



The Town of Hilton Head Island

**Regular Town Council Meeting
June 19, 2018**

**4:00 P.M. EXECUTIVE SESSION
5:00 P.M. REGULAR MEETING**

BENJAMIN M. RACUSIN COUNCIL CHAMBERS

REVISED AGENDA

REVISIONS

Addition of New Business
Item 12(a), First Reading of
Proposed Ordinance 2018-04

**As a courtesy to others please turn off/silence ALL mobile devices during the Town Council Meeting.
Thank You.**

- 1. Call to Order**
- 2. FOIA Compliance** - Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.
- 3. Executive Session**
 - a. Legal Matter:**

Receipt of legal advice related to matters pending, threatened, or potential claim, related to:

 - i. ArborNature LLC vs. The Town of Hilton Head Island, et. al.
 - b. Economic Development:**

Discussion of matters relating to the expansion or the provisions of services encouraging location or expansion of industries or other businesses in the area:

 - i. Near the Airport.
 - c. Personnel / Employment Matters:**
 - i. Discussion of the Town Manager's Annual Performance Review and Compensation.
 - ii. Discussion of appointments of members related to Boards and Commissions.
- 4. Pledge to the Flag – 5:00 p.m.**
- 5. Invocation**
- 6. Proclamations & Commendations - NONE**
- 7. Approval of Minutes**
 - a. Town Council Meeting, June 5, 2018
 - b. Special Meeting / Public Hearing, June 12, 2018
- 8. Report of Town Manager**
 - a. Hilton Head Public Service District, Sewer Master Plan Update – Pete Nardi
 - b. Beaufort County Economic Development Corporation Update – John O'Toole
 - c. Cultural and Arts Advisory Committee Update – Jenn McEwen
 - d. Items of Interest**
 - i. Town News
 - ii. Noteworthy Events

9. Reports from Members of Council

- a. General Reports from Council
- b. Report of the Intergovernmental & 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 & Administrative Committee – John McCann, Chairman

10. Appearance by Citizens

11. Unfinished Business

a. Second Reading of Proposed Ordinance 2018-05

Second Reading of Proposed Ordinance 2018-05 to raise revenue and adopt a budget for the Town of Hilton Head Island, South Carolina, for the Fiscal Year ending June 30, 2019; to establish a property tax levy; to establish funds; to establish a policy for acquisition of rights of way and easements; and providing for severability and an effective date.

12. New Business

a. First Reading of Proposed Ordinance 2018-04

First Reading of Proposed Ordinance 2018-04 of the Town of Hilton Head Island, South Carolina, authorizing the execution of a lease and conveyance documents with ArborNature for property owned by the Town of Hilton Head Island, South Carolina, pursuant to the authority of S.C. Code Ann. § 5-7-40 (Supp. 2011), and § 2-7-20, *Code of the Town of Hilton Head Island, South Carolina*, (1983); and providing for severability and an effective date.

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

14. Adjournment

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

Date: Tuesday, June 6, 2018

Time: 4:00 P.M.

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

Present from Town Staff: Steve Riley, *Town Manager*; Charles Cousins, *Director of Community Development*; Scott Liggett, *Director of Public Projects & Facilities/Chief Engineer*; Brian Hulbert, *Staff Attorney*; John Troyer, *Finance Director*; Jenn McEwen, *Director of Cultural Affairs*; John Tuttle, *Information Technology Director*; Steven Markiw, *Deputy Finance Director*; Ed Boring, *Deputy Fire Chief, Support Services*; Chris Blankenship, *Deputy Fire Chief, Operations*; Tom Dunn, *Emergency Management Coordinator*; Heidi Boring, *Finance Administrator*; Cindaia Ervin, *Finance Assistant*; Melissa Cope, *System Analyst*; Krista Wiedmeyer, *Executive Assistant/Town Clerk*

Present from Media: Alex Kincaid, *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.

3. Executive Session

Mr. Riley stated he needed an Executive Session for: (a) Land Acquisition Matters; discussion of negotiations incident to the proposed contractual arrangements, sale, or purchase of property in the (i) Mathews Drive area, (b) Legal Matters; the receipt of legal advice related to pending, threatened, or potential claim related to, (i) ArborNature, LLC vs. the Town of Hilton Head Island, et. al., and (ii) Beachwalk Hotel, and (c) Personnel/Employment Matters; (i) discussion of the Town Manager's annual performance review and compensation, and (ii) discussion of appointments of members related to Boards and Commissions.

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

4. Pledge to the Flag

5. Invocation

6. Proclamations & Commendations - NONE

7. Approval of Minutes

a. Town Council Meeting, May 15, 2018

Mrs. Likins moved to approve the Town Council meeting minutes from May 15, 2018. Mr. Harkins seconded, the motion was approved by a vote of 6-0. Mayor Bennett abstained as he was absent from the May 15, 2018 meeting.

b. Town Council Budget Workshop, May 15, 2018

Mrs. Likins moved to approve the Town Council meeting minutes from the May 15, 2018, Budget Workshop. Mr. Harkins seconded, the motion was approved by a vote of 6-0. Mayor Bennett abstained as he was absent from the May 15, 2018 Budget Workshop.

c. Town Council Budget Workshop, May 22, 2018

Mrs. Likins moved to approve the Town Council meeting minutes from the May 22, 2018, Budget Workshop. Mr. Harkins seconded, the motion was approved by a vote of 7-0.

Mrs. Likins moved to reorder the agenda, so that Council could address the ArborNature matter prior to the report of the Town Manager. Mr. Harkins seconded, the motion was approved by a vote of 7-0.** Minutes noted under 12 New Business (a) General Discussion (NOT VOTE) of a Lease and Conveyance between the Town of Hilton Head Island and ArborNature for Town-owned property.

8. Report of Town Manager

a. Beaufort County Assessor's Office – Reassessment Update – Gary James

Gary James from the Beaufort County Assessor's Office made a presentation to the members of Council and citizens about the upcoming reassessment for Beaufort County.

b. Hurricane Season Update – Tom Dunn, Emergency Management Coordinator

Tom Dunn, Emergency Management Coordinator, provided an overview of disaster preparedness.

c. Items of Interest

i. Town News

- *Public Hearing/Special Meeting for FY2019 Budget, June 12, 2018 at 6:00 p.m.*

ii. Noteworthy Events

Mr. Riley reviewed the upcoming meetings and noteworthy events taking place in the coming weeks. He also noted the upcoming Special Meeting/Public Hearing taking place on June 12, 2018.

9. Reports from Members of Council

a. General Reports from Council

Mayor Bennett reported on a meeting that he, Mr. Grant, Mr. McCann, and Mr. Riley participated in with members of the St. James Church community to discuss the relocation of the church. He said that the members were requesting assistance with the relocation site. He also said that they may be interested in being in or close to the Mitchelville Preservation Project Park. Mayor Bennett said that there was discussion about having an existing lease in place with the Mitchelville Preservation Project organization. He said that some other sites along Beach City Road were discussed as well.

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

Mr. Harkins reported that the Committee met on June 5, 2018 where they discussed the Sea Pines delegation regarding their concerns about an abandoned home within the gates of Sea Pines. He said that as a matter of principle the Committee suggested this and any matter such as this should be resolved at the lowest level possible. Mr. Harkins said that the POA Directors that were in attendance accepted a task to meet among themselves to discuss a recommendation or best practice with regard to their existing or modified covenants. He said that they recommend to the Town areas of intervention that maybe beyond the reach of the POA. The group will come back and report to the Committee in the future.

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

Mrs. Likins reported that the Committee continues to interview for boards and commissions positions. She said the Committee hopes to have all of the interviews completed and be able to bring final recommendations to the June 19, 2018 Town Council meeting.

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

Mr. Ames reported that the Committee met on May 24, 2018, where they had a discussion with the Chamber of Commerce regarding the alignment of the Chamber's marketing plan and the community vision. He said that he felt it was well received by all parties.

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

Mr. Grant stated that he had no report at this time.

f. Report of the Finance & Administrative Committee – John McCann, Chairman

Mr. McCann stated that he had no report at this time.

10. Appearance by Citizens

Peter Kristian, addressed Town Council regarding a recent bill in Congress about community association's eligibility for FEMA relief. He also mentioned the response with the Town's first push on to the Island after Hurricane Matthew. He said that if the association would have been noted as working on behalf of the Town, they would have been eligible for more reimbursement. Mr. Kristian also discussed a new Community Management program that he and Dr. Calvert have been working on that could begin as early as this fall.

Frank Babel, addressed Town Council recapping the events surrounding Bike Month throughout the Island.

Alex Cruden, addressed Town Council regarding the Hilton Head Island Pickleball club and the request for more public pickleball courts.

Bob Soltus, addressed Town council regarding an email he sent to the Town Manager and the members of Council about pickleball.

11. Unfinished Business

a. Budget Wrap-up Discussion

Mr. Riley opened up the budget discussion giving an overview of budget including information regarding the reassessment and confirming the changes to the Solicitor's Office request. He discussed the previously discussed affordable housing recommendation, and suggested that this item is discussed at another time. Mayor Bennett echoed Mr. Riley's statement with regard to the affordable housing recommendation. Stating that he has talked to the Chair of the Public Planning Committee about taking another look at the recommendation and working with staff. Mr. Riley further discussed the budget for the Capital Improvement Projects, explaining that the Town may not be in as good of shape as it appeared to be. The Mayor and members of Council discussed the current proposed budget and agreed with Mr. Riley that the Town will need to place focus on one priority at a time. Mayor Bennett said he felt that the Coligny and sewer project were equally important projects to one another. Mr. Harkins asked Mr. Riley if it would be possible to calculate the costs in delaying the Coligny project in relation to the community impact. Mr. Harkins asked if the attorneys could provide additional guidance with how much more push or pull in terms of more or less debt, and being realistic about the reserve levels. Mr. Riley indicated he would work to obtain the information requested and that more discussion regarding the reserves may have to take place after the adoption of the budget.

12. New Business

a. General Discussion (NOT VOTE) of a Lease and Conveyance between the Town of Hilton Head Island and ArborNature for Town-owned property.

