



# **The Town of Hilton Head Island**

## **Town Council Public Hearing/Special Meeting**

**June 13, 2017, 6:00 P.M.**

**BENJAMIN M. RACUSIN COUNCIL CHAMBERS**  
**AGENDA**

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

- 1. Call to Order**
- 2. Pledge to the Flag**
- 3. Invocation**
- 4. FOIA Compliance** - Public notification of this meeting has been published, posted and distributed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.
- 5. 6:00 P.M. PUBLIC HEARING ON THE MUNICIPAL BUDGET FOR FY2018**
- 6. Unfinished Business**

**a. Revised First Reading of Proposed Ordinance 2017-10**

Revised First Reading of Proposed Ordinance 2017-10 to raise revenue and adopt a budget for the Town of Hilton Head Island, South Carolina, for the Fiscal Year ending June 30, 2018; to establish a property tax levy; to establish funds; to establish a policy for acquisition of rights of way and easements; and providing for severability and an effective date.

**7. New Business**

**a. Hilton Head Public Service District Sewer Expansion Project**

Cost Reimbursement Agreement between Hilton Head Public Service District and the Town of Hilton Head Island, South Carolina for costs associated with the implementation of the Master Sewer Plan.

**b. First Reading of Proposed Ordinance 2017-11**

First Reading of Proposed Ordinance 2017-11 to Amend Title 10 Chapter 1 and Chapter 9, of the Municipal Code of the Town of Hilton Head Island, to increase Business License and EMS fees by fifteen percent (15%), as per the adopted Fiscal Year 2018 Budget, and to update and amend Sections of Title 10, Chapter 1 to conform with current practice, and providing for severability and effective date.

**c. First Reading of Proposed Ordinance 2017-13**

First Reading of Proposed Ordinance 2017-13 authorizing the issuance and sale of not to exceed \$28,500,000 General Obligation Bonds, in one or more Series, in one or more

years, with appropriate Series designations, of the Town of Hilton Head Island, South Carolina, fixing the form and certain details of which the Bonds; authorizing the Town Manager or his lawfully authorized designee to determine certain matters relating to the Bonds providing for the payment of the Bonds and the disposition of the proceeds thereof, other matters relating thereto, and providing for severability and effective date.

**d. First Reading of Proposed Ordinance 2017-14**

First Reading of Proposed Ordinance 2017-14 authorizing the issuance and sale of not exceeding \$32,000,000 Tax Increment Bonds, in one or more Series, with appropriate Series designations, of the Town of Hilton Head Island, South Carolina, for the purpose of paying the cost of certain redevelopment projects; delegating the authority to the Town Manager to determine certain matters with respect to the Bonds; prescribing the form and details of the Bonds, limiting the payment of the Bonds from the sources provided herein; providing for the disposition of the proceeds thereof, amending and restating Ordinance No. 2004-29, as previously amended, and confirming amendments to Ordinance No. 09-20, and other matters relating thereto.

**e. First Reading of Proposed Ordinance 2017-15**

First Reading of Proposed Ordinance 2017-15 providing for the issuance and sale of Town of Hilton Head Island, South Carolina, Special Obligation Bonds (Beach Preservation Fee Pledge), in one or more series, in the principal amount of not exceeding \$36,000,000; delegating the authority to the Town Manager to determine certain matters with respect to the Bonds, prescribing the form and details of such Bonds; other matters relating thereto; and providing for severability and an effective date.

**f. First Reading of Proposed Ordinance 2017-16**

First Reading of Proposed Ordinance 2017-16 authorizing the issuance and sale of not to exceed \$18,000,000 General Obligation Bonds, Taxable Series 2017A, or such other appropriate series designation, of the Town of Hilton Head Island, South Carolina, fixing the form and certain details of the Bonds; authorizing the Town manager or his lawfully authorized designee to determine certain matters relating to the Bonds; providing for the payment of the Bonds and the disposition of the proceeds thereof; and providing for severability and an effective date.

