

**Real Property Committee**  
4:00 p.m., Wednesday, September 5, 2018  
Council Chambers  
1207 Palm Boulevard, Isle of Palms, South Carolina

**AGENDA**

1. **Call to Order** and acknowledgement that the press and public were duly notified of the meeting in accordance with the Freedom of Information Act.
2. **Approval of Previous Meeting's Minutes**  
Regular Meeting of August 6, 2018
3. **Citizens' Comments**
4. **Comments from Marina Tenants**
5. **Old Business**
  - A. Consideration of Morgan Creek Grill lease renewal and extension
  - B. Update on unlicensed businesses operating out of the IOP Marina with no lease with City or Marina Manager
  - C. Update regarding 1100 Palm and right-of-way on Pavilion Drive
  - D. Update on Marina operations
6. **New Business**
  - A. Discussion of long-term visions for IOP Marina
  - B. Consideration of a proposal from Coastal Science and Engineering (CSE) for annual island-wide and post-project monitoring services from 2019-2023
  - C. Discussion of alternatives available to optimize the municipal parking lot on Pavilion Drive
7. **Miscellaneous Business**  
Tenant Rents Report  
  
Next Meeting Date: 4:00 p.m., Wednesday, October 3, 2018 in the Conference Room
8. **Executive Session**  
Upon returning to open session, the Committee may take action on matters discussed in Executive Session.
9. **Adjournment**

**Real Property Committee**  
4:00 p.m., Wednesday, September 5, 2018

The regular meeting of the Real Property Committee was called to order at 4:00 p.m., Wednesday, September 5, 2018 in Council Chambers of City Hall, 1207 Palm Boulevard, Isle of Palms, South Carolina. Present for the meeting were Councilmembers Ferencz and Ward, Chair Bell, Interim Administrator Fragoso, and City Clerk Copeland.

1. Chair Bell called the meeting to order and acknowledged that the press and public were duly notified of the meeting in accordance with the Freedom of Information Act.

**2. Approval of Previous Meeting's Minutes**

**MOTION:** Councilmember Ferencz moved to approve the minutes of the regular meeting of August 6, 2018 as submitted; Councilmember Ward seconded and the motion **PASSED UNANIMOUSLY**.

**3. Citizens' Comments – none**

**4. Comments from Marina Tenants**

Michael Fiem of Tidal Wave Watersports took the opportunity to remind everyone about the IOP Residents Appreciation Day planned for Saturday, September 8<sup>th</sup> when residents will be able to enjoy the activities provided by Tidal Wave for free; he did note that parasailing was already booked up for the day. Donations will be encouraged since one hundred percent (100%) will go to the MUSC Shawn Jenkins Childrens Hospital.

Brian Berrigan, Marina Manager, announced that all of the marina tenants will be holding a Marina Festival on Sunday, November 4<sup>th</sup> from noon until 7:00 p.m. in partnership with the IOP Exchange Club and all residents are encouraged to attend. The money raised from the raffle items will go to a worthy cause.

Mr. Berrigan also recalled that in May or June the Committee asked that he compile a list of needed projects at the marina and the list was included in the meeting packet; he stated that some of the things on the list were already happening, for example, the replacement of the floats under the docks. He pointed out that, after each item, he had indicated the party responsible for the project, i.e. the tenant or the City or a combination of the two (2); he added the certain items marked tenant and City might be something the tenant would pay for, and the City would obtain the necessary permit(s). He also informed the Committee that the list was prioritized.

**5. Old Business**

**A. Consideration of Morgan Creek Grill lease renewal and extension**

When Councilmember Ferencz moved to recommend to City Council the acceptance of the Morgan Creek Grill lease as presented, it failed for lack of a second.

**MOTION: Councilmember Ferencz moved to recommend to City Council to open up the leases for Morgan Creek Grill and Tidal Wave Watersports for bid and to complete the process prior to the expiration of the current leases, i.e. within 2 years; Councilmember Ward seconded.**

Councilmember Ferencz questioned the need for discussion with Morgan Creek representatives when the Committee was recommending that the leases go out for bid, but Chair Bell opined that the Committee should listen to Morgan Creek's representatives explain their position on the lease.

Councilmember Ferencz and Councilmember Ward respectively withdrew the motion and second.

The Chair then suggested that Morgan Creek Grill representatives Jay Clark, restaurant owner, John Dodds, attorney, Peter Kent, CPA and Carla Pope, Operations Manager join the discussion.

Mr. Kent stated that the salient points of the lease were the same terms as the original lease for eighteen (18) years with five (5) three (3) year extensions; the lease proposed a reduction in the rent of ten thousand dollars (\$10,000) per month for the first two (2) years with an increase in year 3 by the CPI. He also stated that they have informed the City on numerous occasions about the condition of the walk-in freezer and that, according to their current lease, the walk-in freezer owns to the City; DHEC has examined the walk-in in recent months and "expressed grave concerns" about it. A local contractor has looked at it and concluded that the structural repairs are needed as well. He opined that, based on the DHEC report and the local contractor's comments, the walk-in freezer will not survive the lease that expires on October 1, 2020 and, likely, not through this fall. Also included in the proposed lease extension is that the restaurant will pay the upfront costs associated with replacing the walk-in, roughly one hundred ten thousand dollars (\$110,000) for a period of five (5) years, in exchange for rent abatement of two thousand eighty-eight dollars (\$2,088) per month for a period of five (5) years to cover that cost. The extended lease would be a triple-net lease where the tenant would be responsible for all repairs and maintenance to the building, taxes and insurance on the building and grounds; the City would remain responsible for the building's foundation, the bulkhead and retaining walls. He stated that a local appraiser has reviewed the property and the bulkhead, and then compared it to other local properties that are similar and determined that the lease as proposed is fair to both the City and the restaurant.

Mr. Kent stated that the restaurant's ability to borrow is being negatively impacted by the expiring lease, and the building is reaching a state of disrepair and requires constant attention, but the tenant cannot afford to make the repairs at this point.

Ms. Pope was clear that, with only two (2) years remaining on the lease and no extension, the management does not have the financial resources or the desire to keep up with the maintenance or to make improvements to the building. In the four plus (4+) years they have been seeking a lease extension from the City, several Councilmembers assured them that they would get a lease, but they never anticipated that it would be through an RFP. She also stated that, to the best of her knowledge, the other long-term lease extension was not put out for bid and that she did not think that MCG should be punished for actions Council took with other tenants. With the uncertainty surrounding the future of Morgan Creek Grill, she and Mr. Clarke are bombarded daily with concerns and questions from employees, residents, the bank and other patrons. She stressed that they are willing to negotiate the terms and cooperate with the City; she noted that, if terms were to be negotiated, they needed to begin soon in order to replace the walk-in freezer. The job to replace the freezer and correct the structural issues in the off-season would require a

six-week (6 wk.) lead time to get the equipment, and it will a strategic operation to avoid closing the restaurant and losing revenue for a period of time.

Mr. Clarke commented that Morgan Creek is a large building that requires constant maintenance and the time is coming when it will be unsustainable. He stated that they would not be able to wait out an RFP process, and he felt that it was very unfair for the City to go through that process when they have heard little discussion of it until recently. He again contended that "it was indicated to [them] so many times on record that Morgan Creek Grill would get a lease extension because the City wanted them as tenants." He stated that MCG has cooperated with the City on numerous occasions, not the least of which was the noise situation several years ago and which had a huge impact on their revenue.

Chair Bell recalled speaking out a Council meetings in the past "railing against awarding bids that [he] did not think were fair market value that put the City at financial disadvantage." He expressed empathy for MCG, but he thought that the solution to the walk-in freezer issue was not a long-term lease. He reiterated his opinion that, because of the other long-term lease, which he strongly opposes, the City loses money on the marina, i.e. it is a deficit spending program for the City. As Chair of the Committee he was trying to seek out all of the options for the City, and he encouraged Mr. Clarke to participate in the RFP process.

Chair Bell also stated that he learned from the Interim Administrator that the Committee/City was not compelled to accept the low bid.

Attorney Dodds commented that they have been meeting with the Real Property Committee for four (4) years in an effort to get the same considerations that were afforded another marina tenant, but, in his opinion, MCG was being singled out and was being treated differently since no RFP was needed to award those two (2) leases. He stated that he thought the difference in treatment was a violation of the Equal Protection Clause. He noted that the RFP process was a long one (1) and that they had decisions they needed to make.

As to the difference in treatment, Councilmember Ferencz explained that the long-term leases at the marina were given by a decision of a different Council and was one (1) of the decisions that cost them their Council seats. The present Council was elected to listen to and to act in favor of the residents.

Mr. Dodds stated that "the City of Isle of Palms, acting through its Council, is treating Morgan Creek differently than it has treated two (2) other marina tenants, and I [Mr. Dodds] would respectfully tell you that I don't think the you [the City] can argue the sentiment of a vote, which changed a couple of Councilmembers, as a legal basis to treat us [MCG] any differently than the other two (2) tenants."

Ms. Pope interjected that they were asking for a lease that was reasonable; she thought the number of years was reasonable and that the rent requests were reasonable. She opined that the Committee should consider the amount of revenue that MCG pays into the City via hospitality taxes, sales taxes, rent, etc., as well as the goodwill the restaurant creates for the City the proposed lease is reasonable. She asked for them to be told what the City wanted them, as a business, to do in order for the lease to be extended.

Mr. Clarke reported that the restaurant represented fifty-one percent (51%) of the marina revenue and are on one-sixth (1/6) of the footprint. He stated that the appraiser the restaurant hired was an objective third party. He expressed the belief that MCG has done everything it could think of

to be a good tenant and have cooperated at every single request from the City. He stated with confidence that the citizens want a restaurant at the marina; he thought MCG was doing a good job, but added that they could do better. He noted that the walk-in freezer was not the only problem and that the building needed a new roof because it leaks upstairs.

Chair Bell stated that he did not find the lease term in the proposed lease to be reasonable; he, therefore, asked Mr. Clarke if, internally, they had discussed a lesser term lease. He opined that this lease as presented would not be acceptable to anyone on the Committee; he noted that the wanted to add party boats off the docks. The Chair asked where the party-goers would park.

Ms. Pope repeated that MCG was willing to negotiate, and, if the party boats were an issue, they were willing to strike it out.

Mr. Clarke told the Committee that they had discussed a lesser term and they were willing to negotiate a compromise. He reported that they had presented the previous Real Property Committee with a list of on-going maintenance that needs to be done, and MCG could get a reasonable extension for them to do the work or the City could face those issues in two (2) years.