Mayor Bennett opened up the discussion concerning the ArborNature matter. He explained that Council became involved with the matter, not because of a legal obligation or as a means of relocating a problem to another area of the Island, but to completely resolve the matter. Mayor Bennett explained that as a result of a number of legal filings which resulted in a litigation matter, and the required mediation process, Council felt it was best to accept the proposed settlement. He further explained that the settlement could not be disclosed until such time that it was approved, at which time it was made known to the public. Mayor Bennett said that in response to the citizens of Port Royal Plantation, Council is taking another look at this matter. He said with the assistance of Town staff, legal counsel, and ArborNature, they will seek an acceptable alternative solution to the current matter. Mr. Harkins and Mr. McCann echoed the Mayor's statements, saying that it is not in the Town's best interest to move forward with the settlement agreement as approved. Mr. Grant said he still stood by the original decision to relocate ArborNature to the new location. He said it was his understanding that the location that was chosen was appropriately zoned for this type of commercial business to operate. He further said that he wants Council to be consistent with the decisions they are making when it comes to matters such as these. Mr. Grant said he wants not just what's best for some parts of the Island, but all of the Island. Mrs. Likins said that she has more questions than answers now after reviewing all of the information from the citizens of Port Royal Plantation. She asked that the citizens and Council come together as a community to solve this matter, further stating she will remain committed to help see this matter through to the end. Mayor Bennett opened the discussion up to the public at large.

ArborNature Discussion (cont.)

Several members of the community addressed Council regarding the relocation of ArborNature to a site near their homes. Some of the members of the community addressed this matter by asking if this was in line with the vision that Council recently adopted. Others asked if the Island was the appropriate location at all for ArborNature, and perhaps moving them off the island was the better solution. Many just asked that Council come up with a fair solution that kept all the citizens in mind.

b. Consideration of a Resolution – HUD/CDBG Entitlement Program 2018 Annual Action Plan Request for Submittal to HUD

Consideration of a Resolution of the Town Council to Approve the Community Development Block Grant (CDBG) Entitlement Program Fiscal Year 2018-2019 (Program Year 2018) Annual Action Plan.

Mrs. Likins moved to approve. Mr. Harkins seconded, the motion passed by a vote of 7-0.

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

Mrs. Likins moved to appoint Douglas Pine to the Construction Board of Adjustments and Appeals as a Plumbing Contractor to complete the unexpired term of Gary Schmidt, which ends June 30, 2019. Mr. Harkins seconded, the motion passed by a vote of 7-0

14. Adjournment

Mayor Bennett adjourned the meeting at 7:20 p.m.

Krista M. Wiedmeyer,
Executive Assistant/Town Clerk

Approved: 06/19/2018

David Bennett, Mayor

**THE TOWN OF HILTON HEAD ISLAND
TOWN COUNCIL SPECIAL MEETING/PUBLIC HEARING**

Date: Tuesday, June 12, 2018

Time: 6:00 P.M.

Present from Town Council: David Bennett, *Mayor*; Kim Likins, *Mayor Pro Tempore*; John McCann, Marc Grant, David Ames, *Council Members*

Absent from Town Council: Bill Harkins, Tom Lennox, *Council Members*

Present from Town Staff: Steve Riley, *Town Manager*; Charles Cousins, *Director of Community Development*; Scott Liggett, *Director of Public Projects & Facilities/Chief Engineer*; Brian Hulbert, *Staff Attorney*; John Troyer, *Finance Director*; Brad Tadlock, *Fire Chief*; Nancy Gasen, *Human Resource Director*; Steven Markiw, *Deputy Finance Director*; Chris Blankenship, *Deputy Fire Chief, Operations*; Heidi Boring, *Finance Administrator*; Cindaia Ervin, *Finance Assistant*; Melissa Cope, *System Analyst*; Krista Wiedmeyer, *Executive Assistant/Town Clerk*

Present from Media: Alex Kincaid, *Island Packet*

1. Call to Order

Mayor Bennett called the meeting to order at 6:00 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.

3. Public Hearing on the Municipal Budget for FY2019

Mayor Bennett called the Public Hearing on the Municipal Budget for FY2019 to order at 6:01 p.m. Larry Landry addressed the members of Council regarding the budgeted expenses for the Town Attorney. Chris Christon, Amanda O’Nan, Andy Twisdale, Steve Birdwell, Cindy Rivera, and Alan Wolf addressed the members of Town Council requesting the Town add a new line item to the budget for workforce housing. The members of Council discussed the items brought forth by the public, emphasizing the workforce housing discussion. Some members agreed that another look at the budget may be necessary to accommodate and set aside seed funding for the workforce housing initiative. Other members disagreed, indicating that while workforce housing is important, and funding from the Town is something to consider, approving such a line item without a plan in place is not the right thing to do. Upon no further comments from the public, Mayor Bennett closed the Public Hearing at 6:19 p.m.

4. Unfinished Business

a. Revised First Reading of Proposed Ordinance 2018-05

Revised First Reading of Proposed Ordinance 2018-05 to raise revenue and adopt a budget for the Town of Hilton Head Island, South Carolina, for the Fiscal Year ending June 30, 2019; to establish a property tax levy; to establish funds; to establish a policy for acquisition of rights of way and easements; and providing for severability and an effective date.

Mrs. Likins moved to approve. Mr. Grant seconded. After discussion from the members of Town Council and the public at large, the motion was approved by a vote of 5-0. As noted above, Mr. Harkins and Lennox are absent from the meeting.

5. Executive Session

a. Legal Matter:

Receipt of legal advice related to matters pending, threatened, or potential claim, related to:

- i. ArborNature LLC vs. The Town of Hilton Head Island, et. al.

Mr. Riley stated that he needed an Executive Session for Legal Matters, (a) receipt of legal advice related to matters pending, threatened, or potential claim, related to ArborNature LLC vs. the Town of Hilton Head Island, et. al.

At 6:53 p.m. Mrs. Likins moved to go into Executive Session for the matter mentioned by the Town Manager. Mr. Grant seconded, the motion was approved by a vote of 5-0.

At 7:12 p.m. Town Council returned to the dais, no actions were taken as a result of the Executive Session.

6. Adjournment

Mayor Bennett adjourned the meeting at 7:13.

Krista M. Wiedmeyer,
Executive Assistant/Town Clerk

Approved: 06/19/2018

David Bennett, Mayor



ITEMS OF INTEREST

June 19, 2018

TOWN OF HILTON HEAD ISLAND MEETINGS

- Public Facilities – June 25, 2018 – 9:00 a.m.
- Culture and Arts Advisory – June 27, 2018 – 9:30 a.m.
- Public Planning – June 28, 2018 – 3:00 p.m.
- Intergovernmental & Public Safety – July 2, 2018 – 10:00 a.m.
- Community Services – July 9, 2018 – 9:00 a.m.
- Finance & Advisory Committee – July 17, 2018 – 2:00 p.m.
- Town Council, Executive Session – July 17, 2018 – 4:00 p.m.
- Town Council, Regular Session – July 17, 2018 – 5:00 p.m.

TOWN ADMINISTRATIVE OFFICES WILL BE CLOSED ON JULY 4TH IN OBSERVANCE OF INDEPENDENCE DAY.

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

Tuesday Evenings 5:00 – 9:30 p.m.	Summer Jams	Shelter Cove Community Park
Thursday Evenings 5:00 – 10:00 p.m.	Shelter Cove Harbour & Marina Parrot Palooza	Shelter Cove Harbour & Marina
Thursday Evenings 8:00 – 11:00 p.m.	Movie Nights	Shelter Cove Community Park
Friday Evenings 7:00 – 10:00 p.m.	Sunset Celebrations	Shelter Cove Community Park
Saturday, June 23, 2018 8:00 – 11:00 a.m.	Beach Bum Triathlon & Duathlon	Coligny Beach
Saturday, June 30, 2018 9:00 – 10:00 a.m.	TD Bank KIDS Triathlon	HH Island Recreation Center
Wednesday, July 4, 2018 8:00 – 10:00 a.m.	Hilton Head Firecracker Run	Shelter Cove Community Park
Wednesday, July 4, 2018 11:00 a.m.	One Island. One Community. One Hilton Head.	Boys & Girls Club of Hilton Head Island The First Tee of the Lowcountry
Wednesday, July 4, 2018 5:00 – 10:00 p.m.	4 th of July Shelter Cover Harbour & Marina	Shelter Cover Harbour & Marina
Wednesday, July 4, 2018 6:00 – 11:00 p.m.	Harbour Town 4 th of July Fireworks	Harbour Town/ Barge off Calibogue Sound



MEMORANDUM

TO: Town Council

FROM: John M. Troyer, CPA, Director of Finance

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

DATE: June 19, 2018

RE: **Second Reading of Proposed Ordinance No. 2018-05**

Recommendation:

Staff recommends that Town Council approve the second reading of Proposed Ordinance No. 2018-05 to adopt the General, Capital Projects, Debt Service and Stormwater Funds budgets and millage rates for the fiscal year ending June 30, 2019.

There have been no changes since the public hearing (revised first reading) on June 12, 2018.

ORDINANCE NO. _____

PROPOSED ORDINANCE NO. 2018-05

AN ORDINANCE TO RAISE REVENUE AND ADOPT A BUDGET FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, FOR THE FISCAL YEAR ENDING JUNE 30, 2019; TO ESTABLISH A PROPERTY TAX LEVY; TO ESTABLISH FUNDS; TO ESTABLISH A POLICY FOR ACQUISITION OF RIGHTS OF WAY AND EASEMENTS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 5-7-260(3) of the Code of Laws for South Carolina 1976, as amended, and Section 2-7-20 of the Municipal Code of the Town of Hilton Head Island, South Carolina, require that the Town Council act by ordinance to adopt a budget and levy taxes, pursuant to public notice; and

WHEREAS, Town Council also desires to set aside funds for an Operating Reserve to provide for emergency-related expenditures and to offset fiscal year tax revenue income stream deficiency; and

WHEREAS, Town Council finds that it would be more economical and efficient to authorize the Town Manager to move forward with construction contract modifications, change orders, contract price adjustments, and execution of contracts for supplies, services, and construction where the contract amount involved does not exceed the budget line item or project budget as approved by Town Council in the Consolidated Municipal Budget.

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

NOTE: Underlined and bold-face typed portions indicate additions to the Ordinance. ~~Stricken~~ Portions indicate deletions to the Ordinance.

Section 1. Adoption of the Budget. The prepared budget of estimated revenues and expenses, a copy of which is attached hereto and incorporated herein, is hereby adopted as the budget for the Town of Hilton Head Island for the fiscal year ending June 30, 2019.