**8. Adjournment**



## **MEMORANDUM**

**TO:** Town Council

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

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

**DATE:** June 6, 2017

**RE:** **Revised First Reading of Proposed Ordinance No. 2017-10**

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### **Recommendation:**

Staff recommends Council approve revised first reading of Proposed Ordinance No. 2017-10. The ordinance establishes the fiscal year 2018 budgets for the General Fund, Capital Projects Fund, Debt Service Fund and Stormwater Fund.

### **Summary:**

The Town Manager presented the budget by title only on May 2. Town Council held a budget workshops on May 9<sup>th</sup> and May 16<sup>th</sup>.

The original proposed budget for the General Fund, Capital Projects Fund, Debt Service Fund was \$81,384,683. The revised proposed budget based on changes made during the budget workshops is \$81,443,036.

	Original Proposed Budget	Council Revised Budget
General Fund	\$ 40,283,683	\$ 40,319,036
Debt Service Fund	24,200,000	24,200,000
CIP	16,901,000	16,924,000
<b>Total</b>	<b>\$ 81,384,683</b>	<b>\$ 81,443,036</b>
Stormwater Fund	4,800,450	4,800,450

**Background:**

**The following changes were made to the budget:**

*General Fund*

- LRTA – increase by \$59,153; to fully fund requested amount
- Community Foundation – decrease of \$50,000; funds deferred to FY 2019
- Mitchelville Program – increase funding by \$10,000
- Solicitor’s Office – increase by \$85,000; to fully fund requested amount
- USCB Hospitality Program – decrease funding by \$35,000
- First Tee – reduce funding by \$50,000; no funds requested this fiscal year
- Update for Personnel expense adjustment – increase by \$16,200

*CIP*

- Add project: SHELTER COVE TO BCSO PATHWAY \$75,000
- Add project: SHELTER COVE INTERSECTION IMPRVMT \$125,000
- Reduce budget: DIRT ROAD ACQUISITION / PAVING (\$350,000)
- Remove budget: TOWN HALL REMODELING (\$25,000)
- Add project: FIRE HYDRANT EXPANSION \$100,000
- Increase budget: BEACH MANAGEMENT / MONITORING \$100,000
- Add project: BEACH DUNE FENCING & PLANTING \$300,000
- Increase budget: BEACH RENOURISHMENT \$250,000
- Reduce budget: RECREATION CENTER BUILDING UPFIT (\$391,000)
- Reduce budget: RECREATION CENTER CIP (\$161,000)

*Debt Service Fund; no change*

ORDINANCE NO. \_\_\_\_\_

PROPOSED ORDINANCE NO. 2017-10

**AN ORDINANCE TO RAISE REVENUE AND ADOPT A BUDGET FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, FOR THE FISCAL YEAR ENDING JUNE 30, 2018; TO ESTABLISH A PROPERTY TAX LEVY; TO ESTABLISH FUNDS; TO ESTABLISH A POLICY FOR ACQUISITION OF RIGHTS OF WAY AND EASEMENTS; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

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

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

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

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

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

**Section 1. Adoption of the Budget.** The prepared budget of estimated revenues and expenses, a copy of which is attached hereto and incorporated herein, is hereby adopted as the budget for the Town of Hilton Head Island for the fiscal year ending June 30, 2018.

**Section 2. Establishment of Property Tax Levy.** A tax to cover the period from July 1, 2017 through June 30, 2018, inclusive, for the sums and in the manner hereinafter mentioned, is and shall be, levied, collected and paid into the treasury of the Town of Hilton Head Island for its uses at a rate of mills on assessed value of real estate and personal property of every description owned in the Town of Hilton Head Island, except such property as is exempt from taxation under the Constitution and laws of the State of South Carolina. Said tax levy shall be paid into the Town Treasury for the credit of the Town of Hilton Head Island for its corporate purposes, for the purpose of paying current operational expenses of the said municipality 16.38 mills, Debt Service 6.14 mills, **Disaster Recovery (millage override) 5.00 mills**, and Capital Projects Fund .84 mills making the total levy of 28.36 mills.