Mr. Dodds was pleased to hear some of the Committee's specific concerns so that they might present another lease that the Committee might find more acceptable. He indicated that Mr. Clarke was planning to invest a large sum of money into the building that would be to the City's benefit, and he thought that ten (10) years might be do-able.

Councilmember Ward said that he gets many phone calls whenever the City awards a sole source contract; residents perceive sole source contracts as Council giving an entity special treatment and not searching for the best deal for the City. He asked the Morgan Creek representatives if they would benefit from the City's putting out the RFP as soon as it could be generated.

Mr. Dodds reiterated that the restaurant wants the same considerations that were given to the other two (2) major tenants at the marina who were given long-term leases without the City issuing an RFP, and it looks and feels very unfair.

Chair Bell stated that he ran for office on the issues at the marina; he opined that the previous Council took the marina from the residents of the island and commented on the number of businesses operating at the marina. He noted that every incumbent was voted out of office due to prior decisions; this Council feels an obligation to do things differently. He stated that he feels compelled to issue an RFP and that a good, long-standing tenant would "be given consideration over and above an unknown entity."

Mr. Clarke repeated that, for the restaurant, time was of the essence; he stated that MCG had been asked to delay bringing a proposal before the Committee until the fall, but the need to replace the walk-in freezer was immediate. He commented that the Real Property Committee has never come back to MCG with what they wanted or would require in order to grant an extension to the lease.

Referring to the need to replace the freezer, Chair Bell asked if it would be possible "to amend the current lease so that, when it expires, they would either have a new lease or the City would assume the responsibility for the balance of the payments."

Referring to Section 6 of the Morgan Creek Grill lease, Interim Administrator Fragoso read that they "are responsible for any and all repairs, maintenance and replacements for ordinary and

extraordinary.” She continued that one (1) of the exhibits attached to the lease does list the walk-in freezer as a City asset, but, according to the lease, MCG is responsible for “all maintenance, repairs and replacements.” This has been the City’s position for a long time. She suggested that the City might benefit in getting an independent assessment of the freezer to see if repairs could be made that would repair it temporarily and sustain it for two (2) additional years assuming that the will of Council is to go out to bid on these two (2) leases. Doing that would keep the restaurant operating and would give the City time to issue the RFP.

Chair Bell confirmed that the building has sustained structural damage under the walk-in freezer.

Ms. Pope stated that they have maintained the walk-in, but it is past its life expectancy. Mr. Clarke said that they have made temporary structural repairs to the building as well.

When asked if the City could do anything for MCG, Interim Administrator Fragoso stated that she would need time to discuss the issue with the City staff to see what options would be open to the City and with the City Attorney to insure that anything the City might do would not jeopardize other City agreements.

The Chair reported that the City has not spent or fully allocated the two hundred fifty thousand dollars (\$250,000) in the FY19 budget for marina improvements, but he was not advocating for spending one hundred ten thousand dollars (\$110,000) to replace the freezer. He indicated that he would support a time-based payment plan similar to what the City is doing on the fire truck.

The Interim Administrator clarified that the two hundred fifty thousand dollars (\$250,000) were earmarked for marina dock improvements, but she assured the Chair that they would consider his suggestion. She also explained that anything the City would do would be an unbudgeted expense.

Councilmember Ferencz expressed sympathy with the level of frustration the people from Morgan Creek Grill must feel and thought that they deserved to know the City’s intentions for the restaurant. She asked her fellow Committee members if they wanted to present to City Council to accept an extension of the lease as negotiated and with other changes or to present to Council that the Committee wants to take this time to go out with an RFP and expedite that process so that MCG would know their future.

The Chair expressed that he would not be opposed the City negotiating a lease with terms that were acceptable to the City and turn the negotiating over to the administrative staff. He stated that he was also not opposed to putting the question of a lease extension before Council; he remarked that a lot of time could be devoted to a negotiation and Council could say that they were not moving forward on the extension without a bid.

Interim Administrator Fragoso expressed her understanding of the discussion as being that the Committee wanted to get the opinion of the full Council before any work is done by staff in terms of negotiating a contract. She stated that the Committee could wait until the end of the month for the regular Council meeting or present the issue to the Ways and Means Committee or hold a Special Meeting with only this item on the Agenda. Council would be sent the proposal as presented and make a decision about whether they want to negotiate it or if the will of the group was to issue an RFP; the Special Meeting would be the most time-efficient way to move forward.

Councilmember Ward asked what the minimum lease terms were that the bank would prefer.

Mr. Kent thought they were looking for a term of fifteen (15) years based on some of the major work they would be doing, i.e. replace the walk-in freezer, replace the roof, and much more.

Chair Bell changed Councilmember Ward's question to what was the minimum term they would accept.

Mr. Clarke said that they considered all of the issues in preparing the lease proposal before the Committee, and it was the best proposal in the City's interests and the restaurant's interests. He added that some things could be negotiated, but those were the typical terms; he stated that Mr. Kent had several other restaurants as clients and that the Committee might find it valuable to read Mr. Guerry's report. He liked the idea of a Special Meeting because, as a restaurant, they need to know as soon as possible. He expressed concern that DHEC would close the restaurant if the walk-in was not replaced soon; if that happens, they will lose employees and would have to close to do that work. He also felt confident that the walk-in was still listed as a City asset.

The Chair said that the issue of their lease would be on the Ways and Means Agenda for September 18<sup>th</sup> at 5:00 p.m.

**B. Update on unlicensed businesses operating out of the IOP Marina with no lease with City or Marina Manager**

Interim Administrator Fragoso stated that she does not have an update on this subject, but she is continuing discussions with the City Attorney.

**C. Update regarding 1100 Palm and right-of-way on Pavilion Drive**

The Interim Administrator reported that the City had completed a survey to delineate the right-of-way; upon receipt of the survey, the City sent a letter to SCDOT requesting a quit claim deed and plans to send the same request to The Beach Company. Once the City is in possession of both documents, she will present to the Committee the options the attorney has suggested.

**D. Update on Marina Operations**

Chair Bell believed that, looking at the marinas in its entirety, Council has a number of issues to address and citizens' concerns. He expressed appreciation for the updated numbers he received from the Marina Manager, but he still struggled with them. He continues to be convinced that an excessive number businesses operate out of the marina, but he believes that will be the situation until the marina manager provides some remuneration. By the City's eliminating marina parking on 41<sup>st</sup> Avenue and on Waterway Boulevard, the parking issues will only be exacerbated. A determination of who is using the marina, residents or non-residents, will provide the basis for Council's decisions about how much money it is willing to invest in it. The question is whether Council will be able to return some residential value to the residents or for Council to accept that the City is in the business of leasing commercial property to commercial entities.

Gray Taylor, Mr. Berrigan's attorney, stated that they had corrected the error in the information provided earlier, and he noted that the leases for the marina operation and the marina store run until 2045. He commented that the City, and particularly this Committee, continues to try to micro-manage these commercial leases and he stated that it had to stop. He said that he wished he could send the Committee the bill for answering the City's "interrogatories;" he remarked that he and Mr. Berrigan answered each and every question. Mr. Taylor told the Committee that the issue was not about resident versus non-resident use; he explained that the City has an obligation

as a landlord to do a lot of things under the lease. Mr. Berrigan has continued to provide pictures and reports since 2011, but nothing has been done. He said that the City must live up to its obligations.

Chair Bell replied that the City was entitled to all records and receipts as related to the profit generation at the marina, and City was entitled to the information under discussion and was entitled to come in on demand to inspect those records.

Councilmember Ward interrupted to say that the discussion should not continue without the City's legal counsel present.

Mr. Berrigan stated that the new launch data was sent to Interim Administrator Fragoso as a topic of conversation when he met with her to let her know exactly what went wrong with the classification of certain numbers. He was clear that it was not intended to become a part of the Real Property public record. He agreed that the City had the right to come in per the lease and that he was responsible for providing the City with the financial reports at the end of his fiscal year, which is the end of September. He stated that, if he had known that information was to become part of the record, he would have had his accountant in attendance today.

In explaining the problems with the numbers, Mr. Berrigan stated that, up until 2007 when he took over the store, all of the launch passes and parking ran through the dock office, and he offered the opportunity of selling launch passes to the previous owners and let them keep ten percent (10%), which they declined. When he took over the store, he instituted that program, but he did not itemize between parking resident and non-resident launches. He indicated that the issue never came until Chair Bell brought up last year. At the beginning of 2018, he added keys to the register that differentiated between parking resident and non-resident launches; however, at the end of the month when the report goes out it all gets lumped into parking. Marina Market writes Marina Joint Ventures a check for ninety percent (90%) of what they took in, and the Marina Market retains the ten percent (10%); she coded it to non-resident and it skewed the numbers and he did not catch the mistake in an effort to get it to the Interim Administrator quickly. He assured the Committee that the information would be correct when he turns in the year's final numbers.

With other major issues facing the City, Council intends to put choice points before the residents on how the City spends money going forward, and, if the residents do not support the investment of City funds into the marina, then the Committee was not likely to recommend spending significant funds at the marina.

Mr. Taylor said that the question was not one of desire but a question of the City's contractual obligation; an obligation it is not living up to at this point. That is the concern of the management of the marina; since 2011, the only thing that has been done at the marina is the rehabilitation of the bulkhead.

Prior to ending the discussion, Mr. Berrigan stated that he becomes quite irritated when he hears that the City awarded him a no-bid thirty (30) year lease, because records show that the marina management went out for bid many times over the years. He stated that he had seventeen (17) years remaining on his lease when Council voted 7 – 2 to extend it another thirteen (13) years for a total of thirty (30) years. In his extension, he took everything the City was to be responsible for relative to the store out of the lease and made them the lessee's responsibility, and he stated that, in the past three (3) years he has spent in excess of one hundred thousand dollars (\$100,000) on the store.



Councilmember Ferencz called a *point of order* to ask the other Committee members if the time had come when the City should contract for full audits of the four (4) major tenants at the marina.

Councilmember Ward responded that the answer was dependent on the terms of the leases.

Interim Administrator Fragoso noted that funds were identified in the FY19 budget for audits of the marina tenants.

**MOTION: Councilmember Ferencz moved to recommend to the Ways and Means Committee that the City contract with a firm to conduct an audit of all major entities at the marina; Chair Bell seconded and the motion PASSED UNANIMOUSLY.**

**6. New Business**

**A. Discussion of long-term vision for the IOP Marina**

At the request of the Chair, this discussion item will be on a future agenda.