Section 2. Establishment of Property Tax Levy. A tax to cover the period from July 1, 2018 through June 30, 2019, inclusive, for the sums and in the manner hereinafter mentioned, is and shall be, levied, collected and paid into the treasury of the Town of Hilton Head Island for its uses at a rate of mills on assessed value of real estate and personal property of every description owned in the Town of Hilton Head Island, except such property as is exempt from taxation under the Constitution and laws of the State of South Carolina. Calendar 2018 is a property reassessment year. The Town’s property values increased by 2.72% between 2013 and 2018 because of reappraisal. Therefore, in accordance with South Carolina law the Town must roll-back its millage rate by the percentage increase in property values (revenue neutrality). The exception is the disaster recovery millage rate which will remain the same. The Town’s rolled-back millage rate was calculated by Beaufort County officials and approved by the State. It should be noted that the disaster recovery millage override is in the second year of a planned five years. The table below reflects the pre and post assessment millage rates.

Fund	Millage Rate Pre- Reassessment	Millage Rate Post- Reassessment
General Fund	16.38	15.93
Debt Service Fund	6.14	5.97
Capital Projects Fund	0.84	0.82
	23.36	22.72
Disaster Recovery millage override	5.00	5.00
Total	28.36	27.72

Section 3. Establishment of Funds. To facilitate operations, there shall be established and maintained a General Fund, a Capital Projects Fund, a Debt Service Fund, a Stormwater Fund and other appropriate funds in such amounts as are provided for in the aforesaid Budget, as hereby adopted or as hereafter modified pursuant to law.

Section 4. Acquisition of Rights of Way and Easements. The Town Manager is charged with the duty of executing all necessary documents to obtain rights of way, easements, and other property interests necessary to complete duly authorized Capital Improvement Projects. Capital Improvement Projects based on the ownership and life expectancy of the assets or improvements or based on the funding source authorized may be budgeted in the General, Capital Projects or Stormwater Funds. If expenditures are expressly authorized for an approved Capital Improvement Project in any of the budgeted funds, then the Town Manager is hereby authorized to execute all necessary documents and to expend such funds as are approved pursuant to the Capital Improvement budgets. Provided, however, in the event that the costs of an acquisition of such real property interests materially exceeds the amount budgeted in the approved Capital Improvement Project and the Town Manager is unable to shift additional funds from other authorized sources, the Town Manager shall be required to obtain the approval of Town Council for such additional expenditures. Nothing herein shall obviate the requirement that no condemnations shall be commenced without the appropriate approval of the Town Council for the Town of Hilton Head Island.

Section 5 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 6. Effective Date. This Ordinance shall be effective upon its enactment by the Town Council for the Town of Hilton Head Island.

PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND ON THIS ____ DAY OF _____, 2018.

David Bennett, Mayor

ATTEST:

Krista Wiedmeyer, Town Clerk

First Reading: _____

Public Hearing: _____

Revised First Reading: _____

Second Reading: _____

APPROVED AS TO FORM:

Gregory M. Alford, Town Attorney

Introduced by Council Member: _____

General Fund - FY 2019 Budget Summary

				2018		2019			
	2015	2016	2017	Adopted Budget	Estimated Actual	Budget	% change FY 2018 FY 2018 Budget Est. Actual		
Revenues									
Property Taxes	11,894,284	12,647,166	12,971,590	13,473,000	13,703,850	13,840,888	3%	1%	
ATAX Local 1%	3,068,339	3,215,849	3,430,379	3,312,968	3,482,593	3,532,590	7%	1%	
Business Licenses:									
Business Licenses - Town	3,941,652	3,866,698	3,929,882	4,620,576	4,555,079	4,600,000	0%	1%	
Business Licenses - MASC	4,392,826	4,357,613	4,414,070	4,405,590	4,407,419	4,414,000	0%	0%	
Franchise Fees:									
Cable	848,708	890,697	913,142	926,681	920,944	920,000	-1%	0%	
Beach Fee	27,352	28,430	32,588	30,160	35,086	35,000	16%	0%	
Recycling	-	-	-	-	-	-	0%	0%	
Permit Fees:									
Construction	552,722	1,189,212	561,565	592,076	881,916	560,000	-5%	-37%	
Development	15,101	20,902	12,344	12,863	12,181	12,500	-3%	3%	
Other	813,023	829,456	1,123,530	838,300	911,206	925,000	10%	2%	
Intergovernmental	812,085	812,322	849,906	812,000	838,982	840,000	3%	0%	
Grants:									
Beaufort County - Hazmat	11,677	11,677	11,677	11,677	11,677	11,680	0%	0%	
Beaufort County - E911	132,041	135,083	128,729	132,000	132,000	132,000	0%	0%	
DHEC	-	-	10,666	5,000	-	-	-100%	0%	
Other	-	-	20,258	-	27,081	-	0%	0%	
SC Regional	-	-	-	-	-	-	0%	0%	
Miscellaneous Revenue:									
Beach Services	239,358	229,643	249,688	230,000	251,291	250,000	9%	-1%	
Donations	2,429	146	200	200	-	-	-100%	0%	
Municipal Court	198,948	210,243	245,826	220,000	187,241	190,000	-14%	1%	
Other	223,925	268,241	433,674	267,070	252,921	270,000	1%	7%	
Public Safety - EMS	1,403,782	1,383,496	1,428,391	1,490,000	1,455,345	1,400,000	-6%	-4%	
Public Safety - County D/T	55,721	53,781	52,512	54,000	51,995	52,000	-4%	0%	
Town Codes	46	10	20	200	30	30	-85%	0%	
Fund Balance	-	-	-	560,642	-	569,851	2%	0%	
Prior Year Funds	-	-	-	191,250	-	-	-100%	0%	
Victim's Assistance	34,399	37,134	38,525	38,000	30,346	35,000	-8%	15%	
Transfers In:									
EDC	-	-	-	-	-	-	0%	0%	
Beach Fees	1,111,138	1,111,138	1,111,138	1,361,138	1,361,138	1,361,140	0%	0%	
Special Revenue Federal	-	-	12,164	-	-	-	0%	0%	
CIP - Ad Valorem	-	1,413,000	453,000	453,000	453,000	453,000	0%	0%	
CIP - Sunday Liquor	418,150	37,500	50,000	50,000	50,000	50,000	0%	0%	
CIP - Land	594,000	986,752	175,000	175,000	175,000	175,000	0%	0%	
CIP - Road Usage	-	-	658,135	-	-	-	0%	0%	
Hospitality Fee	4,391,195	3,270,069	3,392,245	3,492,245	3,492,245	3,492,250	0%	0%	
TIF	169,398	169,398	175,000	180,000	180,000	180,000	0%	0%	
ATAX	1,338,188	1,596,057	1,696,220	1,565,900	1,565,900	1,565,900	0%	0%	
Electric Franchise fee	311	87,878	90,000	90,000	90,000	90,000	0%	0%	
Stormwater	94,258	94,258	95,000	125,000	125,000	125,000	0%	0%	
Lease/Other	12,000	-	-	600,000	-	-	0%	0%	
Investments	2,347	2,454	3,610	2,500	177,004	175,000	6900%	-1%	
Total Revenues	36,799,403	38,956,303	38,770,674	40,319,036	39,818,470	40,257,829			
Increase/Decrease		2,156,900	(185,629)	1,548,362	1,047,796	439,359			
%		5.86%	-0.48%	3.99%	2.70%	1.10%			

General Fund - FY 2019 Budget Summary

				2018		2019		
	2015	2016	2017	Adopted Budget	Estimated Actual	Budget	% change FY 2018 Est. FY 2018 Actual	
Expenditures								
General Government:								
Town Council	408,860	427,765	594,083	526,646	524,256	510,901	-3%	-3%
Town Council - Initiative	-	122,255	170,061	740,000	740,000	-	-100%	-100%
Town Manager	638,030	653,768	641,165	666,124	635,216	619,833	-7%	-2%
Human Resources	537,289	555,813	549,556	663,236	600,871	633,331	-5%	5%
Total General Government	1,584,179	1,759,601	1,954,865	2,596,006	2,500,343	1,764,065	-32%	-29%
Management Services:								
Finance								
Administration	291,907	291,019	302,132	319,757	322,990	329,264	3%	2%
Accounting	606,567	606,998	542,740	693,463	631,248	724,583	4%	15%
Procurement	-	-	-	-	-	206,347	100%	100%
Revenue Services	606,206	604,859	606,193	844,274	741,025	797,152	-6%	8%
	1,504,680	1,502,876	1,451,065	1,857,494	1,695,263	2,057,346	11%	21%
Administrative Services								
Records Management	264,885	220,591	253,243	257,268	254,862	301,313	17%	18%
Legal	495,858	465,729	470,845	545,918	479,205	553,354	1%	15%
Office of Cultural Affairs	-	-	-	182,853	144,867	179,393	-2%	24%
Communications	-	-	-	-	-	309,207	100%	100%
Municipal Court	404,911	413,928	386,734	398,872	381,474	386,930	-3%	1%
Information Technology	2,166,005	1,929,433	2,014,334	2,262,359	2,305,146	2,092,674	-8%	-9%
	3,331,659	3,029,681	3,125,156	3,647,270	3,565,554	3,822,871	5%	7%
Total Management Services	4,836,339	4,532,557	4,576,221	5,504,764	5,260,817	5,880,217	7%	12%
Community Services:								
Community Development								
Administration	469,752	479,077	538,333	513,950	499,650	636,956	24%	27%
Comprehensive Planning	518,454	520,792	509,473	704,285	638,580	687,327	-2%	8%
Development, Review and Zoning	613,114	688,858	601,484	815,183	778,740	784,407	-4%	1%
Building	653,044	754,959	567,486	726,381	640,021	798,575	10%	25%
CD Services	303,408	329,021	335,453	376,894	382,017	408,261	8%	7%
	2,557,772	2,772,707	2,552,229	3,136,693	2,939,008	3,315,526	6%	13%
Public Projects and Facilities								
Administration	254,895	263,379	251,524	289,604	264,989	292,015	1%	10%
Engineering	924,937	923,622	1,235,129	1,071,992	1,075,650	1,019,466	-5%	-5%
Facilities Management	3,500,999	3,858,960	3,741,656	4,363,163	4,288,813	4,425,485	1%	3%
	4,680,831	5,045,961	5,228,309	5,724,759	5,629,452	5,736,966	0%	2%
Total Community Services	7,238,603	7,818,668	7,780,538	8,861,452	8,568,460	9,052,492	2%	6%

