of the existing residential structure.

Background: This amendment was brought forward in mid-2016 after the attorney for the Seacrest development pointed out that similar language was not carried over from the old LMO during the LMO Rewrite process. Language related to density conversion was added to the LMO in March 2011 (shortly before the start of the LMO Rewrite process) to be more flexible and provide additional redevelopment opportunities.

Staff brought amendments forward to Planning Commission on July 20, 2016. The proposed amendments would have allowed an existing office, eating establishment or commercial services use that is accessory to and within an existing residential structure to be converted to a residential unit or units upon the Administrator's determination that the development would be able to support the required amount of parking. This conversion was proposed to be permitted in the LC, MS, MF, MV, RD, SPC, S and WMU zoning districts. These districts were chosen based on the districts where the density conversion was permitted in the old LMO. The Planning Commission had

questions related to parking and the difference between residential and commercial parking ratios. The Commission voted unanimously to recommend approval of the amendments to Town Council.

The Public Planning Committee reviewed the amendments on August 4, 2016. The Committee asked if there were any properties waiting for these amendments to be approved. Additionally the Committee asked about any ratio between commercial and residential spaces and how the number of units in a space is determined. The Committee voted unanimously to recommend approval of the amendments to Town Council.

Town Council considered the proposed use conversion amendments at their September 20, 2016 meeting. Town Council had several concerns and remanded the item back to staff for additional work.

Newly added language is illustrated with double underline and deleted language is illustrated with ~~strikethrough~~.

Please contact me at (843) 341-4698 or at teril@hiltonheadislandsc.gov if you have any questions.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO. 2017-#

PROPOSED ORDINANCE NO. 2017-06

AN ORDINANCE TO AMEND TITLE 16 OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, THE LAND MANAGEMENT ORDINANCE (LMO) , CHAPTER 3 TO REVISE LMO SECTION 16-3-105.L. THESE AMENDMENTS, COMMONLY REFERRED TO AS THE *USE CONVERSION AMENDMENTS* AS NOTICED IN THE ISLAND PACKET ON JUNE 19, 2016, INCLUDE CHANGES THAT PROVIDE FOR FLEXIBILITY FOR REDEVELOPMENT, AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, on October 7, 2014, the Town Council did adopt a new Land Management Ordinance (LMO); and

WHEREAS, from time to time it is necessary to amend the LMO; and

WHEREAS, the Planning Commission held a public hearing on July 20, 2016 at which time a presentation was made by staff and an opportunity was given for the public to comment on the proposed LMO amendments; and

WHEREAS, the Planning Commission, after consideration of the staff presentation and public comments, voted 9-0-0 to recommend that Town Council approve the proposed amendments; and

WHEREAS, the Public Planning Committee held a public meeting on August 4, 2016 at which time a presentation was made by staff and an opportunity was given for the public to comment on the proposed LMO amendments; and

WHEREAS, the Public Planning Committee, after consideration of the staff presentation and public comments, voted unanimously to recommend that Town Council adopt the proposed amendments; and

WHEREAS, the Town Council held a public meeting on September 20, 2016 at which time the proposed amendments were discussed and an opportunity was given for the public to comment on the proposed LMO amendments; and

WHEREAS, the Town Council voted 4-3 to remand the proposed amendments back to staff for additional work; and

WHEREAS, the Public Planning Committee held a public meeting on March 2, 2017 and discussed potential changes to the proposed LMO amendments and voted to send the amendments to the Planning Commission for review; and

WHEREAS, the Planning Commission held a public meeting on March 15, 2017 at which time a presentation was made by staff and an opportunity was given for the public to comment on the proposed LMO amendments; and

WHEREAS, the Planning Commission, after consideration of the staff presentation and public comments, voted 8-0-0 to recommend that Town Council approve the proposed amendments; and

WHEREAS, after due consideration of said LMO amendments and the recommendation of the Planning Commission, the Town Council, upon further review, finds it is in the public interest to adopt the proposed amendments.