**B. Consideration of proposal from Coastal Science and Engineering (CSE) for annual island-wide and post-project monitoring services from 2019 – 2023**

The Interim Administrator commented that Steven Traynum from CSE would be joining the discussion. She noted that a copy of the proposal for post-project and annual island-wide monitoring was included in the meeting packet; the proposal includes three (3) different activities. One (1) is for the post-project survey and sediment sampling that is required by the regulating agencies, annual reporting on the beach volume changes and nourishment performance, and compaction monitoring. The second activity is for the annual survey and monitoring of the entire shoreline that includes activities associated with post-storm surveying to assist with getting FEMA reimbursements.

An issue before the Committee is whether it wants to award a sole source contract for these activities. Interim Administrator Fragoso opined that the City would benefit with a sole source contract for the required post-project monitoring for the 2018 project due to their intimate knowledge of it.

The Committee agreed that the post-project monitoring was a continuation of the project and, therefore, should be a sole source award. They agreed to bid the monitoring of the entire shoreline and the non-project portion of the beach.

According to the Interim Administrator, the post-project monitoring is required for a period of five (5) years, and the proposal is for one hundred eighteen thousand one hundred eighty-two dollars (\$118,182). The amount budgeted is two hundred thousand dollars (\$200,000).

**MOTION: Chair Bell moved to award a sole source contract to CSE for the permit required monitoring of the 2018 project; Councilmember Ward seconded and the motion PASSED UNANIMOUSLY.**

After explaining CSE's role in more detail, Mr. Traynum reported that they were in the process of writing the report on the off-shore project and that it should be in Council's hands shortly. The contract for the dune vegetation was signed today, but they will wait to plant until the paths of

storms currently in the Atlantic are more defined. He also reported that CSE has six (6) interns from Delta University in The Netherlands who will come to the Isle of Palms for a couple of months studying things that are happening on the beach.

**C. Discussion of alternatives available to optimize the municipal parking lot on Pavilion Drive**

At the request of Councilmember Kinghorn, this item was added to the Agenda, and Chair Bell indicated that he thought it was worthy of consideration. Councilmember Kinghorn's suggestion was to issue a Request for Information to see what possibilities were available; it would not cost the City anything, would not be binding and could bring forward some good ideas.

Interim Administrator Fragoso recommended that the City should set general parameters it would accept.

**7. Miscellaneous Business**

All of the City's tenants were current in the rent obligations to the City.

Next Meeting Date: 4:00 p.m., Wednesday, October 3, 2018 in the Conference Room.

**8. Executive Session – not needed**

**9. Adjournment**

**MOTION: Councilmember Ferencz moved to adjourn the meeting at 5:28 p.m.; Councilmember Ward seconded and the motion PASSED UNANIMOUSLY.**

Respectfully submitted:

Marie Copeland  
City Clerk

## LUCIANO & KENT, LLC

*Certified Public Accountants*

7445 Cross County Road, Suite 9 · North Charleston, SC 29418  
(843) 552-1000 · (843) 767-3717

My name is Peter Kent. I am a local CPA and partner with Luciano & Kent LLC. Our firm has represented Morgan Creek Grill since its inception in 2002. I have been a CPA for 33 years, representing numerous businesses including several bars and restaurants.

I believe the members have been provided a copy of the proposed amended extension of the lease between the City and Barrier Isles, LLC DBA Morgan Creek Grill.

Salient parts of the lease are as follows:

- The proposed original lease term is for 18 years, with 5 additional 3-year terms.
- Proposed rent is \$10,000.00 per month for years 1-2, and then increasing in year 3 by the percentage increase in the consumer price index, published by the Department of Labor.
- We have notified the City on many occasions that the walk-in freezer is in a significant state of disrepair. Under our current lease the walk-in freezer was owned by the City.
- DHEC has looked at the walk-in within the last few months and expressed grave concerns.
- A local contractor has looked at it and it is his opinion that there are structural problems under the walk-in.
- We do not believe the walk-in will survive through the fall, let alone the remaining years of our current lease, which expires October 1, 2020.
- We have proposed under this amended extension to pay for the upfront cost to replace the walk-in freezer, by receiving an abatement of rent to cover the carrying cost of the debt in the amount of \$110,000.00 over a period of five years. This proposal for payment of upfront costs and abatement of rent was based on the advice and recommendation of several council members. Such abatement will result in a monthly rent reduction of \$2088.46 over the first 5 years.
- This proposed amended extension is a triple net lease which requires us to be responsible for all maintenance and repairs of the building, and for all taxes assessed on the building and its grounds, and for insurance required for the building and its grounds.
- As is customary with triple net leases, the City would remain responsible for the building's foundation, marine bulkheads, and retaining walls.

A local appraiser has reviewed the property and this amended extension in comparison to other local restaurants this size and has advised that this proposed extension is fair to both the City and Morgan Creek.

Our ability to borrow money at this point is negatively impacted by an expiring lease. A building this age and in its current state of disrepair requires constant attention, and we will not be able to afford to make the necessary repairs and improvements without a source of funds from borrowing.

I am available for any questions or comments and thank you for your time.

Regards,

Peter Kent  
Certified Public Accountant

State of South Carolina  
County of Charleston

Commercial Lease Agreement

This agreement ("this Lease") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between The City of Isle of Palms, SC ("Landlord") and Barrier Isles LLC, a South Carolina limited liability company, and its permitted assigns ("Tenant").

In consideration of the covenants and agreements of the respective parties herein contained, which are expressly agreed to by Landlord and Tenant, the parties hereto, for themselves and their respective successors and permitted assigns, hereby agree as follows:

1. LEASED PREMISES: PARKING

- A. Landlord by the presents hereby demises and let unto Tenant and Tenant hereby hires and leases from Landlord, that certain restaurant building and adjoining grounds, situated near the northeastern corner of the Isle of Palms Marina, an exact description of which is set forth on the map attached hereto and made a part hereof, labeled Exhibit 1 ("the Leased Premises")
- B. Tenant is allowed employee parking and excess customer parking in the Marina parking area.

2. INITIAL TERMS: RENEWALS

- A. The initial term of this Lease shall commence as of \_\_\_\_\_ 1, 2018 and end on \_\_\_\_\_, 2036.
- B. Tenant has the option to renew this lease for five (5) additional, consecutive three (3) year terms, covenants and conditions set forth in this lease. Each option to renew must be exercised by Tenant in writing in strict accordance with the notice provisions contained in Sections 23 of the Lease, at least ninety (90) days prior to the expiration of the preceding term. Tenant may not renew this Lease if Tenant is in default of any provision of this Lease at the time Tenant exercises the option or at the time of the commencement date of the renewal term.

3. RENT:

- A. During the initial term of this Lease and any renewal hereof, Tenant agrees to pay all monthly rent due hereunder to Landlord, or such agent of landlord as Landlord may from time to time designate in writing, payable in advance of the first day of each month commencing on \_\_\_\_\_ 1, 2018, or such earlier date as Tenant may conduct any sales at the Leased Premises, as follows:
- B. During the first two (2) years of the Lease, i.e., June 1, 2018 through May 31, 2020, Tenant shall pay to Landlord the monthly sum of \$10,000.00 commencing June 1, 2018 and on the first day of each month thereafter through May 1, 2020 ("Base Rent"). For the third year of the Lease and every third year thereafter, the monthly rent payable from Tenant to Landlord shall be an amount equal to the Base Rent plus a percentage increase equal to the percentage increase, if any, in the consumer price index for all urban consumers, U.S. City average, as published by the United States Department of Labor, Bureau of Labor Statistics ("Index"). If such Index is discontinued, then the parties agree to use the closest comparable measure of the effect of inflation provided, however, notwithstanding any change in the Index, the Base Rent shall never be lower than the amount paid for the preceding Lease year.

- C. If Landlord fails to receive any rental payment due under this lease within ten (10) days after the due date, a late charge of five (5%) percent of the rental amount shall be added to the rental and paid to landlord for each such late payment, and the same shall be treated as additional rent, due and payable with such rental payment.
- 4. SECURITY DEPOSIT: Landlord agrees to retain the initial Security Deposit in the sum of Ten Thousand and No/100 (\$10,000.00) Dollars paid by Tenant at the time the original Commercial Lease Agreement was executed on May 17, 2002 as security for the full and faithful performance by Tenant of all the terms of this Lease required to be performed by Tenant. This deposit, without interest, will be returned to Tenant after the expiration of this Lease provided that Tenant has fully and faithfully performed all of its terms and conditions.
- 5. USE OF THE LEASED PREMISES: COMPLIANCE WITH PPLICABLE LAWS
  - A. The Leased Premises and all improvements located thereon shall be used only as a full-service restaurant, which at Tenant's option may include the on-premise sale and consumption of alcoholic beverages, the sale of artwork, or clothing apparel or other gift shop items which carry Tenant's restaurant logo, lounge areas and carry out and delivery service. Except to extent that Tenant needs to close the restaurant for approved repairs or renovations, Tenant agrees to keep the restaurant open for business year-round, serving dinner at least five (5) days per week and during the tourist season (Memorial Day weekend through Labor Day weekend), serving lunch and dinner at least six (6) days per week. Provided, however, that if tenant is unable to make a profit serving lunch as a direct result of restrictions on excess customer parking at the Marina during lunch hours, Tenant agrees to give Landlord written notice thereof. Landlord shall have thirty (30) days from receipt of such notice to eliminate the restrictions on Tenants excess customer parking during lunch hours. If landlord does not eliminate such restrictions within said thirty (30) day period, then Tenant shall not be required to serve lunch until such restrictions are eliminated.
  - B. Tenant agrees that all activities conducted at the leased Premises by Tenant will at all time comply with all applicable federal, state and local laws, rules and regulations including all state and federal environmental laws, rules and regulations promulgated thereunder. Tenant agrees that Tenant has familiarized himself with Landlord's City Code of Ordinances including, but not limited to zoning, noise and parking regulations. Tenant acknowledges and agrees that Tenant's failure to comply strictly with all such applicable federal, state and local laws, rules and regulations will, at City's option, be deemed a material default by Tenant under this Lease. Provided, however, that nothing in this subsection is to be construed as modifying nor does it modify, Tenant's rights to cure any default as set forth in Section 16 of this Lease.
  - C. Tenant agrees to obtain and maintain all licenses and permits which are required for Tenant's operation of the Restaurant, construction of any alterations or improvements, and any other activities conducted by Tenant in connection therewith.
- 6. CONDITION AND MAINTENANCE OF THE PREMISES: Unless otherwise provided in this Lease, Tenant agrees to accept the Leased Premises in its present condition. Landlord makes no representation or warranties, either express or implied, regarding the condition of the Leased Premises or its fitness for any particular purpose. Except as otherwise expressly stated in this Lease, Tenant agrees that at all times during the term of this Lease and any renewals thereof, Tenant shall be responsible for any and all repairs, maintenance and replacement, both ordinary and extraordinary, at the Leased Premises and all of