General Fund - FY 2019 Budget Summary

	2015	2016	2017	2018		2019		
				Adopted Budget	Estimated Actual	Budget	% change FY 2018 Est. Actual	
Public Safety:								
Fire Rescue								
Administration	321,583	310,870	349,703	378,015	381,172	386,413	2%	1%
Operations	9,501,028	9,599,610	9,632,711	9,966,135	9,881,401	9,983,568	0%	1%
E-911 Communications	1,108,894	1,067,696	1,081,980	1,160,990	1,145,890	1,293,655	11%	13%
E-911 Communications Support	257,640	284,158	286,042	234,439	234,201	249,490	6%	7%
Emergency Management	133,138	140,944	137,342	158,023	152,487	162,865	3%	7%
Fire Prevention	572,246	599,699	576,729	624,994	581,795	603,968	-3%	4%
Fleet Maintenance	538,316	547,936	512,305	595,463	500,708	600,493	1%	20%
EMS Training	197,348	204,384	101,564	322,784	298,487	408,335	27%	37%
Support Services	1,340,866	951,155	1,556,084	712,941	662,201	765,395	7%	16%
Safety and Professional Development	713,425	726,861	712,784	654,358	649,075	685,719	5%	6%
Total Fire Rescue	14,684,484	14,433,313	14,947,244	14,808,142	14,487,417	15,139,901	2%	5%
Public Safety - Police Services	3,220,413	3,443,143	3,634,798	3,728,316	3,678,316	3,895,874	4%	6%
Townwide (non-departmental):								
Personnel	214,044	167,127	452,251	351,010	548,067	518,526	48%	-5%
Operating	1,380,033	1,402,859	1,443,213	2,117,811	1,609,791	2,176,344	3%	35%
Capital	41,635	30,012	32,000	789,000	789,000	204,000	-74%	-74%
Transfers Out	-	986,752	7,188,000	-	-	-	-	-
Grants	2,285,747	2,780,166	1,609,754	1,562,535	1,562,535	1,626,410	4%	4%
Total Townwide (non-departmental)	3,921,459	5,366,916	10,725,218	4,820,356	4,509,393	4,525,280	-6%	0%
Total Expenditures	35,485,477	37,354,198	43,618,884	40,319,036	39,004,746	40,257,829	0%	3%
Net change in fund balances	1,313,926	1,602,105	(4,848,210)	-	813,724	-		
Fund balance - beginning	18,035,399	19,349,325	20,951,430	16,103,220	16,103,220	16,916,944		
Use of Fund Balance	-	-	-	-	-	-		
Fund balance - ending	19,349,325	20,951,430	16,103,220	16,103,220	16,916,944	16,916,944		

Debt Service Fund - FY 2019 Budget Summary

				2018		2019			
				Adopted Budget	Estimated Actual	FY 2019 Budget	% change		
							FY 2018 Budget	FY 2018 Est.	Actual
2015	2016	2017							
GOVERNMENTAL ACTIVITIES									
Revenues									
Property Taxes	5,084,193	5,136,244	5,229,221	5,337,600	5,375,874	5,429,633	1.7%	1.0%	
Bonds Issued	-	-	27,885,000	-	-	-	0.0%	0.0%	
Bond Premium	-	-	1,574,351	-	-	-	0.0%	0.0%	
BABS Subsidy	168,051	163,656	79,889	169,870	163,000	-	-100.0%	-100.0%	
Investment Income	37,374	36,913	36,251	36,000	40,225	90,000	150.0%	123.7%	
Transfers In:									
Beach Preservation Fees	4,381,225	2,531,437	2,536,913	5,986,288	3,037,326	5,305,444	-11.4%	74.7%	
Disaster Fund	-	-	-	4,200,000	4,375,000	3,536,565	0.0%	0.0%	
Hospitality Fees	1,616,427	1,633,112	1,627,113	2,324,350	2,544,348	1,635,200	-29.6%	-35.7%	
Tax Increment Financing	4,122,476	-	-	5,535,000	3,318,840	3,926,392	-29.1%	0.0%	
Real Estate Transfer Fees	2,269,578	2,243,681	2,193,515	2,260,263	1,926,665	1,918,200	-15.1%	-0.4%	
Hospitality Tax Bond	-	-	-	-	-	-	0.0%	0.0%	
Series 2013 GO Bonds	-	-	-	-	-	-	0.0%	0.0%	
Lease Revenue	10,889	65,336	65,336	65,000	65,000	-	-100.0%	-100.0%	
Total Revenues	17,690,213	11,810,379	41,227,589	25,914,371	20,846,278	21,841,434	-15.7%	4.8%	
Expenditures									
Administrative	11,024	11,025	17,125	40,000	13,675	100,000	150.0%	631.3%	
Payment to Escrow Agent	-	-	28,966,152	50,000	-	100,000	100.0%	100.0%	
Contribution to Refunding	-	-	-	-	-	-	0.0%	0.0%	
Transfers	1,900,110	-	-	-	298,930	-	0.0%	-100.0%	
Debt Issue Costs	-	-	472,186	750,000	-	760,953	0.0%	100.0%	
Principal	12,995,000	7,420,000	8,040,000	7,595,000	11,830,000	17,530,000	130.8%	48.2%	
Interest	3,702,272	3,278,425	2,432,746	15,765,000	4,511,291	5,709,047	-63.8%	26.6%	
Total Expenditures	18,608,406	10,709,450	39,928,209	24,200,000	16,653,896	24,200,000	0.0%	45.3%	
Net change in fund balances	(918,193)	1,100,929	1,299,380	1,714,371	4,192,382	(2,358,566)			
Fund balance - beginning	8,404,034	7,485,841	8,586,770	9,886,150	9,886,150	14,078,532			
Fund balance - ending	7,485,841	8,586,770	9,886,150	11,600,521	14,078,532	11,719,966			

Capital Improvement Plan by Funding Source - FY 2019 New Projects

THOUSANDS OF DOLLARS												
FY 2019 Budget	FY 2019 Property Taxes	Funding Source as Identified	Beach Bond/ Beach Fees	GO Bond	Hospitality Tax Transfer In	TIF	Sunday Liquor Permit Fees	Road Usage Fee	Grants / Donations	Sale of Land		
PATHWAY IMPROVEMENTS												
Pathway Accessibility & Safety Enhancement Projects	100					100						
TOTAL	100	-	-	-	-	100	-	-	-	-	-	-
ROADWAY IMPROVEMENTS												
Intersection Improvements-W.B. 3rd Lane at Squire Pope -- Impact fees	500	500										
Extension of Lagoon Road	675		675									
Reconstruction of Nassau Street	400		400									
South Forest Beach Drive Improvements	400		400									
Private Dirt Roads -- specific	375							375				
Private Dirt Roads -- paving projects TBD	175							175				
Paving improvements	350							350				
Pope Avenue Resurfacing -- County Grant/impact fee	850								850			
TOTAL	3,725	-	500	1,475	-	-	-	900	850	-	-	-
PARK DEVELOPMENT												
Cordillo area improvements -- Park Impact fees	400	400										
Parks Upgrades impact fees / Sunday Liquor fees	300	150					150					
TOTAL	700	-	550	-	-	-	150	-	-	-	-	-
PUBLIC FACILITIES												
Town Hall Remodeling	100				100							
Fuel Truck Shed	55				55							
TOTAL	155	-	-	-	155	-	-	-	-	-	-	-
FACILITIES IMPROVEMENTS												
Sewer Service Projects	3,220			3,220								
Fire Hydrant Expansion -- Flyover/HTAX	100	33			67							
Emergency Operations Center Modifications - Flyover	150	150										
TOTAL	3,470	-	183	-	3,220	67	-	-	-	-	-	-
BEACH MAINTENANCE												
Beach Management & Monitoring	500		500									
TOTAL	500	-	500	-	-	-	-	-	-	-	-	-
LAND												
Undefined Project / Legal Fees	20											20
TOTAL	20	-	-	-	-	-	-	-	-	-	-	20
OTHER CAPITAL EXPENDITURES												
Fire Rescue Capital Outlay -- from Flyover funds	102	102										
Cost of Issue	100				100							
Rec Center CIP -- Impact fees	271	271										
Honey Hom CIP -- Park Impact fees	55	55										
Transfer to General Fund	678	453					50					175
TOTAL	1,206	453	428	-	100	-	50	-	-	-	-	175
TOTAL BUDGET BY FUNDING SOURCE												
TOTAL FY 2019 BUDGET	9,876	453	1,661	1,975	3,320	322	200	900	850	195		

*Beginning in FY 2018, Dirt Road Projects funded by the Community Development Block Grant (CDBG) are separate from the Capital Improvement Plan Budget.

*The remainder of the Bluffton Flyover funding would be reallocated to the Fire Rescue Capital Outlay, the Fire Hydrant project and the EOC project.

Stormwater Fund - FY 2019 Budget Summary

				2018		2019		
				Adopted Budget	Estimated Actual	FY 2019 Budget	% change	
							FY 2018 Budget	FY 2018 Est.
	2015	2016	2017					
Revenues								
Stormwater Fees	3,551,386	3,551,400	3,583,005	4,800,000	4,769,396	4,775,000	-0.52%	0.12%
Fund Balance/Prior Year Funds	-	-	-	-	-	535,000	100.00%	100.00%
Federal Grant	25,764	44,272	-	-	-	-	0.00%	0.00%
Bond Proceeds	-	-	-	3,100,000	3,100,000	-	0.00%	0.00%
Interest	450	442	1,202	450	2,978	1,000	122.22%	-66.42%
Total Revenues	3,577,600	3,596,114	3,584,207	7,900,450	7,872,374	5,311,000	-32.78%	-32.54%
Expenses								
Personnel	317,575	358,116	283,155	544,000	544,043	563,000	3.49%	3.48%
Operating	226,662	339,567	340,856	390,000	453,747	374,000	-4.10%	-17.58%
Projects	1,919,697	1,072,181	799,316	5,653,000	5,381,113	2,619,000	-53.67%	-51.33%
Capital	-	23,764	-	32,000	32,000	32,000	0.00%	0.00%
Transfers	94,258	94,258	1,095,000	125,000	125,000	125,000	0.00%	0.00%
Debt Service/Other	(96,761)	961,510	1,433,596	1,154,000	1,514,000	1,598,000	38.47%	5.55%
Total Expenses	2,461,431	2,849,396	3,951,923	7,898,000	8,049,903	5,311,000	-32.76%	-34.02%
Net Change in Fund Balance	1,116,169	746,718	(367,716)	2,450	(177,529)	-		
Beginning Fund Balance	5,291,577	6,407,746	7,154,464	6,786,748	6,789,198	6,611,669		
Ending Fund Balance	6,407,746	7,154,464	6,786,748	6,789,198	6,611,669	6,611,669		



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: Shawn Colin, AICP, *Deputy Director of Community Development*
FROM: Teri Lewis, AICP, *LMO Official*
DATE: May 4, 2018
SUBJECT: Proposed Ordinance 2018-04 Lease and Sale of Summit Drive Tract to ArborNature

Recommendation: Staff recommends Town Council approve Proposed Ordinance 2018-04 authorizing the execution of a contract to lease and sell a portion of Town-owned property. The subject property is a portion of the Summit Drive Tract (Attachments D and F). The purpose of the lease and sale of the property is to relocate the ArborNature grinding and logging operations from 76 Leg O'Mutton Road to the subject property.