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

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

**Section 5 Severability.** If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

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

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

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

ATTEST:

\_\_\_\_\_  
Krista Wiedmeyer, Town Clerk

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

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

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

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

APPROVED AS TO FORM:

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

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

# General Fund - FY 2018 Budget Summary

	2017						2018		
							% change		
	2013	2014	2015	2016	Adopted Budget	Estimated Actual	FY 2018 Budget	FY 2017 Budget	FY 2017 Est. Actual
<b>Revenues</b>									
Property Taxes	11,500,914	11,447,533	11,894,284	12,647,166	12,950,052	12,610,002	13,473,000	4%	7%
ATAx Local 1%	2,499,067	2,798,783	3,068,339	3,215,849	3,119,000	3,280,166	3,312,968	6%	1%
<b>Business Licenses:</b>									
Business Licenses - Town	3,388,636	3,428,367	3,941,652	3,866,698	3,987,000	3,905,365	4,620,576	16%	18%
Business Licenses - MASC	4,385,502	4,367,542	4,392,826	4,357,613	4,484,000	4,401,189	4,405,590	-2%	0%
<b>Franchise Fees:</b>									
Cable	763,434	817,454	848,708	890,697	875,000	908,511	926,681	6%	2%
Beach Fee	21,811	24,234	27,352	28,430	25,000	29,282	30,160	21%	3%
Recycling	150,324	135,231	-	-	-	-	-	0%	0%
<b>Permit Fees:</b>									
Construction	481,110	588,868	552,722	1,189,212	794,233	574,831	592,076	-25%	3%
Development	13,212	6,615	15,101	20,902	11,000	12,488	12,863	17%	3%
Other	873,843	782,456	813,023	829,456	815,000	830,000	838,300	3%	1%
Intergovernmental	800,659	805,027	812,085	812,322	812,000	812,000	812,000	0%	0%
<b>Grants:</b>									
Beaufort County - Hazmat	11,677	11,677	11,677	11,677	11,001	11,677	11,677	6%	0%
Beaufort County - E911	140,328	159,724	132,041	135,083	132,000	132,000	132,000	0%	0%
DHEC	84,817	3,990	-	-	4,000	10,666	5,000	25%	-53%
SLED	6,261	-	-	-	-	-	-	0%	0%
SC Regional	-	-	-	-	-	-	-	0%	0%
<b>Miscellaneous Revenue:</b>									
Beach Services	223,196	230,839	239,358	229,643	245,000	230,000	230,000	-6%	0%
Donations	155	273	2,429	146	500	200	200	-60%	0%
Municipal Court	261,776	224,217	198,948	210,243	190,000	220,000	220,000	16%	0%
Other	240,638	267,125	223,925	268,241	250,000	267,068	267,070	7%	0%
Public Safety - EMS	1,198,868	1,059,918	1,403,782	1,383,496	1,394,700	1,370,799	1,490,000	7%	9%
Public Safety - County D/T	53,758	55,103	55,721	53,781	55,000	53,424	54,000	-2%	1%
Town Codes	246	230	46	10	250	20	200	-20%	900%
Prior Year Funds	-	-	-	-	-	508,750	191,250	0%	-62%
Victim's Assistance	42,477	36,980	34,399	37,134	45,000	37,727	38,000	-16%	1%
<b>Transfers In:</b>									
EDC	-	-	-	-	-	-	-		
Beach Fees	981,705	1,111,138	1,111,138	1,111,138	1,111,138	1,111,138	1,361,138	22%	22%
CIP - Ad Valorem	-	-	-	1,413,000	453,000	453,000	453,000	0%	0%
CIP - Sunday Liquor	37,500	359,703	418,150	37,500	50,000	50,000	50,000	0%	0%
CIP - Land	-	-	594,000	986,752	175,000	175,000	175,000	0%	0%
Road Usage Fee	-	-	-	-	509,000	-	-	-100%	0%
Hospitality Fee	2,974,236	3,570,012	4,391,195	3,270,069	3,392,245	3,392,245	3,492,245	3%	3%
TIF	182,930	163,775	169,398	169,398	175,000	175,000	180,000	3%	3%
ATAx	1,178,148	1,270,356	1,338,188	1,596,057	1,347,181	1,365,900	1,565,900	16%	15%
Electric Franchise fee	82,551	63,600	311	87,878	90,000	90,000	90,000	0%	0%
Stormwater	236,131	74,258	94,258	94,258	95,000	95,000	125,000	32%	32%
Lease/Other	-	57,614	12,000	-	-	49,002	-	0%	0%
Dredging Reserve	-	-	-	-	-	-	600,000	0%	0%
Investments	2,732	2,662	2,347	2,454	2,700	2,444	2,500	-7%	2%
<b>Total Revenues</b>	<b>32,818,642</b>	<b>33,925,304</b>	<b>36,799,403</b>	<b>38,956,303</b>	<b>37,600,000</b>	<b>37,164,894</b>	<b>39,758,394</b>	<b>6%</b>	<b>7%</b>
<b>Increase/Decrease</b>		<b>1,106,662</b>	<b>2,874,099</b>	<b>2,156,900</b>	<b>(1,356,303)</b>	<b>(1,791,409)</b>	<b>2,593,500</b>		
<b>%</b>		<b>3.37%</b>	<b>8.47%</b>	<b>5.86%</b>	<b>-3.48%</b>	<b>-5.46%</b>	<b>6.98%</b>		