it appurtenant systems, except to the extent of any damage covered and paid by Landlord casualty insurance carried pursuant to this Lease. Tenant agrees to keep the Leased Premises in a good, clean and safe order and repair and in good operating condition. All repairs, replacements and renovations shall be of good quality material and workmanship. Tenant's maintenance shall include but is not limited to, responsibility for garbage, trash or rubbish disposal in compliance with all applicable laws, rules and regulations prescribed from time to time. Tenant agrees to be responsible for litter control at the leased premises and to maintain the property free from trash, debris and other litter. Tenant agrees to keep the grounds of the leased premises in good condition and properly landscaped. Notwithstanding the foregoing, Landlord agrees to be responsible for any and all repairs, maintenance and replacement, both ordinary and extraordinary, which are necessary for the marina's bulkheads and retaining walls adjacent to the Leased Premises, and Tenant shall have no responsibility to maintain, repair or replace said bulkhead and retaining walls except for any damage caused by Tenant or Tenant's employees, invitees or licensees which is not covered and paid by Landlord's insurance carried hereunder. Further, notwithstanding any provision herein to the contrary, Landlord agrees to be solely responsible for any and all repairs, maintenance and replacements, both ordinary and extraordinary, which are necessary for the restaurant buildings' foundation, marina bulkheads and retaining walls adjacent to the Leased Premises. Tenant shall have no responsibility to maintain, repair or replace said foundations, bulkheads and retaining walls except for damage caused by Tenant or Tenant's employees, invitees or licensees which is not covered and paid by Landlord's insurance carrier.

7. **TAXES AND INSURANCE:** As additional rent, Tenant agrees to be responsible for payment of all real and personal property taxes assessed against the Leased Premises which accrue during the term of this lease, including the County of Charleston Waste Disposal Users Fee. All such payments shall be paid to Landlord with fifteen (15) days after Tenant's receipt of written notice thereof. Tenant also agrees to promptly reimburse Landlord for and Landlord agrees to maintain all premiums for flood, earthquake, fire and extended casualty, windstorm and hail insurance coverage in amounts not less than the appraised value of the building and any other improvements now or hereafter located on the Leased Premises. Tenant agrees to maintain comprehensive general liability insurance coverage on the Leased Premises including Dram Shop Act Liability in an amount not less than \$250,000.00 per person, \$1,000,000.00 per claim and \$100,000.00 per claim for property damage. All insurance coverage required to be maintained by Tenant hereunder shall be with companies reasonably approved by Landlord, who shall be named as an additional insured on all such policies.
8. **UTILITIES** Tenant agrees to be responsible for the payment of all telephone, electrical, water, sewer or other utility service to the Leased Premises, which accounts shall be in the name of the Tenant.
9. **NO ASSIGNMENT OR SUBLEASE:** Tenant agrees not to sublease or assign Tenant's interest in the Leased Premises or any part thereof, or to encumber same in any manner, without the prior written consent of Landlord, which consent shall not be unreasonably withheld. Notwithstanding any such consent by Landlord, Tenant agrees to remain personally liable for the full performance of all terms and conditions contained in this Lease to be performed by the Tenant.
10. **SUBORDINATION AND ATTORNMENT:** So long as Tenant is provided with a written non-disturbance agreement from all such holders, Tenant agrees that this Lease shall be subject and subordinate to any mortgage which Landlord may hereafter place upon the Leased Premises, and to all modifications thereto, and to all present and future advances made with respect to any such mortgage. If

Tenant is provided with such non-disturbance agreements, Tenant agrees to attorn to any mortgages and to any purchaser at a sale pursuant to foreclose thereof.

11. **RIGHT OF ENTRY BY LANDLORD OR LANDLORD'S AGENTS:** Tenant agrees to at all times during the term of this Lease permit inspection of the Leased Premises during reasonable business hours by Landlord or Landlord's Agents or representatives for any purpose. Tenant also agrees to fully cooperate with the present or any future environmental contamination remediation efforts at the Marina, including access to the Leased Premises as reasonably required by the Landlord.
12. **INDEMNIFICATION:** Tenant agrees to hold harmless and indemnify Landlord against any loss or damage, including attorney's fees and expenses, incurred as a result of any and all claims, demands, causes of action, suits, judgments, fines or penalties (including but not limited to all fees and expenses incurred as a result of death or injury to persons or for loss of or damage to property) arising out of or in connections with the use and occupancy of the Leased Premises by Tenant, it's agents, employees, invitees and licenses and excluding any such claims by Landlord or its employees, agents, invitees and licenses and excluding any such claims by Landlord's authorized users of the pedestrian access reserved to Landlord in Section 15 of this Lease. In the event of any such claims made or suits filed, Landlord agrees to give Tenant reasonable notice thereof, and Tenant shall have the right to defend or settle the same to the extent of its interest hereunder. Nothing contained in this Lease is to be construed as, nor does it create any obligation by Tenant to any person or entity other than the Landlord or it successors to make any payments or be responsible for any claims, demands, causes of action, suits, judgments, fines or penalties whatsoever.
13. **IMPROVEMENTS AND ALTERATIONS:** No alterations or improvements to the Leased Premises shall be made by Tenant without the prior written consent of Landlord. Unless otherwise agreed to in writing by Landlord, all alterations, additions or improvements made by the Tenant and all fixtures, including trade fixtures, installed by Tenant shall be performed or installed in a good and workmanlike manner and shall at the Landlord's option become the property of the Landlord at the expiration or other sooner termination of this Lease; provided, however, that Landlord has the right to require Tenant to remove all such modifications upon the termination of this Lease, at Tenant's expense. Tenant acknowledges that all property listed on Exhibit II, whether fixtures or movable personal property is owned by Landlord. Notwithstanding any provision contained in this Lease to the contrary, Tenant shall solely pay the cost to replace the walk-in freezer located at the Leased Premises. The replacement of the walk-in freezer by Tenant shall be done in a workmanlike manner and consistent with all applicable building codes. Notwithstanding the provisions of Section 3 of the Lease entitled "Rent" and in consideration of Tenant's replacement of the walk-in freezer located at the Leased Premises, Tenant shall receive an abatement of rent to cover the carrying cost of debt in the amount of \$110,000.00 over a period of five (5) years commencing \_\_\_\_\_ 1, 2018, i.e., the Base Rent due from Tenant to Landlord in accordance with Section 3 shall be reduced by the sum of \$2,088.46 per month commencing \_\_\_\_\_ 1, 2018 through \_\_\_\_\_ 1, 2023.
14. **DAMAGE OR DESTRUCTION:** If the Leased Premises are totally or partially damaged by fire or other casualty, Landlord agrees to repair or replace the damage at Landlord's expenses in such a manner as is reasonably determined by Landlord. Landlord agrees to complete such repairs or replacements with a commercially practicable period of time. There shall be no abatement of rent for a period of nine (9) months from the date of such damage. If such repairs or replacements are not completed by



Landlord within the said nine (9) month period, rent shall then abate to the extent Tenant does not have viable use of the Lease Premises.

15. **RESERVATION OF PEDESTRIAN INGRESS AND EGRESS TO DOCKS:** Throughout the entire term of this Lease, Landlord hereby expressly reserves unto itself, it's successors and assigns, it's invitees and licenses, and all authorized users of the Marina, a non-exclusive easement of pedestrian ingress and egress across and through the grounds of the Leased Premises for the purpose of access to the Marina Docks which are adjacent thereto.
16. **DEFAULT:** If Tenant defaults in the fulfillment of any of the covenants and conditions hereof, Landlord may, at Landlord's option, after ten (10) days prior to written notice to Tenant, make performance for Tenant and for that purpose advance such amounts as may be necessary. Any amount so advanced or any reasonable expense incurred or sum of money paid by Landlord by reason of failure of Tenant to comply with any covenant, agreement, obligation, or provision of this Lease, or in defending any action to which Landlord may be subjected by reason of any such failure shall be deemed to be additional rent for the Leased Premises and shall be due and payable to Landlord on demand. The acceptance by Landlord of any installment of fixed rent or any additional rent hereunder shall not be a waiver of Landlord's right to demand full payment of any additional rent then due and to hold Tenant in default under this lease.  
If Tenant defaults in the payment of rent when due and such default continues for a period of fifteen (15) days, or if Tenant defaults in the prompt performance of any of the other covenants herein, and such default continues for a period of thirty (30) days the Landlord may, in addition to any other rights or remedies, declare this Lease to be in default, retake possession of the Leased Premises, declare the full amount remaining rent for the balance of the term at once due and payable, re-let or sublet the premises at the risk of Tenant, or declare this Lease terminated for the balance of its term, all of which rights and remedies shall be cumulative. Notwithstanding anything hereinabove to the contrary, none of the above shall constitute an event of default unless, as to monetary defaults, it continues for a period of fifteen (15) days after written notice is given by Landlord to Tenant as set forth in Section 23 of this Lease, or, as to non-monetary defaults, it continues for a period of thirty (30) days after written notice is given by Landlord to tenant as set forth in Section 23 of this Lease; provided, however, that Landlord shall not be required to give Tenant written notice prior to declaring a default more than twice in any Lease Year.
17. **GOVERNING LAW: ENFORCEMENT:** This Lease shall be governed by the law of the State of South Carolina. If either party enforces the terms of this lease by legal proceedings, the prevailing party in such proceedings shall be entitled to reimbursement from the other party of all costs and expenses incurred by the prevailing party in connection therewith, including reasonable attorney's fees, at all trial and appellate levels.
18. **RIGHTS OF HEIRS AND ASSIGNS:** The covenants and agreements contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto, and their respective heirs, successors and permitted assigns.
19. **PARAGRAPH HEADINGS:** The paragraph headings as to the contents of particular paragraphs herein, are inserted only for convenience and are in no way to be construed to be part of such paragraph or as a limitation on the scope of the particular paragraph to which they refer.