This item was originally scheduled for first reading on April 17, 2018. At that time Councilman McCann made a motion to delay the agenda item until the May 1, 2018 Town Council meeting. Councilman McCann's stated purpose for the delay was to allow the residents of Port Royal time to explore their options and what damages or problems they might incur. During the public comment period several residents from Port Royal expressed concerns about the potential noise impacts that the relocated business might have on their properties.

After verifying that the grinder was in operation at 76 Leg O'Mutton Road, staff conducted noise readings at four different properties in Indigo Run on May 3, 2018 (Attachment E). The decibel readings at the four properties within Indigo Run are as follows:

Property	Decibel Reading	Distance from grinder
A	49	Approximately 700'
B	44	Approximately 1000'
C	54	Approximately 550'
D	40	Approximately 1200'

The Indigo Run properties are located within the PD-1 (Planned Development Mixed Use) zoning district. The maximum allowable decibel level in the PD-1 zoning district is 67.

Summary: The Town and ArborNature have worked together to find an appropriate site to relocate the grinding and logging operations associated with ArborNature's current site at 76 Leg O'Mutton Road per the June 14, 2017 Settlement Agreement (Attachment C). A 4-acre portion of the Town-owned Summit Drive Tract (R510-009-0000-1034) will be leased to ArborNature for a period of one year for one dollar. Major elements of the contract for lease and sale are as follows:

Proposed Ordinance 2018-04

May 4, 2018

Page 2

- ArborNature has the option to purchase the property for \$300,000. The option shall be exercised by written notice sixty days prior to the expiration of the lease period.
- ArborNature will not be required to meet minimum tree requirements/regulations on the site as long as the property is used for grinding.
- The grinding shall only take place between the hours of 8 a.m. to 6 p.m. Monday through Friday.
- ArborNature shall not sublet the property.

Background: After numerous complaints from nearby residents and business owners, the Town investigated ArborNature's operations at 76 Leg O'Mutton Road. As a result of that investigation, staff determined that ArborNature was out of compliance with the allowable uses for the subject property. ArborNature appealed staff's determination to the Town's Board of Zoning Appeals (BZA) and the BZA upheld staff's determination. ArborNature subsequently filed a lawsuit against the Town. As part of the pre-litigation mediation, a Settlement Agreement between the Town and ArborNature was reached. Major elements of the Agreement are as follows:

- The Town will lease a 4-acre portion of the Town-owned Summit Drive Tract to ArborNature for a period of one year for one dollar. The configuration of the 4-acre portion of the Summit Drive Tract will minimize wetlands and specimen trees.
- ArborNature has the option to purchase the property for \$300,000.
- The Town will provide a topographic and wetlands delineation survey as soon as the lease is signed.
- ArborNature will not be required to meet minimum tree requirements/regulations on the site as long as the property is used for grinding.
- The grinding shall only take place between the hours of 8 a.m. to 6 p.m. Monday through Friday.
- ArborNature shall apply for development plan review approval within 30 days of Town Council's approval of the lease.
- The Town shall rezone the existing 6.7 acre ArborNature site at 76 Leg O'Mutton Road to allow the uses of Wholesale Landscape Nursery and Landscape Contractor's Office with Outside Storage or residential development at 8 units per acre.

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

Attachments:

- A) Ordinance
- B) Contract for Lease and Sale
- C) Settlement Agreement
- D) Survey
- E) Decibel Reading Map
- F) Proposed ArborNature Relocation Site - Aerial

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AUTHORIZING THE EXECUTION OF A LEASE AND CONVEYANCE DOCUMENTS WITH ARBOR NATURE FOR PROPERTY OWNED BY THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, PURSUANT TO THE AUTHORITY OF S.C. CODE ANN. § 5-7-40 (SUPP. 2011), AND § 2-7-20, CODE OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, (1983); AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

LEGISLATIVE FINDINGS

WHEREAS, the Town of Hilton Head Island (hereinafter “Town”) owns a parcel of real property known as R510-009-0000-1034-and located at Summit Drive, Hilton Head Island, South Carolina (hereinafter, the “Property”); and,

WHEREAS, ArborNature desires to lease and ultimately purchase from the Town an approximately 4 acre portion of the Property for purposes of relocating its business operations in accordance with a Court Settlement in Civil Action Number 2017- CP-07-0374; and,

WHEREAS, the Town Council for the Town of Hilton Head Island, South Carolina, has determined that it is in the best interests of the Town to enter into a Lease Agreement and at the conclusion of the Lease to convey the Property to ArborNature for the above purposes pursuant to the terms and conditions set forth in that certain Lease, a copy of which is attached hereto as Exhibit “A”; and,

WHEREAS, under the provisions of S.C. Code Ann. § 5-7-40 (SUPP. 2011) and § 2-7-20, *Code of the Town of Hilton Head Island , South Carolina*, (1983), the conveyance or granting of an interest in real property owned by the Town of Hilton Head Island must be authorized by Ordinance.

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

Section 1. Execution of Lease.

- (a) The Mayor and/or Town Manager are hereby authorized to execute and deliver the Lease in a substantially similar form to that attached hereto as Exhibit "A"; and at the conclusion of the Lease to execute documents appropriate for the conveyance of the Property to Arbor Nature; and
- (b) The Mayor and/or Town Manager are hereby authorized to take such other and further actions as may be necessary to complete the transactions contemplated in the Lease and conveyance as authorized hereby.

Section 2. Severability.

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

Section 3. Effective Date.

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

PASSED, APPROVED AND ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, ON THIS _____ DAY OF _____, 2018.

David Bennett, Mayor

ATTEST:

Krista Wiedmeyer, Town Clerk

First Reading: _____

Second Reading: _____

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

Introduced by Council Member: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

LEASE AGREEMENT

THIS LEASE AGREEMENT (this "Lease") is made and entered into on _____
_____ 2018 by and between the **Town of Hilton Head Island, South Carolina**, a political subdivision of the State of South Carolina (the "Landlord"), and **ArborNature, LLC**, a South Carolina limited liability company (the "Tenant").

In reliance upon and in consideration of the representations, warranties, covenants, and conditions on the part of the Landlord and the Tenant contained herein, the payment by the Tenant of the rents reserved by the Landlord, and as provided for in that certain Proposed Settlement Agreement of 14 June 2017 entered into by and among the Landlord, the Tenant, and the South Carolina Insurance Reserve Fund in connection with the settlement of those certain civil actions pending in the Court of Common Pleas for the Fourteenth Judicial Circuit, designated as Civil Action No. 2017-CP-07-0374 and Civil Action No. 2017-CP-07-0517, the Landlord hereby leases to the Tenant, and the Tenant hereby rents from the Landlord, the premises described herein upon the following terms and conditions:

ARTICLE 1
FUNDAMENTAL LEASE PROVISIONS

A. Specifics.

The Landlord:	Town of Hilton Head Island, South Carolina
The Tenant:	ArborNature, LLC
Description of the Premises:	4.0 Acres, being a portion of Parcel 1034, Summit Drive, Hilton Head Island, SC, more particularly described in Exhibit A attached hereto
Use of the Premises:	Any and all uses permitted by the Land Management Ordinance of the Town of Hilton Head Island as of 14 June 2017
The Term of this Lease:	One (1) Year
The Commencement Date of this Lease:	The Commencement Date, as defined in Article 2
The Expiration Date of this Lease:	One year after the Commencement Date
Option To Purchase:	Yes, as set forth in Article 9
Annual Rent:	One and No/100 (\$1.00) Dollar



The Tenant's Address for Notice: ArborNature, LLC
Mr. Adam Congrove
PO Box 22268
Hilton Head Island, SC 29925-2268

The Landlord's Address for Notice: Town of Hilton Head Island
Mr. Stephen G. Riley
One Town Center Court
Hilton Head Island, SC 29928

If there is any conflict between the foregoing summary and the following provisions of the Lease, the latter shall control.

B. Description and Location of the Premises. The Landlord hereby demises and leases unto the Tenant, and the Tenant hereby rents, hires and takes of and from the Landlord, for the term, and upon the provisions, covenants, and conditions, set forth herein, that certain real property located in the Town of Hilton Head Island and more particularly described in Exhibit A attached to this Lease (the "Premises").

ARTICLE 2
TERM

The term of this Lease shall be for a period of one year, commencing on the date of adoption of an ordinance by the Town Council of the Town of Hilton Head Island, South Carolina (the "Town") approving this Lease (the "Commencement Date").

ARTICLE 3
RENT

The Landlord hereby reserves and the Tenant shall pay to the Landlord as rent for the Premises during the term of this Lease the Annual Rent, on the Commencement Date.

ARTICLE 4
POSSESSION OF THE PREMISES

Except as may otherwise be provided herein, by entering into and using the Premises, the Tenant shall be deemed to have accepted the Premises and to have acknowledged that the same are then in the condition called for by this Lease.

ARTICLE 5
USE OF PREMISES

A. Compliance. The Tenant shall at all times during the term of this Lease, at its sole cost and expense:



1. Comply with all applicable governmental rules, regulations, ordinances, statutes, and laws now or hereafter in effect pertaining to the Premises or the Tenant's use thereof; *provided, however*, that the Tenant shall not be required to comply with or adhere to any minimum tree coverage regulation contained in any ordinance of the Town, and the Premises is exempt from any tree requirements or regulations of the Town's Land Management Ordinance.

2. Refrain from tree grinding operations on the Premises, except between the hours of 8:00 AM and 6:00 PM on Monday through Friday, or as provided for in whatever laws may be adopted in the future by the Town Council of the Town.

B. The Tenant's Business. The Premises are leased to the Tenant for the purpose of conducting the business specified in Article 1, Section A hereof. The Tenant shall not use the Premises or any portion thereof for any other purpose or purposes whatsoever except with the Landlord's prior written consent therefor first had and obtained.