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

Section 1. Amendment. That the *Use Conversion Amendments* are adopted as indicated on the attached pages. Newly added language is illustrated with double underline and deleted language is illustrated with ~~strikethrough~~.

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 _____, 2017.

THE TOWN OF HILTON HEAD
ISLAND, SOUTH CAROLINA

David Bennett, Mayor

ATTEST:

Victoria L. Pfannenschmidt, Town Clerk

Public Hearing: July 20, 2016

First Reading:

Second Reading:

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

CHAPTER 16-3: ZONING DISTRICTS

Sec.16-3-105. - Mixed-Use and Business Districts

A. – K. No Changes

L. Resort Development (RD) District

RD Resort Development District			
1. No Changes			
2. No Changes			
3. Development Form and Parameters			
MAX. DENSITY (PER NET ACRE)		LOT COVERAGE	
Residential ¹	16 du	Max. Impervious Cover	50%
Hotel ¹	35 rooms	Min. Open Space for Major Residential Subdivisions	16%
Nonresidential	8,000 GFA		
MAX. BUILDING HEIGHT			
Non Single-Family Development on property landward of South Forest Beach Drive	60 ft		
All Other Non Single-Family Development	75 ft		
Single-Family Development	45 ft		
USE AND OTHER DEVELOPMENT STANDARDS			

See Chapter 16-4: Use Standards, Chapter 16-5: Development and Design Standards, and Chapter 16-6: Natural Resource Protection.

TABLE NOTES:

P = Permitted by Right; PC = Permitted Subject to Use-Specific Conditions; SE = Allowed as a Special Exception; du = dwelling units; sf = square feet; GFA = gross floor area in square feet; ft = feet; n/a = not applicable

In order to promote flexibility, an office, eating establishment or commercial services use that is accessory to and within an existing residential or hotel structure may be converted to a residential unit or units upon the Official's determination that the development can support the required amount of parking. The alteration shall not expand beyond the footprint of the existing residential or hotel structure.



MEMORANDUM

TO: Town Council

FROM: John Troyer, CPA, Director of Finance

VIA: Stephen G. Riley, ICMA-CM, Town Manager

DATE: March 23, 2017

RE: **First Reading of Proposed Ordinance No. 2017-07**

Recommendation:

Staff recommends Town Council approve the first reading of Proposed Ordinance No. 2017-07 to amend the General, Capital Projects and Stormwater Funds' budgets for the fiscal year ending June 30, 2017.

Summary:

In conjunction with the development of the new year's budget, staff recommends a midyear budget amendment to realign the original budgeted plans with expected actual results. Small transfers within the Town Manager's budgetary amendment limits and having a net sum of zero may occur separately. Larger transfers (increases or decreases) and all total increases and decreases (even if small in order to close projects) are presented for Council approval.

Background:

Every project in the Capital Projects and Stormwater Funds is assessed at midyear and amended when appropriate. Staff also reviews the Debt Service and General Funds for any anticipated budget amendments. For fiscal year 2017 at midyear, staff recommends amendments for the General, Capital Project, and Stormwater Funds to include the anticipated local match amounts needed for Hurricane Matthew grant funding.

For the General Fund, the amendments are all related to Hurricane Matthew, specifically to add:

- A. Match funds for debris removal, emergency protective measures, and other eligible disaster recovery expenses
- B. Funds for disaster advertising
- C. Grant funds for the Coastal Discovery Museum for assistance in disaster recovery operations

The source for these expenses will be the General Fund reserves committed for disasters.

In the Capital Projects Fund, staff assessed what they expect the status of projects to be at fiscal year-end and requested budget amendments when appropriate. The requests are below.

- A. **Beach** – This is an increase to reflect the final beach renourishment contract change order. Please note the budget to cover quantities related to Hurricane Matthew is not included in this amount.
- B. **Existing Facilities** – This is to amend the funding source from Hospitality Bond to GO Bond for Fire Station #2, which was listed differently on the previous budget amendment. There is no change in spending.
- C. **New Facilities** – This is an increase to reflect current bids and revised estimates for sewer service project costs.
- D. **Road Improvements** – Bids for the Pope Avenue / Coligny area roadway projects were solicited early in FY17 and the responses exceeded the available budget. The projects will be re-bid this spring and this budget amendment is needed to align the budgets to the anticipated bids.