20. **ADDITIONAL INSTRUMENTS:** The parties agree to execute and deliver any instruments in writing necessary to carry out any agreement, term condition or assurance in this Lease whenever occasion shall arise including the execution of a short form memorandum of Lease Agreement which may be recorded at the Charleston County RMC Office by Tenant at Tenant's sole expense.
21. **SURRENDER OF PREMISES:** Tenant agree to deliver all keys and to surrender the Leased Premises at the expiration or sooner termination of this Lease, or any extensions thereof, broom clean and in substantially the same condition as when said premises were delivered to Tenant, or as altered pursuant to the provisions of this Lease, reasonable wear and tear expected, and Tenant agrees to remove all of its personal property. Tenant agrees to pay a reasonable cleaning charge if necessary for Landlord to restore or cause to be restored the premises to a clean and orderly condition.
22. **WAIVER OF COVENANTS:** It is agreed that the waiver of any of the covenants of this Lease by either party shall be limited to the particular instance and shall not be deemed a waiver of any other breaches of such covenant or any other provision herein contained.
23. **NOTICE:** Any notices or demand required or permitted by law, or any provision of this Lease, shall be in writing, and shall be deemed to be received by Landlord when personally delivered to Landlord or three days (3) after same is deposited in the United States Mail, registered or certified, with return receipt requested, postage prepaid, and addressed to the Landlord, Attention: City Administrator, at Post Office Box 508, Isle of Palms, SC 29451, or at such other address as Landlord may hereafter designate in writing to Tenant. Any such notice or demand to be served upon the Tenant shall be in writing and shall be deemed to be received by Tenant when personally delivered to Tenant, or three (3) days after same is deposited in the United States Mail, registered or certified, with return receipt requested, postage prepaid and addressed to Tenant at 80 41<sup>st</sup> Avenue Isle of Palms, SC 29451 or at such other address as Tenant may hereafter designate in writing to Landlord.
24. **ENTIRE AGREEMENT:** This lease contains the entire understanding of the parties hereto. There are no oral understandings, terms or conditions and neither party has relied upon any representation by the other party, either express or implied, which are not contained in this Lease. All prior understandings, terms or conditions are deemed merged into this Lease. This Lease may be altered or amended only by an instrument in writing signed by both parties.
25. **DOCK USE BY TENANT'S PATRONS:** Landlord Agrees to reserve the dock space (the "Restaurant Dock") shown on Exhibit II attached hereto for the exclusive use of Tenant's patrons from June 1, 2018 to May 31, 2019. at which time Landlord has the option to relocate dock space for restaurant patrons to a comparable dock space within the marina. Tenant agrees to be responsible for payment of all property taxes assessed against the Restaurant Dock property which accrue during the time period for which the Restaurant Dock is reserved for the Tenant's exclusive use. Tenant agrees to prohibit overnight mooring of vessels at the Restaurant Dock other than for exceptional circumstances. Landlord agrees to be responsible for all repairs and maintenance at the Restaurant Dock which are not caused by the negligent or willful acts of Tenant or tenant's patrons. Tenant agrees to hold harmless and indemnify Landlord against any loss or damage, including attorney's fees and expenses, incurred as a result of any and all claims, demands, causes of action, suits, judgments, fines or penalties (including but not limited to all fees and expenses incurred as a result of death or injury to persons or for loss of or damage to property) arising out of or in connection with the use of the Restaurant Dock by Tenants, its agents, employees,

licensees, or invitees except to the extent caused by the fault or neglect of Landlord or its employees, agents, invitees and licensees.

26. BOAT CRUISES: Tenant is allowed to host boat cruises which embark from the Restaurant dock so long as all such cruises are conducted in accordance with all governmental laws, rules and regulations and vehicular parking for such cruises does not materially interfere with the operations of Landlord's Marina Operations Tenant.

27. NOTICE REGARDING ISSUES AFFECTING TENANT: Landlord shall provide Tenant at least forty-eight (48) hours prior written notice of any meetings and/or other action by Landlord or any of the Marina tenants of which Landlord has knowledge which materially affects the operation of Tenant's business at the Leased Premises.

IN WITNESS WHEREOF, Landlord and Tenant have caused this Lease Agreement to be duly executed, sealed and delivered, by and through their undersigned authorized representatives, as of the date stated above.

WITNESS:

LANDLORD

The City of Isle of Palms

By: \_\_\_\_\_  
Jimmy Carroll, Mayor

TENANT

Barrier Isles, LLC

By: \_\_\_\_\_  
James P. Clarke, Member



# Health Dept Inspection

## Morgan Creek Grill

Jan 10, 2018

### Retail Food Establishment Inspection Report

Facility Information		Audit Information	
Permit:	10-206-04247	Audit Name:	Retail Food Establishment Inspection Report
Facility Name:	MORGAN CREEK GRILL	Audit Type:	10_Routine Inspection
Address:	80 41ST AVENUE	Start Date:	10 Jan 2018 01:00 PM
Facility Service (Full/Limited):	F	End Date:	10 Jan 2018 03:45 PM
City/State/Zip:	ISLE OF PALMS, SC 294510000 CHARLESTON	Inspector:	Jessica Reed
Contact Name:	Chef Ian		

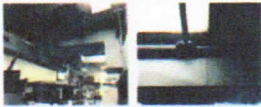
Overall Score  
89%

### Foodborne Illness Risk Factors & Interventions and Good Retail Practices

Item	Answer	Points Current	Points to Total
1. PIC Present, Demonstration - Certification by accredited program, and Performs duties. <b>Comments</b> <ul style="list-style-type: none"> <li>** Consecutive Violation ** 2-102.11 - Demonstration (Priority Foundation Violation) - Advised the PIC of the multiple Priority violations that were out of compliance.</li> <li>** Consecutive Violation **</li> <li>If the violation identified as consecutive is observed on the next inspection, the facility may be referred to the Enforcement Section. Two or more priority violations were found to be out of compliance during inspection. Not corrected. Verification required.</li> </ul>	Out	0	2
2. Management and food employee knowledge, and conditional employee; responsibilities and reporting. <b>Comments</b> <ul style="list-style-type: none"> <li>Non-Violation Notes</li> <li>2-103.11(O) - Policy / References observed for employee health exclusion, restriction and reinstatement.</li> </ul>	In	2	2
3. Proper use of reporting, restriction and exclusion	In	2	2
4. Proper eating, tasting, drinking, or tobacco use	In	2	2
5. No discharge from eyes, nose, and mouth	In	2	2
6. Hands clean and properly washed	In	4	4
7. No bare hand contact with RTE foods <b>Comments</b> <ul style="list-style-type: none"> <li>Non-Violation Notes</li> <li>Employees are handling ready to eat foods with single use gloves and/or utensils.</li> </ul>	In	3	3
8. Handwashing sinks, properly supplied and accessible <b>Comments</b> <ul style="list-style-type: none"> <li>Non-Violation Notes</li> <li>All hand washing stations supplied with soap and paper towels.</li> </ul>	In	2	2
9. Food obtained from approved source	In	2	2
10. Food received at proper temperature	Not Observed	2	2
11. Food in good condition, safe and unadulterated	In	2	2
12. Required records available: shellstock tags, parasite destruction <b>Comments</b> <ul style="list-style-type: none"> <li>Non-Violation Notes</li> <li>Shellstock tags for oysters, mussels and clams are retained for 90 days. Date when last item is sold/consumed is indicated on the tags.</li> </ul>	In	2	2
13. Food separated and protected	In	3	3
14. Food-contact surfaces: cleaned and sanitized <b>Comments</b> <ul style="list-style-type: none"> <li>4-501.114 - Warewashing Equipment-Chemical Sanitization-Criteria (Priority Violation) - Advised PIC that warewashing equipment must operate according to manufacture's date plate or meet the criteria specified in 7-204.11.</li> <li>** Consecutive Violation ** 4-501.114 - Warewashing Equipment-Chemical Sanitization-Criteria (Priority Violation) - Advised PIC that warewashing equipment must operate according to manufacture's date plate or meet the criteria specified in 7-204.11. Second level kitchen: Kitchen: mechanical ware-washing: Low temperature chemical dish machine: no sanitizer registering. Chlorine 0ppm. Chlorine test tape used. Not corrected. Verification required.</li> <li>Non-Violation Notes</li> <li>First floor kitchen: Mechanical ware-washing: lowtemperature chemical dish machine: Wash 120 F, Rinse 120 F, Chlorine 50ppm. Chlorine test tape used.</li> </ul>	Out	0	3
15. Proper disposition of returned, previously served, reconditioned, and unsafe food	In	2	2
16. Proper cooking time and temperatures	Not Observed	3	3
17. Proper reheating procedures for hot holding	Not Observed	3	3
18. Proper cooling time and temperatures	Not Observed	3	3
19. Proper hot holding temperatures <b>Comments</b>	In	3	3