ARTICLE 6 **THE LANDLORD'S LIABILITY**

The Landlord shall not be liable for any damage to the Tenant's leasehold improvements, fixtures, or merchandise resulting from fire or other hazards, regardless of the cause thereof, and the Tenant hereby releases the Landlord from all liability for such damage.

ARTICLE 7 **TAXES**

A. Personal Property Taxes. The Tenant shall be liable for and shall pay before delinquency all taxes and assessments of whatsoever kind or nature, and penalties and interest thereof, if any, levied against the Tenant's property and any other personal property of whatsoever kind and to whomsoever belonging, situated or installed in and upon the Premises, whether or not affixed to the realty. If at any time during the term hereof any of said property, whether or not belonging to the Tenant, shall be taxed or assessed as part of the real property on which the Premises are situate, then such taxes or assessments shall, for the purpose of this Lease, be deemed to be personal property taxes or assessments and the provisions of this Article shall not be applicable thereto. For the purpose of determining the amount of such taxes or assessments, figures supplied by the Beaufort County Assessor's Office or other taxing authority as to the amount thereof shall be conclusive.

B. Real Property Taxes.

1. Payment of Tax. The Landlord shall be responsible for and shall pay before delinquency all real property taxes and assessments of whatsoever kind or nature, and penalties and interest thereof, if any, levied against the Premises.



2. Definition. The term “real property taxes” shall include all taxes, assessments and other governmental charges (excluding general income taxes, gift taxes, inheritance taxes, and estate taxes) imposed upon the Landlord in connection with the Premises. All assessments, taxes, fees, levies and charges imposed by governmental agencies for services such as fire protection, street, sidewalk and road maintenance, refuse removal and other public services generally provided without charge to owners or occupants also shall be deemed included within the definition of “real property taxes” for purposes of this Lease. With respect to any assessment which may be paid in annual or other installments, only the amount due thereon during any Lease Year shall be included in the term “real property taxes” for such Lease Year.

ARTICLE 8

INSURANCE AND INDEMNITY

A. Indemnity. The Tenant covenants with the Landlord that the Landlord shall not be liable for any damage or liability of any kind or for any injury to or death of persons or damage to property of the Tenant or any other person during the term of this Lease from any cause whatsoever, by reason of the use, occupancy, and enjoyment of the Premises by the Tenant or any person thereon or holding under the Tenant, and that the Tenant will indemnify and save harmless the Landlord from all liability whatsoever, on account of any such real or claimed damage or injury and from all liens, claims and demands arising out of the use of the Premises and its facilities, or any repairs or alterations which the Tenant may make upon such Premises, but the Tenant shall not be liable for damage or injury occasioned by the negligence of the Landlord and its designated agents, servants or employees unless covered by insurance the Tenant is required to provide. This obligation to indemnify shall include reasonable attorneys’ fees and investigation costs and all other reasonable costs, expenses and liabilities from the first notice that any claim or demand is to be made or may be made.

B. Subrogation. The Landlord and the Tenant hereby waive any rights each may have against the other on account of any loss or damage occasioned by the Landlord or the Tenant, as the case may be, their respective property, the Premises, or its contents, arising from any risk generally covered by fire and extended coverage insurance, and the parties each, on behalf of their respective insurance companies insuring the property of either the Landlord or the Tenant against any such loss, waive any right of subrogation that it have against the Landlord or the Tenant, as the case may be, if such waiver is permitted by, or obtainable from, the respective insurance company.

C. The Tenant’s Insurance. The Tenant covenants and agrees that from and after the Commencement Date, the Tenant will carry and maintain, at its sole cost and expense, commercial general liability and property damage insurance with combined single limits of One Million (\$1,000,000.00) Dollars insuring against any and all liability of the insured with respect to the Premises or arising out of the maintenance, use, or occupancy of the Premises.

D. Blanket Policy. Notwithstanding anything to the contrary contained within this Article 8, the Tenant’s obligation to carry the insurance provided for herein may be



brought within the coverage of a so-called blanket policy or policies of insurance carried and maintained by the Tenant; *provided, however*, that the Landlord and others hereinabove mentioned shall be named as an additional insured thereunder as their interests may appear and that the coverage afforded the Landlord will not be reduced or diminished by reason of the use of such blanket policy of insurance, and provided further that the requirements set forth herein are otherwise satisfied. The Tenant agrees to permit the Landlord at reasonable times, and upon reasonable notice, to inspect the policies of insurance of the Tenant covering risks upon the Premises for which policies or copies thereof are not required to be delivered to the Landlord.

ARTICLE 9

OPTION TO PURCHASE

A. General. During the Term, the Tenant or its assignee shall have the exclusive option (the "Option"), subject to the conditions in this Article 9, to purchase the Premises for Three Hundred Thousand and No/100 (\$300,000.00) Dollars. The Option shall be exercised by written notice to the Landlord no later than sixty (60) days prior to the expiration of the Term. The Landlord and the Tenant shall execute a recordable memorandum of this Lease and notice of the Option for filing in the Office of the Register of Deeds for Beaufort County, South Carolina.

B. Closing Procedure. Closing of the purchase of the Premises (the "Closing") shall take place on the later of the sixty (60) days after (i) the exercise of the Option by the Tenant, or (ii) the expiration of the Term, at the Law Office of Chester C. Williams, LLC, 17 Executive Park Road, Suite 2, Hilton Head Island, South Carolina 29928. The Tenant shall give the Landlord not less than five (5) days prior notice of the date and time of the Closing. At the Closing, the Landlord shall convey good and marketable fee simple title to the real property portion of the Premises to the Tenant by general warranty deed (the "Deed"), free and clear of all monetary liens and encumbrances and other matters unless agreed to by the Tenant. The parties shall also execute or deliver such other documents as are required by law or as are consistent with standard practice in commercial real estate closings on Hilton Head Island, South Carolina.

C. Closing Costs. At Closing, the Landlord shall pay for preparation of the Deed, preparation and recording of any mortgage or lien releases and other document required to be recorded in order to deliver title in accordance with this Article 9, and the deed recording fee established by Title 12 of the Code of Laws of South Carolina (1976), as amended, any applicable Town transfer tax, its attorney's fees, and any prorations that are the responsibility of the Landlord. The Tenant shall pay for all financing costs, if any, the title examination, title insurance costs, nominal recording fees established by Title 8 of the Code of Laws of South Carolina (1976), as amended, for the deed and any loan documentation, its attorney's fees, and any prorations that are the responsibility of the Tenant.

D. Prorations. At Closing, the Lease shall terminate. Any taxes and assessments that relate to periods both before and after Closing shall be prorated between the parties as of the date of Closing. Property taxes shall be prorated based on the current year's tax. If the property taxes for the current calendar year are not



available, property taxes shall be prorated based on the prior calendar year's property taxes, plus ten (10%) percent. The proration of property taxes at Closing shall be final.

E. Title. The Tenant may conduct such examinations, including, without limitation, surveys and environmental studies of, and title to, the Premises as it desires prior to the exercise of the Option (except for such additional title examination as the Tenant may desire for title defects first occurring after the exercise of the Option and prior to Closing). If the Tenant's title examination discloses any title defects or unacceptable encumbrances on the Premises and the Tenant is unwilling to waive such defects, the Tenant shall give the Landlord written notice of such matters (the "Defect Notice") concurrently with its exercise of the Option. The Landlord shall have ten (10) days after receipt of the Defect Notice (or such longer period as may be approved by the Tenant in writing) within which to cure any title defects and remove any unacceptable encumbrances, or submit reasonable evidence to the Tenant's counsel that there is no defect.

ARTICLE 10
EMINENT DOMAIN

If during the Term all or any portion of the Premises is taken by any authority having the power of eminent domain, or is voluntarily conveyed by the Landlord to such authority in lieu of such taking, then the Tenant may elect to either (A) terminate this Lease on the date of possession by the condemning authority, or (B) exercise the Option.

ARTICLE 11
CASUALTY DAMAGE AND RESTORATION

If the Premises are damaged by fire, explosion, or other casualty or occurrence to the extent of more than twenty-five (25%) percent of the area of the Premises, the Tenant may elect either to repair or rebuild the Premises or to terminate this Lease upon giving notice of such election in writing to the Landlord within thirty (30) days after the happening of the event causing the damage. If the casualty renders the Premises untenable, then the Landlord, in good faith, agrees to use its best efforts to provide alternate Premise of like or larger size and with the same permitted uses, to the Tenant until the date when the Premises are again made tenable.

ARTICLE 12
ASSIGNMENT AND SUBLETTING

The Tenant shall not assign this Lease, or any interest in this Lease, or permit the use of the Premises by, or sublet the Premises or any part of the Premises to, any person or entity.

ARTICLE 13
RIGHT OF ACCESS

The Landlord, and its authorized agents and representatives, shall be entitled to enter the Premises at reasonable times, and upon reasonable notice, for the purpose of



inspecting the Premises or any portion thereof. Nothing contained herein shall impose or be deemed to impose any duty on the part of the Landlord to do any work or repair, maintenance, reconstruction, or restoration which, under any provision of this Lease, is required to be done by the Tenant; and the performance thereof by the Landlord shall not constitute a waiver of the Tenant's default in failing to do the same.

ARTICLE 14
DEFAULT BY THE TENANT

A. Notice. If the Tenant defaults in the payment of the Annual Rent, or violates any provision of this Lease, and such default continues for thirty (30) days after written notice thereof from the Landlord to the Tenant, then the Tenant shall be in default under this Lease; *provided, however*, that if the default complained of in such notice is of such a nature that the same can be rectified or cured, but cannot with reasonable diligence be done within said thirty (30) day period, then such default shall be deemed to be rectified or cured if the Tenant, within said thirty (30) day period, commences to rectify and cure the same and thereafter completes such rectification and cure with all due diligence, and in any event within ninety (90) days from the date of giving such notice. Upon any such default by the Tenant, the Landlord shall be entitled to recover from the Tenant all damages suffered by the Landlord as the result of the Tenant's default.

B. Waiver of Default. The waiver by the Landlord of any default or breach of any obligation of the Tenant under this Lease shall not be a waiver of any subsequent breach by the Tenant.