# General Fund - FY 2018 Budget Summary

	2017					2018			
	2013	2014	2015	2016	Adopted Budget	Estimated Actual	FY 2018 Budget	% change	
								FY 2017 Budget	FY 2017 Est. Actual
<b>Expenditures</b>									
<b>General Government:</b>									
Town Council	374,956	433,654	408,860	427,765	474,768	513,409	526,646	11%	3%
Town Council - Initiative	-	-	-	-	700,000	508,750	791,290	13%	56%
Town Manager	593,550	626,486	638,030	653,768	659,078	714,828	666,124	1%	0%
<b>Total General Government</b>	<b>968,506</b>	<b>1,060,140</b>	<b>1,046,890</b>	<b>1,081,533</b>	<b>1,833,846</b>	<b>1,736,987</b>	<b>1,984,060</b>	<b>8%</b>	<b>14%</b>
<b>Management Services:</b>									
<b>Finance</b>									
Administration	282,118	294,044	291,907	291,019	306,737	341,901	319,757	4%	-6%
Accounting	546,355	571,742	606,567	606,998	647,377	600,073	693,463	7%	16%
Revenue and Collections	677,526	676,924	606,206	604,859	871,726	636,684	844,274	-3%	33%
	1,505,999	1,542,710	1,504,680	1,502,876	1,825,840	1,578,658	1,857,494	2%	18%
<b>Administrative Services</b>									
Administrative Support	171,549	183,724	264,885	220,591	264,761	238,113	257,268	-3%	8%
Legal	379,626	457,520	495,858	465,729	535,611	496,757	545,918	2%	10%
Cultural Arts Network	-	-	-	-	-	-	182,853	100%	100%
Municipal Court	376,952	392,215	404,911	413,928	349,916	371,104	398,872	14%	7%
Operations	1,813,267	2,082,435	2,166,005	1,929,433	2,189,804	2,198,717	2,262,359	3%	3%
Human Resources	526,432	522,981	537,289	555,813	619,193	625,192	663,236	7%	6%
	3,267,826	3,638,875	3,868,948	3,585,494	3,959,285	3,929,883	4,310,506	9%	10%
<b>Total Management Services</b>	<b>4,773,825</b>	<b>5,181,585</b>	<b>5,373,628</b>	<b>5,088,370</b>	<b>5,785,125</b>	<b>5,508,541</b>	<b>6,168,000</b>	<b>7%</b>	<b>12%</b>
<b>Community Services:</b>									
<b>Community Development</b>									
Administration	562,957	541,552	469,752	479,077	538,871	568,926	513,950	-5%	-10%
Comprehensive Planning	366,299	466,352	518,454	520,792	546,189	490,931	704,285	29%	43%
Development, Review and Zoning	625,144	650,164	613,114	688,858	767,895	616,798	815,183	6%	32%
Building	664,599	636,045	653,044	754,959	759,673	589,591	726,381	-4%	23%
CD Services	274,917	287,875	303,408	329,021	355,020	348,391	376,894	6%	8%
	2,493,916	2,581,988	2,557,772	2,772,707	2,967,648	2,614,637	3,136,693	6%	20%
<b>Public Projects and Facilities</b>									
Administration	239,383	248,101	254,895	263,379	270,136	255,378	289,604	7%	13%
Engineering	723,366	577,277	924,937	923,622	1,198,577	1,168,811	1,071,992	-11%	-8%
Facilities Management	2,539,757	2,999,444	3,500,999	3,858,960	4,054,018	3,945,411	4,363,163	8%	11%
	3,502,506	3,824,822	4,680,831	5,045,961	5,522,731	5,369,600	5,724,759	4%	7%
<b>Total Community Services</b>	<b>5,996,422</b>	<b>6,406,810</b>	<b>7,238,603</b>	<b>7,818,668</b>	<b>8,490,379</b>	<b>7,984,237</b>	<b>8,861,452</b>	<b>4%</b>	<b>11%</b>