• Non-Violation Notes			
Kitchen: Steam-table: queso 170 F.			
20. Proper cold holding temperatures	Out	0	3
<b>Comments</b>			
• ** Consecutive Violation ** 3-501.16 (A2) - TCS Food-Cold Holding (Priority Violation) - Proper Holding Temperatures and Time as a Public Health Control Measure for Hot or Cold Food. - Provided and explained Fact Sheet - Time as a Public Health Control Measure for Hot or Cold Food.			
• ** Consecutive Violation **			
• If the violation identified as consecutive is observed on the next inspection, the facility may be referred to the Enforcement Section.			
First floor kitchen: Hoshizaki double-door cooler: diced tomatoes 46 F, butter 47 F, stuffed oysters 46 F, micro-greens 46 F.			
• Non-Violation Notes			
Lower level kitchen: Cookline: beverage-air cooler: Compound butter 40 F, sausage sweet potatoes 40 F.			
Walk-in cooler: diced tomatoes 39 F, ground beef 38 F, queso 39 F, salmon 40 F, oysters 40 F, flounder 40 F, scallops 39 F.			
Cooler: Beverage air cooler next to expo line: breaded fish 38 F, chicken, Cole slaw mix 39 F.			
Cookline cooler in front of oven-range: chicken 39 F, vegetable stock 39 F.			
Salad station: prep cooler: cut lettuce 38 F, diced tomatoes 38 F.			
21. Proper date marking and disposition	In	3	3
22. Time as a Public Health Control: procedures and records	Not Applicable	2	2
23. Consumer advisory provided for raw or undercooked foods	In	1	1
<b>Comments</b>			
• Non-Violation Notes			
• Disclosure Reminder Verified.			
24. Pasteurized foods used; prohibited foods not offered	Not Applicable	2	2
25. Food additives: approved and properly used	Not Applicable	2	2
26. Toxic substances properly identified, stored, and used	In	2	2
27. Compliance with variance, specialized process, reduced oxygen packaging criteria or HACCP plan	Not Applicable	2	2
28. Pasteurized eggs used where required	Not Applicable	1	1
29. Water and ice from approved source	In	2	2
30. Variance obtained for specialized processing methods	In	1	1
31. Proper cooling methods used; adequate equipment for temperature control	In	1	1
32. Plant food properly cooked for hot holding	In	1	1
33. Approved thawing methods used	In	1	1
34. Thermometers provided and accurate	In	1	1
<b>Comments</b>			
• Non-Violation Notes			
Probe thermometer provided. Ambient air thermometers provided in all cooler units.			
35. Food properly labeled: original container	In	1	1
36. Insects and rodents not present; no unauthorized animals	Out	0	2
<b>Comments</b>			
• 6-501.111 - Controlling Pests (Priority Foundation Violation) - Advised the PIC effective measures shall be taken to eliminate the presence of insects, rodents, and other pests.			
Kitchen: Lower level, cook line: Observed roach activity around cook line. Observed live roach activity behind cook-line. Not corrected. Verification required.			
37. Contamination prevented during food preparation, storage and display	In	2	2
38. Personal cleanliness	In	2	2
39. Wiping cloths: properly used and stored	In	1	1
40. Washing fruits and vegetables	In	1	1
41. In-use utensils: properly stored	In	1	1
42. Utensils, equipment and linens: properly stored, dried & handled	In	1	1
43. Single-use and single-service articles: properly stored and used	In	1	1
44. Gloves used properly	In	1	1
45. Equipment, food and non-food-contact surfaces approved; cleanable, properly designed, constructed and used	In	2	2
46. Warewashing facilities: installed, maintained and used; test strips	In	1	1
<b>Comments</b>			
• Non-Violation Notes			
Chemical test tape provided.			
47. Non-food-contact surfaces clean	In	1	1
48. Hot and cold water available; adequate pressure	In	2	2
49. Plumbing installed; proper backflow devices	In	2	2
50. Sewage and waste water properly disposed	In	2	2
51. Toilet facilities: properly constructed, supplied and cleaned	In	1	1
52. Garbage and refuse properly disposed; facilities maintained	In	1	1
53. Physical facilities installed, maintained and clean	Out	0	1
<b>Comments</b>			
• 6-101.11 - Surface Characteristics-Indoor Areas			
Walk-in cooler and freezer: Floors are in poor repair and are no longer easily cleanable.			
			
• 6-201.11 - Floors, Walls and Ceilings-Cleanability			
Floors, walls, and ceiling structures throughout the lower level kitchen are in poor repair and not maintained. No longer easily cleanable.			





- 6-501.11 - Repairing-Premises, Structures, Attachments, and Fixtures-Methods  
Kitchen: walls, ceiling, and floors throughout lower level are in poor repair.

54. Meets ventilation and lighting requirements; designated areas used	In	1	1
55. Chapter 8 - Meets all requirements of Chapter 8: Compliance & Enforcement	In	0	0
56. Chapter 9 - Meets all applicable requirements of Chapter 9: Standards for Additional Operations	In	1	1
<b>Totals</b>		<b>89</b>	<b>100</b>

## Temperature Observations

Item	Answer	Points Current	Points to Total
PRODUCT, PROCESS, LOCATION AND TEMPERATURE - Documented	Yes		
<b>Totals</b>			

## Inspection Report Information

### Comments:

Complaint investigated: ID #: 31888 verified.  
Preventative pest control services performed routinely in facility. Invoices provided.  
Technician repair cooler unit on site at time of inspection.

Item	Answer	Points Current	Points to Total
Facility Category	Category 3		
Grade Posted	A		
Is a Follow-Up required within 10 days?	Yes		
A Follow-up Inspection will be performed by the date indicated.	18 Jan 2018		
DHEC Contact Phone and Fax Number.	Low Country EQC McMillian - (843)-953-0150 Fax- (842)- 953-0151		
Violations may be subject to enforcement action and penalty. Information collected on this form is subject to public scrutiny or release as well as the Freedom of Information Act.	Notification	0	0
For fact sheets, the regulation, and additional information, please see <a href="http://www.scdhec.gov/food">www.scdhec.gov/food</a> .			
<b>Totals</b>			

Auditor Signature: Jessica Reed

Account Signature: Chef Ian



# Health Dept Reinspection

## Morgan Creek Grill

### Jan 18, 2018

#### Retail Food Establishment Inspection Report

Facility Information		Audit Information	
Permit:	10-206-04247	Audit Name:	Retail Food Establishment Inspection Report
Facility Name:	MORGAN CREEK GRILL	Audit Type:	15 Follow-Up Inspection
Address:	60 41ST AVENUE	Start Date:	18 Jan 2018 12:06 PM
Facility Service (Full/Limited):	F	End Date:	18 Jan 2018 12:37 PM
City/State/Zip:	ISLE OF PALMS, SC 294510000 CHARLESTON	Inspector:	Jessica Reed
Contact Name:	Chef Ian, Chef Kaman		

Overall Score  
100%

#### Foodborne Illness Risk Factors & Interventions and Good Retail Practices

Item	Answer	Points Current	Points to Total
1. PIC Present, Demonstration - Certification by accredited program, and Performs duties.	In	2	2
2. Management and food employee knowledge, and conditional employee; responsibilities and reporting.	In	2	2
Comments			
• Non-Violation Notes			
• 2-103.11(O) - Policy / References observed for employee health exclusion, restriction and reinstatement.			
3. Proper use of reporting, restriction and exclusion	In	2	2
4. Proper eating, tasting, drinking, or tobacco use	In	2	2
5. No discharge from eyes, nose, and mouth	In	2	2
6. Hands clean and properly washed	In	4	4
7. No bare hand contact with RTE foods	In	3	3
Comments			
• Non-Violation Notes			
Employee are handling ready to eat foods with single use gloves and/or utensils.			
8. Handwashing sinks, properly supplied and accessible	In	2	2
Comments			
• Non-Violation Notes			
All hand washing stations supplied with soap and paper towels.			
9. Food obtained from approved source	In	2	2
10. Food received at proper temperature	Not Observed	2	2
11. Food in good condition, safe and unadulterated	In	2	2
12. Required records available: shellstock tags, parasite destruction	In	2	2
Comments			
• Non-Violation Notes			
Shellstock tags for oysters, clams, plastic			
13. Food separated and protected	In	3	3
14. Food-contact surfaces: cleaned and sanitized	In	3	3
Comments			
• Non-Violation Notes			
First floor kitchen: Mechanical ware-washing: lowtemperature chemical dish machine: Wash 120 F, Rinse 120 F, Chlorine 50ppm. Chlorine test tape used. Bar, top, floor; Wash 120 F, rinse 120 F, Chlorine 50ppm. Chlorine test tape used.			
15. Proper disposition of returned, previously served, reconditioned, and unsafe food	In	2	2
16. Proper cooking time and temperatures	Not Observed	3	3
17. Proper reheating procedures for hot holding	Not Observed	3	3
18. Proper cooling time and temperatures	Not Observed	3	3
19. Proper hot holding temperatures	In	3	3
Comments			
• Non-Violation Notes			
Kitchen: Steam-table: quoso 170 F.			
20. Proper cold holding temperatures	In	3	3
Comments			
• Non-Violation Notes			
Kitchen: Reach-in cooler: Oysters 38 F.			
21. Proper date-marking and disposition	In	3	3
22. Time as a Public Health Control: procedures and records	Not Applicable	2	2
23. Consumer advisory provided for raw or undercooked foods	In	1	1
Comments			
• Non-Violation Notes			
Disclosure Reminder Verified.			
24. Pasteurized foods used; prohibited foods not offered	Not Applicable	2	2

25. Food additives: approved and properly used	Not Applicable	2	2
26. Toxic substances properly identified, stored, and used	In	2	2
27. Compliance with variance, specialized process, reduced oxygen packaging criteria or HACCP plan	Not Applicable	2	2
28. Pasteurized eggs used where required	Not Applicable	1	1
29. Water and ice from approved source	In	2	2
30. Variants obtained for specialized processing methods	In	1	1
31. Proper cooling methods used; adequate equipment for temperature control	In	1	1
32. Plant food properly cooked for hot holding	In	1	1
33. Approved thawing methods used	In	1	1
34. Thermometers provided and accurate	In	1	1
Comments			
• Non-Violation Notes			
Probe thermometer provided. Ambient air thermometers provided in all cooler units.			
35. Food properly labeled: original container	In	1	1
36. Insects and rodents not present; no unauthorized animals	In	2	2
37. Contamination prevented during food preparation, storage and display	In	2	2
38. Personal cleanliness	In	2	2
39. Wiping cloths properly used and stored	In	1	1
40. Washing fruits and vegetables	In	1	1
41. In-use utensils: properly stored	In	1	1
42. Utensils, equipment and linens: properly stored, dried & handled	In	1	1
43. Single-use and single-service articles, properly stored and used	In	1	1
44. Gloves used properly	In	1	1
45. Equipment, food and non-food-contact surfaces approved; cleanable, properly designed, constructed and used	In	2	2
46. Warewashing facilities: installed, maintained and used; test strips	In	1	1
Comments			
• Non-Violation Notes			
Chemical test tape provided			
47. Non-food-contact surfaces clean	In	1	1
48. Hot and cold water available: adequate pressure	In	2	2
49. Plumbing installed: proper backflow devices	In	2	2
50. Sewage and waste water properly disposed	In	2	2
51. Toilet facilities: properly constructed, supplied and cleaned	In	1	1
52. Garbage and refuse properly disposed: facilities maintained	In	1	1
53. Physical facilities installed, maintained and clean	In	1	1
Comments			
• Non-Violation Notes			
Plans submitted for walk-in cooler replacement.			
54. Meets ventilation and lighting requirements; designated areas used	In	1	1
55. Chapter 8 - Meets all requirements of Chapter 8: Compliance & Enforcement	In	0	0
56. Chapter 9 - Meets all applicable requirements of Chapter 9: Standards for Additional Operations	In	1	1
Totals		160	160

### Temperature Observations

Item	Answer	Points Current	Points to Total
PRODUCT, PROCESS, LOCATION AND TEMPERATURE - Documented	Yes		
Totals			

### Inspection Report Information

Item	Answer	Points Current	Points to Total
Facility Category	Category 3		
Grade Posted	A		
Is a Follow-Up required within 10 days?	No		
DHEC Contact Phone and Fax Number:	Low Country EGC McMillan - (843)-953-0150 Fax- (843)-953-0151		
Violations may be subject to enforcement action and penalty. Information collected on this form is subject to public scrutiny or release as well as the Freedom of Information Act.	Notification	0	0

For fact sheets, the regulation, and additional information, please see [www.scdhec.gov/fopsd](http://www.scdhec.gov/fopsd).