ARTICLE 15
DEFAULT BY THE LANDLORD

A. Notice. If the Landlord violates any provision of this Lease, and such default continues for thirty (30) days after written notice thereof from the Tenant to the Landlord, then the Landlord shall be in default under this Lease; *provided, however*, that if the default complained of in such notice is of such a nature that the same can be rectified or cured, but cannot with reasonable diligence be done within said thirty (30) day period, then such default shall be deemed to be rectified or cured if the Landlord, within said thirty (30) day period, commences to rectify and cure the same and thereafter completes such rectification and cure with all due diligence, and in any event within ninety (90) days from the date of giving such notice. Upon any such default by the Landlord, the Tenant shall be entitled to pursue any remedy available at law or in equity, including, without limitation, specific performance.

B. Waiver of Default. The waiver by the Tenant of any default or breach of any obligation of the Landlord under this Lease shall not be a waiver of any subsequent breach by the Landlord.



ARTICLE 16
LIENS

The Tenant shall at all times indemnify, save, and hold the Landlord free, clear, and harmless from any claims, liens, demands, charges, encumbrances, or litigation arising directly or indirectly out of any use, occupancy, or activity of the Tenant, its agents, employees, subtenants, and assignees, or out of any work performed, material furnished, or obligations incurred by the Tenant, its agents, employees, subtenants, and assignees, in, upon, about or otherwise in connection with the Premises, and shall, except as hereinafter permitted in this Article, pay or cause to be paid for all work performed and material furnished to the Premises, and will keep the Premises free and clear of all mechanic's liens and materialmen's liens.

ARTICLE 17
INDEMNIFICATION OF THE LANDLORD

The Tenant hereby covenants and agrees to indemnify, save, and hold the Landlord free, clear, and harmless from any and all liability, loss, costs, charges, penalties, obligations, expenses, reasonable attorneys' fees, litigation, judgments, damages, claims, and demands of any kind whatsoever in connection with, arising out of or by reason of, any violation of law, ordinance, or regulation by the Tenant, its agents, employees, servants, contractors, subtenants, licensees, concessionaires, customers or business invitees.

ARTICLE 18
FORCE MAJEURE

Whenever a day is appointed herein on which, or a period of time is appointed within which, either party hereto is required to do or complete any act, matter or thing, the time for the doing or completion thereof shall be extended by a period of time equal to the number of days on or during which such party is prevented from, or is unreasonably interfered with, the doing or completion of such act, matter or thing because of strikes, lockouts, embargoes, unavailability of labor or materials, wars, insurrections, rebellions, civil disorder, declaration of national emergencies, Acts of God, or other causes beyond such party's reasonable control (financial inability excepted); *provided, however*, that nothing contained in this Article shall excuse the Tenant from the prompt payment of any rental or other charge required of the Tenant hereunder except as may be expressly provided elsewhere in this Lease.

ARTICLE 19
QUIET POSSESSION

The Landlord agrees that the Tenant, upon paying the Annual Rent, may quietly have, hold, and enjoy the Premises during the term of this Lease, without hindrance or interruption by the Landlord.



ARTICLE 20
NO PARTNERSHIP

Anything contained herein to the contrary notwithstanding, the Landlord does not in any way or for any purpose become a principal or partner of the Tenant in the conduct of its business or otherwise, or a joint venturer or member of a joint enterprise with the Tenant hereunder.

ARTICLE 21
REMEDIES CUMULATIVE

The various rights, options, elections and remedies of the Landlord and the Tenant, respectively, contained in this Lease shall be cumulative and no one of them shall be construed as exclusive of any other, or of any right, priority or remedy allowed or provided for by law and not expressly waived in this Lease.

ARTICLE 22
ATTORNEYS' FEES

If either party institutes any action or proceeding at law or in equity to enforce or to interpret any provision of this Lease for damages or other relief by reason of an alleged breach of any provision hereof, the prevailing party shall be entitled to receive from the losing party, in addition to allowable court costs, such amount as the court may adjudge to be reasonable as attorneys' fees for the services rendered the prevailing party in such action or proceeding, and such amount may be made a part of the judgment against the losing party.

ARTICLE 23
PARTIAL VALIDITY

If any term, provision, covenant, or condition of this Lease is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Lease shall continue in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 24
RECORDATION

This Lease shall not be recorded, but the parties shall, at the option of either, execute and deliver a memorandum hereof, in recordable form, sufficient to give constructive notice of the leasehold estate and option to purchase created, and said memorandum may be recorded in the official records of Beaufort County, South Carolina.

ARTICLE 25
TIME OF THE ESSENCE

Time is of the essence of this Lease and all of the terms, provisions, covenants and conditions hereof.



ARTICLE 26
CAPTIONS, PRONOUNS AND INTERPRETATION

A. Captions. The captions appearing at the commencement of the Articles, Sections, and Paragraphs of this Lease are descriptive only and intended for convenience in reference to this Lease, and if there is any conflict or inconsistency between any such caption and the text of any such Article, Section, or Paragraph at the head of which it appears, the text of the said Article, Section, or Paragraph, as the case may be, and not the caption, shall control and govern in the construction of the terms of this Lease.

B. Pronouns. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution or substitutions.

C. Interpretation.

1. Law: The laws of the State of South Carolina, including statutes of limitations, shall govern the validity, construction, and effect of this Lease, and shall apply in all respects to any disputes or controversies arising out of or pertaining thereto.

2. Covenants: Whenever in this Lease any words of obligation or duty are used in connection with either party, such words shall have the same force and effect as though framed in the form of express covenants on the part of the party obligated.

3. Language Construction: The language in all parts of this Lease shall be construed, in all cases, according to its fair meaning and not for or against either party hereto.

ARTICLE 27
NO BROKER

Both parties warrant and represent to the other party that there are no brokers involved with this Lease, and that there are no claims for brokerage commissions or finder's fees in connection with the execution of this Lease.

ARTICLE 28
SUCCESSORS AND ASSIGNS

The terms, provisions, covenants, and conditions contained in this Lease shall apply to, bind, and inure to the benefit of the respective successors and assigns of the parties.



ARTICLE 29
ENTIRE AGREEMENT

This Lease, together with that certain Proposed Settlement Agreement of 14 June 2017 entered into by and among the Landlord, the Tenant, and the South Carolina Insurance Reserve Fund in connection with the settlement of those certain civil actions pending in the Court of Common Pleas for the Fourteenth Judicial Circuit, designated as Civil Action No. 2017-CP-07-0374 and Civil Action No. 2017-CP-07-0517, constitute the entire agreement of the Landlord and the Tenant regarding the Premises. Except and otherwise provided, no subsequent alteration, amendment, change, or addition to this Lease shall be binding upon the Landlord or the Tenant unless reduced to writing and signed by each of them.

ARTICLE 30
SERVICE OF NOTICES

A. Notices To Be In Writing. Any and all notices and demands by or from the Landlord to the Tenant, or by or from the Tenant to the Landlord, required or desired to be given hereunder shall be in writing and shall be validly given or made if served either personally or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand be served personally, service shall be conclusively deemed made at the time of such personal service. If such notice or demand be served by registered or certified mail in the manner herein provided, service shall be conclusively deemed made at forty-eight (48) hours after the deposit thereof in the United States mail addressed to whom such notice or demand is to be given as hereinafter set forth.

B. Notices to the Landlord. Any notice or demand to the Landlord shall be addressed to the Landlord at the address specified in Article 1, Section A.

C. Notices to the Tenant. Any notice or demand to the Tenant shall be addressed to the Tenant at the address specified in Article 1, Section A.

D. Change of Address. Either party may change its address for the purpose of receiving notices or demands as herein provided by a written notice given in the manner aforesaid to the other party hereof, which notice of change of address shall not become effective, however, until the actual receipt thereof by the other party.

[Signature pages follow]



EXHIBIT A

Description of the Premises

ALL that certain piece, parcel, or tract of land situate, lying, and being on Hilton Head Island, Beaufort County South Carolina, containing 4.00 acres, more or less, shown and designated as "Portion of Parcel 1034" on that certain plat of survey entitled "Boundary, Tree and Topographic Survey of: A Portion of Parcel 1034, Summit Drive, Hilton Head Island, Beaufort County, South Carolina" prepared by Sea Island Land Survey, Mark R. Renew, SCPLS 25437, dated 10 November 2017 and recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book _____ at Page _____.



Attachment C

Proposed Settlement Agreement
Between
ArborNature, LLC & The Town of Hilton Head Island

WHEREAS, litigation currently exists between ArborNature, LLC and the Town of Hilton Head Island; and,

WHEREAS, both parties desire to compromise and settle all existing disputes between them; and,

WHEREAS, an agreement as follows was reached in mediation on June 14, 2017;

NOW THEREFORE, the parties hereto agree to compromise and settle all issues currently encompassed in those Beaufort County, South Carolina Circuit Court cases numbered 2017-CP-07-0374 and 2017-CP-07-0517 as follows:

1. The Town will convey to ArborNature, LLC four (4) acres of land located at the end of Summit Drive in a configuration to be agreed upon by the parties, that minimizes wetlands and specimen trees and allows ArborNature, LLC to use the land in its current zoning to the fullest reasonable extent.
2. Consideration for the sale will be Three Hundred Thousand and 00/100 Dollars (\$300,000.00) in total. The Town will lease the four (4) acres to ArborNature, LLC for the first year for one dollar and 00/100 (\$1.00) and the closing on the property will occur on or before one (1) year from the date the lease is signed.
3. As soon as the lease is signed, the Town will provide a topographic and wetlands delineation survey. The Town will waive any adherence to minimum tree coverage on the parcel to allow the full use of the four (4) acres, thereby exempting ArborNature from any tree requirements or regulations of the LMO on this parcel so long as the property is used for grinding. Provided, however, the parties agree that grinding shall only take place between the hours of 8:00 a.m. to 6:00 p.m. Monday through Friday or whatever laws may be adopted in the future by the Town Council. ArborNature shall apply for development plan approval within thirty (30) days of Town Council's approval of the settlement.
4. The Town shall amend the current zoning on the 6.7 acres owned by Adam Congrove at 76 Leg O'Mutton Road, to provide that grinding and logging activity shall not be allowed on the property, and the same shall keep the right to a Wholesale Landscape Nursery and Landscape Contractor's Office with outside storage. The rezoning shall provide that the property may alternatively be used for residential development at eight (8) units per acre.

5. The Insurance Reserve Fund will pay ArborNature Ten Thousand and 00/100 Dollars (\$10,000.00). ArborNature agrees to execute a release in favor of the Town of Hilton Head Island and the South Carolina Insurance Reserve Fund as well as a stipulation of dismissal.
6. The parties will bear all of their own costs.
7. The current litigation will be dismissed with prejudice by consent upon the adoption by the Town Council of the Ordinance approving the Master Plan Amendment for the Leg O'Mutton Road Property.
8. The parties agree to work in good faith to implement their Settlement Agreement, and to not publicly criticize or abuse the other.
9. All parties understand the Agreement is subject to approval by the Town Council.
10. Current grinding at Leg O'Mutton will cease thirty (30) days after issuance of development plan approval on the Summit Road property.