For the Stormwater Fund, the increase is to provide match funds for eligible Stormwater repairs related to Hurricane Matthew.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2017-07

AN ORDINANCE TO AMEND THE BUDGET FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, FOR THE FISCAL YEAR ENDING JUNE 30, 2017; TO PROVIDE FOR THE EXPENDITURES OF CERTAIN FUNDS; TO ALLOCATE THE SOURCES OF REVENUE FOR THE SAID FUNDS; AND TO PROVIDE FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 5-7-260 of the Code of Laws of South Carolina requires that a municipal council act by ordinance to adopt a budget and levy taxes, pursuant to public notice; and

WHEREAS, the Town Council did adopt the budget on June 21, 2016, and

WHEREAS, pursuant to the budget amendment policy as stated in the Town's annual budget document, the Town Council is desirous of amending the budget so as to provide for additional revenues, and the expenditures and certain other commitments from the Fund Balance and other revenue sources, as well as to correct budget appropriations for certain projects in the Capital Projects.

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 TOWN COUNCIL:

Section 1 Amendment. The adopted 2017 fiscal year budget is amended to make the following changes as increases and decreases to the funds from prior years and to the projected revenue and expenditure accounts as follows:

ORDINANCE NO.**PROPOSED ORDINANCE NO. 2017-07****General Fund (Hurricane)**

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Revenues:		
General Fund Committed Reserves for Disaster		7,150,000
Total Revenues		\$ 7,150,000
Expenditures:		
FEMA Match -- Transfer to Hurricane Response Fund	General Fund Committed Reserves for Disaster	6,400,000
Hurricane Matthew Disaster Advertising	General Fund Committed Reserves for Disaster	600,000
Coastal Discovery Museum Grant	General Fund Committed Reserves for Disaster	150,000
		7,150,000
Total Expenditures		\$ 7,150,000

Stormwater Utility Fund (Hurricane)

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Revenues:		
Stormwater Reserves		1,000,000
Total Revenues		\$ 1,000,000
Expenditures:		
FEMA Match -- Hurricane Matthew Stormwater Exp - Transfer to Hurricane Response Fund	Stormwater Reserves	1,000,000
		1,000,000
Total Expenditures		\$ 1,000,000

ORDINANCE NO.**PROPOSED ORDINANCE NO. 2017-07****Capital Projects**

<u>Account Description</u>	<u>Source of Funds</u>	<u>Amount</u>
Revenues:		
2016 GO Bond		2,470,986
Beach Bond		929,922
Hospitality Bond		(1,000,000)
TIF Bond		2,958,000
TIF Property Taxes		(324,350)
Total Revenues		<u>\$ 5,034,558</u>
Expenditures:		
Beach Maintenance		
Beach Renourishment	Beach Bond	<u>929,922</u>
		929,922
Existing Facilities/Infrastructure		
Fire Station #2	Hospitality Bond	(1,000,000)
Fire Station #2	2016 GO Bond	<u>1,000,000</u>
		-
New Facilities/Infrastructure		
Sewer Service Projects	2016 GO Bond	<u>1,470,986</u>
		1,470,986
Road Improvements		
Nassau St Reconstruction	TIF Bond	1,112,000
Office Park Rd Intersection Imprvmt	TIF Bond	674,000
South Forest Beach Dr Improvements	TIF Property Taxes	(324,350)
Lagoon Rd / Pope Ave Intersection	TIF Bond	<u>1,172,000</u>
		2,633,650
Total Expenditures		<u>\$ 5,034,558</u>

The effect of this amendment will be to increase the General Fund's budgeted expenditures to \$47,458,830, to increase the Capital Projects Fund's budgeted expenditures to \$85,290,093, and to increase the Stormwater Utility Fund's budgeted expenditures to \$5,606,036.

ORDINANCE NO.

PROPOSED ORDINANCE NO. 2017-07

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 enactment by the Town Council of the Town of Hilton Head Island.