Totals			
Inspector Signature: Jessica Ryed	Account Signature: Chief Ian, Chief Korman		



47. Non-food contact surfaces clean
48. Hot and cold water available; adequate pressure
49. Plumbing installed; proper backflow devices
50. Sewage and waste water properly drained
51. Toilet facilities: properly constructed, supplied and cleaned
52. Garbage and refuse properly disposed; facilities maintained
53. Physical facilities installed, maintained and clean

#### Comments

- Non-violator Notes

Plans submitted for walk-in cooler replacement.

54. Meets ventilation and lighting requirements, designated areas used
55. Chapter 8 - Meets all requirements of Chapter 8: Compliance & Enforcement
56. Chapter 9 - Meets all applicable requirements of Chapter 9: Standards for Ad

Total

#### Temperature Observations

Ref

PRODUCT, PROCESS, LOCATION AND TEMPERATURE - Documented

## **MARINA PROJECTS/MAINTENANCE**

- \*REPLACE SOME DOCK FLOATS BEHIND MARINA MARKET-CITY**
- \*REPAIR APPROXIMATELY 45' FACE DOCK-CITY**
- \*REPAIR VOIDS IN BULKHEAD-CITY/MARTIN & SONS/JMT**
- \*HIRE PARKING CONSULTANTS-CITY/TENANTS**
- \*INSTALL ACCESS GATE-TENANT**
- \*REPLACE UST'S, SERVICE LINES, DOCK DISPENSERS AND HOSE REELS-CITY/B.I.G. GRANT**
- \*PAINT BULKHEAD-CITY**
- \*REPLACE MORGAN CREEK DOCKS, PILINGS, GANGWAYS, RUB RAILS, ELECTRICITY PEDESTALS, WATER/CABLE LINES, DOCK OFFICE, ETC.-CITY/B.I.G. GRANT**
- \*REPLACE COMMERCIAL ICE MACHINE IN MARKET-TENANT**
- \*REPAIR SUBFLOOR UNDER MARKET DELI-TENANTS**
- \*REPLACE SINK COUNTER WOMENS PUBLIC RESTROOMS-TENANT**
- \*REPLACE/REPAIR MARKET ROOF-TENANT**
- \*ALLEVIATE SEVERE DROP AT BOAT RAMP END-CITY/TENANT**
- \*REPLACE/UPGRADE BOAT RAMP-CITY/TENANT**
- \*MODIFY ICW DOCKS-CITY/TENANTS**
- \*REPLACE ICW ACCESS GATE-TENANTS**
- \*INSTALL PEDESTRIAN/BICYCLE PATH-CITY/TENANTS**
- \*ACQUIRE PORTION OF 41<sup>ST</sup> AVE FROM SCDOT-CITY/TENANT**
- \*CONVERT/PIPE DITCH ON 41<sup>ST</sup> AVE-CITY/TENANTS**
- \*REBUILD GREEN FENCE @ EMPLOYEE LOT-TIDALWAVE**
- \*REPLACE FENCE ALONG DEWEES MARINA PROPERTY LINE-CITY/TENANTS**
- \*RELOCATE SEWER PUMP STATION-CITY/TENANTS/IOP WATER & SEWER**
- \*RELOCATE ELECTRICITY BOXES-CITY/TENANTS/SCE&G**
- \*REPAIR DUMPSTER ENCLOSURE-TENANTS**



**\*INSTALL DUMPSTER ENCLOSURE MCG-TENANT**

**\*GRADE GRAVEL PARKING LOTS-TENANTS**

**\*REPAIR ASPHALT AND CONCRETE LOTS/DRIVES-CITY/TENANTS**

**\*RESTRIPE PARKING LOT-CITY/TENANTS**

**\*BURY ELECTRICAL LINES-CITY/SCE&G**

**\*DREDGE MORGAN CREEK AND MARINA ENTRANCE-CITY/WDYH/DEWEES/B.I.G.**

**\*PAINT S.U.P. HUT-TENANT**

## **MARINA PROJECTS/MAINTENANCE**

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**\*PAINT S.U.P. HUT-TENANT**

**Isle of Palms Marina  
Boat Launch**

**Jul-18**

Resident	\$	1,020
Non-Resident	\$	12,610
Parking	\$	5,238

**January - July 2018**

Resident	\$	7,748
Non-Resident	\$	43,710
Parking	\$	19,163

**January - July 2017**

Resident	\$	51,197
Non-Resident	\$	7,495
Parking	\$	5,202



## THE PROPOSAL — EXHIBIT A

[P2492]

### 2019–2023 Beach Condition Monitoring Isle of Palms (SC)

#### INTRODUCTION

This proposal is submitted at the request of the City of Isle of Palms (SC) for annual beach monitoring services following the recent completion of a beach nourishment project and conclusion of a previous monitoring agreement with the City. The proposed services follow successful completion of previous beach monitoring from 2009 to 2017. A portion of the work outlined in the present proposal will serve to satisfy special conditions of permit P/N 2016-00803, which authorized the recent beach nourishment project.

The 2018 beach restoration project at the northeastern end of the Isle of Palms added ~1,675,000 cubic yards (cy) of sand from offshore borrow areas to critically eroded sections of the beach between 56<sup>th</sup> Avenue and the 18<sup>th</sup> hole of the Links Course. The underlying cause of erosion near Dewees Inlet is related to the process of shoal bypassing, whereby large sand bars migrate onshore and attach to the beach. While this process adds new sand to the beach system near inlets, it also modifies wave patterns. Areas adjacent to the shoal-attachment point undergo focused erosion for periods of time. The 2018 project addressed large-scale erosion by importing sand from offshore and widening the beach up to 600 feet (ft) along portions of the island.

CSE has previously been retained by the City to complete post-nourishment monitoring of the project area as well as the downcoast areas of the Isle of Palms. CSE completed comprehensive surveys of the island and adjacent inlets every year between 2009 and 2017, including additional surveys following a 2008 nourishment project and hurricanes from 2015 to 2017. That monitoring provided yearly updates on the beach condition as well as guidance on expected future trends for project planning. It also served as pre-storm conditions for determining FEMA-eligible storm losses during declared disasters (Hurricanes *Joaquin*, *Matthew*, and *Irma*). The surveys allowed the City to receive \$2,725,000 in federal funds for use in construction of the 2018 project.

The present proposal covers the following engineering services required to provide five years of updated condition assessments for the beach at Isle of Palms. Proposed work includes:

- \*\*\*Annual surveys of the project area (53rd Avenue to Dewees Inlet).
- Annual surveys of the downcoast area of the island (Breach Inlet to 53rd Avenue).
- Annual surveys of the Dewees Inlet ebb-tidal delta.
- Annual surveys of the Breach Inlet ebb-tidal delta.
- \*\*\*Post-project surveys of the borrow area (Years 1, 3 and 5).
- \*\*\*Sediment sampling of the borrow area (Years 1, 3 and 5).
- \*\*\*Compaction monitoring (Years 1-3).
- \*\*\*Annual reports documenting beach volume changes and nourishment performance.

\*\*\* These tasks are required by permits for the 2018 project. Surveys of the project area are required in years 1-3 (2019-2021), while borrow area surveys and sediment analysis are required in years 1, 3 and 5 (2019, 2021, 2023). Reports documenting the results of the surveys/analysis are required to be submitted to regulatory agencies each year. In the cost proposal, CSE separates fees and expenses for permit-required tasks and additional tasks (encompassing the remainder of the island).

## **BASIC SERVICES**

References to the “Engineer” in the scope of services are to CSE as the project manager responsible to the City for the execution of the services proposed. Execution of the services by CSE includes completion of work as required to execute all aspects of the scope of services. References to the “City” refer to the City of Isle of Palms, a South Carolina municipality.



## **SCOPE OF SERVICES**

The scope of services proposed herein represents the basic services and is based on CSE's work to date for the City, experience on similar projects and project components, the scope of the project as defined by this proposal, and the regulatory requirements of agencies of the state of South Carolina and the federal government with jurisdiction over construction at the site. The following scope of services is proposed.

### **Task 1.0 Planning, Communication, and Liaison**

The planning task of the project will include coordination and meetings with City representatives to:

- Review the final plan.
- Develop schedules.
- Participate in public forums.
- Provide liaison with government agencies following the one-year post-project survey.
- Assist the City with communication and liaison.

Following authorization to proceed with the proposed scope of services:

- 1.1 CSE will meet or communicate with City representative(s) to clearly define the goals and objectives for the work.
- 1.2 CSE will work with the City to schedule monitoring surveys at a time which will not impact public events, etc. CSE will coordinate with public safety officials regarding beach access and nearshore hydrographic work.
- 1.2 CSE will assist the City in preparing periodic project summaries including display graphics for distribution to officials and the public by way of various mediums, including web sites, newspapers, or City newsletters.

## **Task 2.0 Annual Beach Condition Survey**

This task of the project will include condition surveys of the beach and inshore zone [to (~)–12 ft) depths]. These surveys will supplement previous field data by CSE and will be used for volume change analysis using similar reaches and boundaries as recent reports.

- 2.1 CSE will conduct annual condition surveys of the beach between Breach Inlet and Cedar Creek Spit (Deweese Inlet). The Engineer will occupy previously established profile lines (0+00 thru 370+00) and will obtain cross-sections from the foredune to (~)–12-ft depth contour or at least 1,500 ft from the baseline (3,000 ft in the project area per permit conditions). This survey will be compared with prior surveys and will document volume changes in the project area and downcoast areas. Nourishment volume remaining within the fill limits of the 2018 project will be computed to assess project performance.
- 2.2 CSE will obtain hydrographic data in the vicinity of Breach Inlet to be used in creation of a digital terrain model (DTM). The DTM will be used to monitor changes in the location of shoal and channels associated with the Breach Inlet ebb-tidal delta.