ArborNature, LLC



Adam Congrove
Its' President

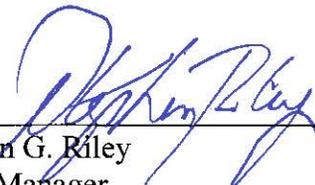


Thomas C. Taylor, Esquire



Chester Williams, Esquire

Town of Hilton Head Island



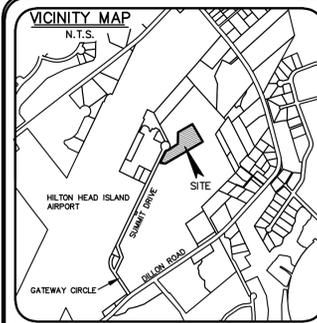
Stephen G. Riley
Town Manager



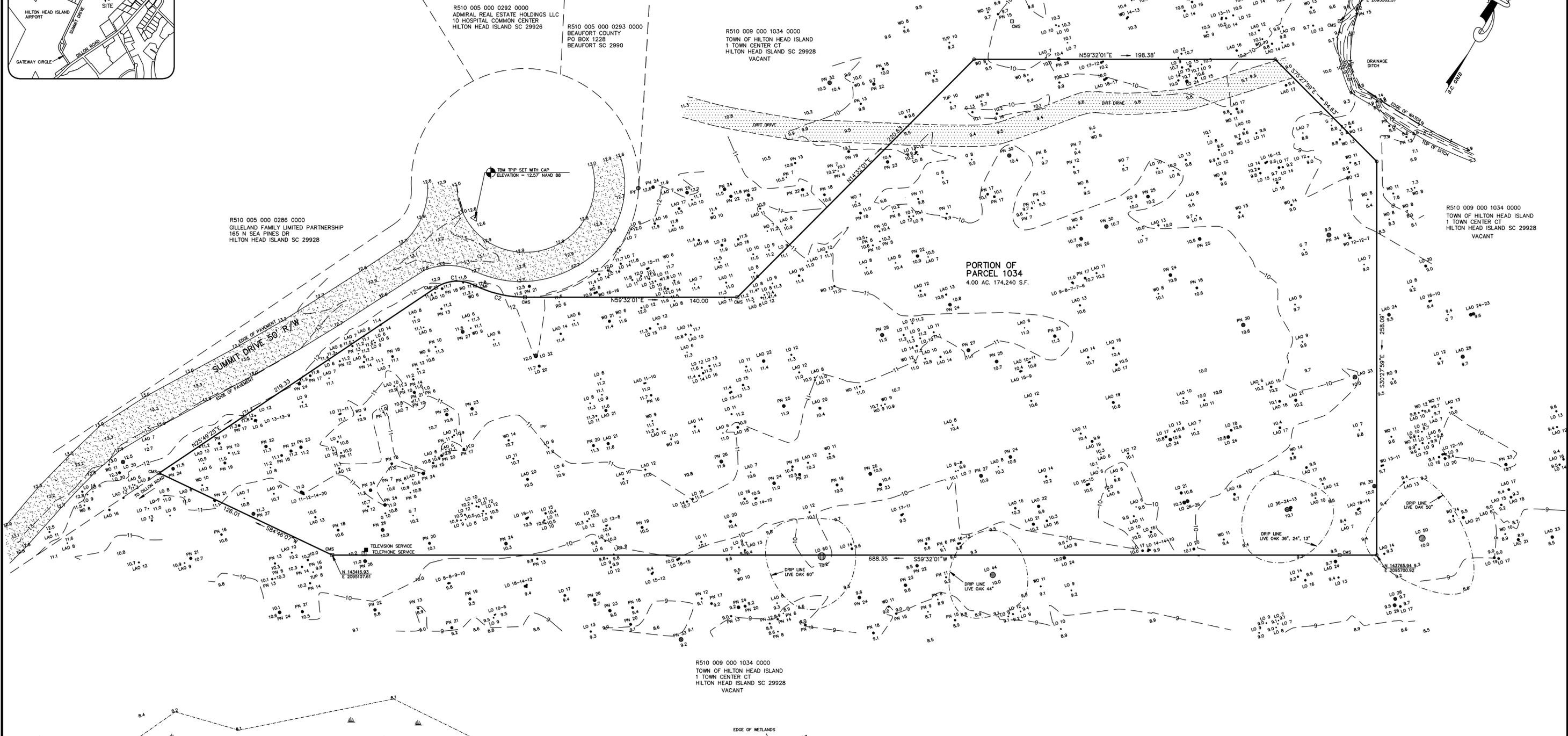
Gregory M. Alford, Esquire



Robert Achurch, Esquire



CURVE TABLE					
CURVE	LENGTH	RADIUS	CHORD	BEARING	DELTA
C1	27.10	25.00	25.79	N56°32'53"E	62°06'07"
C2	34.05	75.00	33.76	N72°32'19"E	26°00'36"



- NOTES:
- 1) UNDERGROUND UTILITIES NOT LOCATED EXCEPT AS SHOWN.
 - 2) SEA ISLAND LAND SURVEY, LLC. CERTIFIES TO THE BOUNDARY, TOPOGRAPHIC AND ASBUILT INFORMATION PROVIDED HEREON AS THE DATE OF THE SURVEY. THIS SURVEY MAY BE USED IN DIGITAL FORMAT AS A BASE FOR OTHERS AND ANY REVISIONS OR ADDITIONS MADE HEREAFTER IS NOT THE RESPONSIBILITY OF SEA ISLAND LAND SURVEY, LLC. A HARD COPY AVAILABLE FROM SEA ISLAND LAND SURVEY, LLC. WILL BE THE ONLY OFFICIAL DOCUMENT.
 - 3) SUBJECT PROPERTY DOES NOT APPEAR TO BE AFFECTED BY THE BEACHFRONT SETBACK REQUIREMENTS OF THE S.C. BEACH PROTECTION ACT OF JULY 1, 1988.
 - 4) HORIZONTAL DATUM IS S.C. STATE PLANE NAD 83.
 - 5) VERTICAL DATUM IS NAVD 88.
 - 6) CONTOUR INTERVAL IS 1'.
 - 7) USE OF THIS PROPERTY MAY BE AFFECTED BY THE TERMS OF COVENANTS RELATING TO THIS PLANNED COMMERCIAL DEVELOPMENT.
 - 8) BUILDING SETBACKS, WHETHER SHOWN OR NOT, SHOULD BE VERIFIED BY THE LOCAL BUILDING AUTHORITY OR ARCHITECTURAL REVIEW BOARD.
 - 9) THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A COMPLETE TITLE SEARCH AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.
 - 10) IF IDENTIFICATION OF TREES IS CRITICAL TO DEVELOPMENT, AN ARBORIST SHOULD BE CONSULTED TO VERIFY SUCH TREE IDENTIFICATION.
 - 11) THERE IS NO EVIDENCE OF FRESHWATER WETLANDS LOCATED ON THE SUBJECT PROPERTY.

REFERENCE PLAT
 1) A RECOMBINATION SURVEY F 66.14 ACRES, DILLON ROAD, HILTON HEAD ISLAND, BEAUFORT COUNTY, SOUTH CAROLINA. DRAWN: 11/11/02 RECORDED IN BOOK 92, PAGE 18, DATED 3/10/03 ROD. BEAUFORT COUNTY, SC BY: DONALD R. COOK, JR S.C.R.L.S. # 19010

PROPERTY AREA = 4.00 AC. 174,242 S.F.
ADDRESS: SUMMIT DRIVE
DISTRICT: 510, MAP: 9, PARCEL: 1034
THIS PROPERTY LIES IN F.E.M.A. ZONE A7
BASE FLOOD ELEVATION = 14.0'
COMMUNITY NO. 450250, PANEL 0008D, DATED: 9/28/86

LEGEND & SYMBOLS:
 TREE SIZES ARE INCHES IN DIAMETER
 SPOT ELEVATION
 CONTOUR
 3" CONCRETE MONUMENT FOUND
 3" CONCRETE MONUMENT SET
 3/4" IRON PIPE FOUND
 TEMPORARY BENCH MARK
 LIVE OAK
 LAUREL OAK
 RED OAK
 PINE
 WATER OAK
 GUM
 TELEPHONE SERVICE
 TELEVISION SERVICE

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

THIS MAP IS A GENERAL REPRESENTATION OF THE LOCATIONS OF 404 WETLANDS (FRESHWATER WETLANDS) LOCATED WITHIN THE PROPERTY AS SHOWN. THESE WETLANDS ARE SUBJECT TO REVIEW AND APPROVAL BY THE U.S. ARMY CORPS OF ENGINEERS, CHARLESTON DISTRICT. THE WETLANDS HAVE BEEN LOCATED AS FLAGGED BY TIDEWATER A JMT DIVISION

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

NOT VALID UNLESS EMBOSSED.

**BOUNDARY, TREE AND TOPOGRAPHIC SURVEY OF:
 A PORTION OF PARCEL 1034, SUMMIT DRIVE,
 HILTON HEAD ISLAND,
 BEAUFORT COUNTY, SOUTH CAROLINA
 PREPARED FOR: THE TOWN OF HILTON HEAD ISLAND**

DATE: 11/10/17 SCALE: 1" = 30'

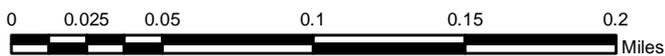
SILS Sea Island Land Survey, LLC.
 4D Mathews Court, Hilton Head Island, SC 29926
 Tel (843) 681-3248 Fax (843) 689-3871
 E-mail: sils@sprynet.com
 FILE No : 17152/2 DWG No. : 4-1952 B



Location of
ArborNature Grinder
on May 3, 2018

Town of Hilton Head Island
Existing ArborNature Site and Decibel Readings

May 2018



1 inch = 333 feet





Arbor Nature Plat

Town of Hilton Head Island
 ArborNature Plat
 March 2018



TOWN OF HILTON HEAD ISLAND
 ONE TOWN CENTER COURT
 HILTON HEAD ISLAND, S.C. 29928
 PHONE (843) 341-4600
 Date Created: Wednesday, April 04, 2018
 Project: ArborNature, DillonRoad02.mxd



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