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF
HILTON HEAD ISLAND ON THIS ____ DAY OF _____, 2017.**

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:

MEMORANDUM

TO: Stephen G. Riley, CM, Town Manager

FROM: Scott Liggett /Director Public Projects & Facilities

DATE: March 29, 2017

RE: **Proposed scope – South Island Emergency Beach Renourishment Project**

Recommendation

The Public Facilities Committee endorses and recommends to Town Council the direct placement of sand along approximately 10,000 feet of the Island's southern oceanfront adjacent to Sea Pines. The adjacent upland landmarks that roughly frame the limits of the proposed project are between Tower Beach Club and East Beach Lagoon Drive. This action is in response to the beach and dune damage done by the passing of Hurricane Matthew. Please see the attached memorandum from Olsen Associates.

Summary

The recommendation for the placement of sand is driven by localized post storm conditions never seen before in the life of the Town's 30 plus years of beach monitoring. Of particular concern is the landward recession of the dry beach and the narrow remaining buffer between the mean high water line (MHW) and the adjacent private properties. Approximately 181,000 cy of sand were displaced from the upper portions of the beach profile within the limits of the proposed project. Additionally, it is the intent of this project to repair the damage done to the "South Beach" portion of our 2016 project and to replace the sand lost as a result of the storm just north of South Beach.


Background

The Town has been continuously monitoring beach conditions since 1986. Semi-annual physical surveys are complemented by annual aerial photography. Over the life of our monitoring program and extending back through the life of the available aerial photography (1955), I am unable to identify a time when the position of the mean high water line was closer to the adjacent upland. Conditions appear to have never been worse along the reach of shoreline which comprises the project.

MEMORANDUM

Date: March 22, 2017

To: Scott P. Liggett, P.E.

From: Christopher G. Creed, P.E. 

Re: Town of Hilton Head Island
South Beach and South Island Post-Matthew Beach Restoration
Planning Observations and Recommendations



As you are aware, the beaches along the southern end of Hilton Head Island suffered significant impacts due the effects of Hurricane Matthew in October 2016. These impacts included complete dune loss along most of the southern end of the island and substantial sand volume losses from the upper beach generally between Tower Beach and East Beach Lagoon, about 10,000 feet of shoreline. This area includes a portion of the South Beach beach fill segment that was completed prior to the passage of Hurricane Matthew. The area also includes the reach of shoreline along South Beach Lane where shorefront development is sited closest to the beach. In fact, this development is sited closer to the beach than any other stretch of development along Hilton Head Island. The storm related impacts along this reach of the island are considered the most problematic from a storm protection perspective. In some areas, the beach profile was eroded completely landward of the previous most landward position the Town has on record. This erosion, especially along the South Beach Lane area, exposed upland infrastructure to the active beach along more than 4,000 feet of shoreline. It is also noteworthy that this is a portion of the island's beach that has been generally stable to accretional since the Town's beach monitoring program was initiated in 1985.

Due to the significance of the sand losses and changes to the beach system as a whole between Tower Beach and East Beach Lagoon, we do not believe that the upper beach and dune features along this area can recover naturally in a short enough timeframe to provide consistent and sufficient protection to the upland development during a future storm event. Accordingly, we recommend that the Town consider the development and implementation of a beach renourishment project to replace sand lost and reconstruct the upper beach and dune.

Based upon pre- and post-storm surveys of beach conditions, we estimate that along the beach between Tower Beach and East Beach Lagoon approximately 181,000 cy of sand were displaced. Of this, about 87,000 cy were displaced from the recently complete South Beach project and the remaining 94,000 cy were displaced along the beach from South Beach Lane to East Beach Lagoon. To replace the sand in the most cost-effective manner, a minimum beach fill density should average between 25 and 30 cy/ft of shoreline. Accordingly, a project sufficient to address the recommended need will likely require between 250,000 and 300,000 cy of sand. We estimate that sufficient sand volume remains within the previously permitted Barrett Shoals borrow area in Calibogue Sound to meet the probable project sand placement requirements.