Through agreements with the City and others, CSE has collected ~15 complete surveys of the Dewees Inlet ebb-tidal delta. Shoals migrating from the delta to the beach are the source of sand that has contributed to the history of long-term accretion along Isle of Palms. Monitoring efforts between 2007 and 2017 revealed that large-scale channel migrations have a significant impact on the beach at Isle of Palms. To monitor these events and associated shoal bypass events, CSE will complete the following:

- 2.3 Hydrographic data will be collected over and around the Dewees Inlet ebb-tidal delta to monitor changes in the channels and shoals of the delta. Data will be used to create DTMs of the ebb-tidal delta. Shoal positions and estimated volumes will be described using contours generated from the DTMs. Shoal movement will be monitored and potential impacts to the Isle of Palms beach will be identified.
- 2.4 DTMs will be used to create regular profile sections through the Dewees Inlet channel and to monitor channel width and depth. Data will also be incorporated into color contour models and combined with existing models to provide an animation of shoal movement.

### **Task 3.0 Borrow Area Surveys and Sediment Analysis**

Per conditions of the project permits, monitoring of the borrow area is required to document infilling rates and sediment characteristics of the infilled material. Bathymetric surveys and analysis of surficial sediment samples are required by permits in Years 1, 3 and 5 post-project (2019, 2021, and 2023).

- 3.1 CSE will survey the 2018 borrow areas using the same survey lines as were completed in the post-dredging survey. Survey lines will be spaced at 100-ft intervals and will extend a minimum of 400 ft beyond the borrow area limits to account for potential changes in the slopes of the excavated area. Surveys will be completed using RTK-GPS linked to a precision ODOM echosounder with motion compensation. Using GIS-software to develop 3–D models of the borrow areas, data will be analyzed and compared with prior surveys. Infilling rates will be calculated per permit requirements. Cross-section maps comparing model surfaces from each survey will be generated and included in annual reports submitted to permitting agencies.
- 3.2 Sediment samples will be collected within the borrow area to determine the character of the seafloor material as the borrow area infills over time. CSE will collect ten (10) sediment samples at random locations within the excavation limits and process the samples for grain-size distribution, shell content, and mud content. CSE will produce data tables listing the results and compare the findings with pre- and post-project samples.

### **Task 4.0 Aerial Photography**

- 4.1 Oblique aerial imagery will be collected annually of the beach and shoals at low tide. Imagery will be used to offer visual depictions of the beach condition, dune condition, and shoal locations. Imagery will be placed side-by-side with historical images to offer easy-to-see comparisons of the present beach condition with historical conditions.

## **Task 5.0 Annual Monitoring Report and Presentation**

5.1 CSE will assemble results of each annual monitoring effort into a comprehensive technical report, similar to monitoring reports provided to the City under the previous monitoring agreement. Reports will document beach volume changes, changes in shoal positions and associated impacts, dune condition, and potential concerns. Permit compliance measures will be identified and data necessary to include for regulatory agencies will be included. The remaining volume of nourishment associated with the 2018 project will be described, and erosional hotspots will be identified. Reports will be submitted to the City in hard copy and digital copy. CSE will make available digital photos obtained in the monitoring effort for the City's use.

In the event the City wishes for CSE only to complete the tasks required by project permits, CSE will only complete the work for the permit-related reporting. In years 1 and 3, this includes results from the surveys in the project area and borrow area analysis. In year 2, this only includes beach surveys. In year 5, only borrow area analysis is required.

5.2 At the request of the City, CSE will present the findings of the report to City Council or other committee. CSE will prepare a brief summary of the findings and prepare a short Powerpoint® presentation to provide a visual summary for Council.

## **ADDITIONAL SERVICES**

The work described in the scope of services (paragraphs 1.1 through 5.2) does not include work in the following categories. Work in these categories or other services requested by the City will be considered additional services.

If the City wishes CSE to perform any of the following additional services, the City shall so instruct CSE in writing and the Engineer will perform or obtain from others such services and will be paid therefore as provided in the Agreement for Professional Services between the City and the Engineer.

- Services resulting from significant changes in the general scope, extent or character of the project, or major changes in the documentation previously accepted by the City where changes are due to causes beyond CSE's control.
- Providing renderings or models outside of what is presented in Tasks 1–5.
- Detailed consideration of operations, maintenance and overhead expenses; value engineering; and the preparation of rate schedules, earnings and expense statements, cash flow and economic evaluations, feasibility studies, appraisals and valuations.
- Furnishing the services of environmental scientists, biologists, fisheries scientists, chemical analysis laboratories or other specialized scientific testing, evaluations or services not specifically included in the scope of services.
- Geotechnical engineering studies including sediment sampling, borings, and reports not specifically included in the scope of services.
- Preparing to serve or serving as a consultant or witness in any litigation, arbitration, or other legal or administrative proceeding except where required by the scope of services.
- Services of the independent cost estimator shall be additional services.

## **ADD-ON SERVICES**

In the event the City requires any additional surveys for pre-/post-storm assessments or other reasons, CSE will complete a comprehensive survey of the island using the same scope and methods as outlined in Task 2 (cumulative for permit-required and non-permit required). Fees and expenses for additional surveys will be the same as Task 2 costs shown in Table A. A brief letter report will be prepared that will summarize volume changes from the previous survey.



## PROJECT SCHEDULE

The preliminary schedule proposed is based on a start date of 1 September 2018 for the services proposed herein. The schedule may be modified at the direction of the City. If the City chooses to conduct additional beach improvement efforts, CSE will alter the schedule as necessary to allow the island-wide monitoring to assist in those efforts. Reports will contain only the analysis required by the City in the event the non-permit required work is completed by a separate company.

<u>Date</u>	<u>Task#</u>	<u>Description</u>
January 2019	1	Initiate work under present proposal / finalize plan with the City
Spring 2019	2–4	Condition survey (Year 1)
Fall 2019	5	2019 report (Year 1)
Spring 2020–2023	2–4	Years 2–5 Condition survey
Fall 2020–2023	5	Years 2–5 reports

## PROPOSED BUDGET

Table A provides an itemized budget estimate for CSE’s services for Tasks 1–5 as outlined herein. CSE agrees to perform the services on a time-and-expense basis according to the enclosed fee schedule. Fees are separated by permit required tasks (which includes beach surveys of the area between 53<sup>rd</sup> Avenue and the Links Course, compaction, and borrow area surveys) and non-permit required tasks (beach surveys of the remainder of the island and aerial photography). CSE prefers to enter into a multi-year agreement; however, should the City need to commit to year-by-year services, the budget described below will be applied on a per-year basis. Should City officials require additional services, CSE will provide a quote prior to performing the work. Reimbursables will be billed at cost. CSE reserves the right to request a modification in the budget in the event the budget estimates significantly underestimate the professional time requirements. CSE will endeavor to provide services as efficiently as possible while meeting the standards of professional practice required for the project.

**TABLE A.** Proposed fees and reimbursable expenses for additional services under Tasks 1–5.

Task #	Task Description	Permit Required Tasks (P)			Non-Permit Required Tasks (NP)			Year Total
		Task Fee	Direct Expenses	Total	Task Fee	Direct Expenses	Total	
1	Planning, Communication, Liaison	\$2,560	\$862	\$3,422	\$3,520	\$875	\$4,395	
2	Annual Beach Condition Survey	\$10,460	\$4,887	\$15,347	\$11,180	\$4,923	\$16,103	
3	Borrow Area Survey	\$9,900	\$5,352	\$15,252	\$0	\$0	\$0	
4	Aerial Photography	\$0	\$0	\$0	\$2,640	\$831	\$3,471	
5	Annual Report	\$4,880	\$494	\$5,374	\$5,780	\$773	\$6,553	
	2019 Tasks (P1-5, NP1-5)	\$27,800	\$11,594	\$39,394	\$23,120	\$7,400	\$30,520	\$69,914
	2020 Tasks (P1,2,5; NP1-5)	\$17,900	\$6,242	\$24,142	\$23,120	\$7,400	\$30,520	\$54,662
	2021 Tasks (P1-5, NP1-5)	\$27,800	\$11,594	\$39,394	\$23,120	\$7,400	\$30,520	\$69,914
	2022 Tasks (P2,5;NP1-5)*	\$0	\$0	\$0	\$41,020	\$13,642	\$54,662	\$54,662
	2023 Tasks (P2,3,5, NP1-5)*	\$9,900	\$5,352	\$15,252	\$41,020	\$13,642	\$54,662	\$69,914
	<b>Project Total</b>	<b>\$83,400</b>	<b>\$34,782</b>	<b>\$118,182</b>	<b>\$151,400</b>	<b>\$49,484</b>	<b>\$200,884</b>	<b>\$319,066</b>
*Fees for the project area are included in the Non-Permit Required Tasks for 2022 and 2023 as beach surveys are not required in years 4 and 5								
<b>Add-on Comprehensive Survey &amp; Summary Letter (Optional as Required)</b>				<b>\$31,449</b>				



## FEE SCHEDULE

*[Effective through 31 December 2023]*

The fee for CSE’s services will be based on the charges listed below. All fee quotations are estimates, and actual fees are based on actual time and expenses incurred by CSE unless otherwise stated in the proposal. All rates are listed in U.S. dollars.

Fees by task are based on estimated numbers of person-days to accomplish the scope of services detailed herein. In-office expenses include communication, copying, insurance (etc), and are charged as a percentage of fees rather than separate itemization. Direct expenses include travel (standard U.S. government mileage rate), lodging and per diem, 4-by-4 beach vehicle rental at \$120/day, survey boat rental at \$500/day, RTK-GPS rental at \$400/day, fuel and dockage at cost, sediment testing at \$60/sample, and field supplies at cost.

PERSONNEL	Staff Category	Hourly Rate
	Principal	160.00
	Coastal Engineer/Project Manager	120.00
	Sr Technical Associate/Coastal Scientist	90.00
	Technical Staff (CAD)	85.00
	Tech–Field Assistants and Admin	65.00

**Type of Contract Desired:** Time and expense for the above-described services at a total not to exceed three hundred nineteen thousand, sixty six dollars (\$319,066) over five years according to Table A.

**Billing Schedule:** CSE will invoice monthly for services performed the prior month with itemization of direct expenses. Invoices will be pro-rated according to fees and expenses inside and outside the project limits. CSE reserves the right to transfer funds between tasks so as to accomplish the work in an expeditious manner, provided total cost of services does not exceed the indicated budget.