# General Fund - FY 2018 Budget Summary

	2017					2018			
	2013	2014	2015	2016	Adopted Budget	Estimated	FY 2018 Budget	% change	
						Actual		FY 2017 Budget	FY 2017 Est. Actual
<b>Public Safety:</b>									
<b>Fire Resuee</b>									
Administration	308,546	390,652	321,583	310,870	360,157	360,868	378,015	5%	5%
Operations	9,148,030	9,262,673	9,501,028	9,599,610	9,777,424	9,950,264	9,966,135	2%	0%
Fire Prevention	540,727	559,669	572,246	599,698	624,350	561,292	624,994	0%	11%
Fleet Maintenance	504,545	541,097	538,316	547,936	609,533	533,312	595,463	-2%	12%
Communications	1,136,446	1,089,587	1,108,894	1,067,697	1,154,362	1,075,758	1,160,990	1%	8%
Safety and Professional Development	701,681	698,039	713,425	726,861	741,294	731,745	654,358	-12%	-11%
Planning/EMS Training	-	-	197,348	204,384	209,284	115,538	322,784	54%	179%
Emergency Management	122,290	134,141	133,138	140,944	153,899	148,063	158,023	3%	7%
E911 Communications	238,152	246,373	257,640	284,155	300,807	294,819	234,439	-22%	-20%
Support Services	760,133	943,494	1,340,866	951,155	1,586,853	1,385,679	712,941	-55%	-49%
<b>Total Fire Resuee</b>	<b>13,460,550</b>	<b>13,865,725</b>	<b>14,684,484</b>	<b>14,433,310</b>	<b>15,517,963</b>	<b>15,157,338</b>	<b>14,808,142</b>	<b>-5%</b>	<b>-2%</b>
<b>Public Safety - Police Services</b>	<b>3,181,737</b>	<b>3,153,057</b>	<b>3,220,413</b>	<b>3,443,143</b>	<b>3,717,896</b>	<b>3,717,896</b>	<b>3,576,857</b>	<b>-4%</b>	<b>-4%</b>
<b>Townwide (non-departmental):</b>									
Personnel	123,581	136,366	214,044	167,142	443,609	479,117	351,010	-21%	-27%
Operating	1,364,548	1,403,298	1,380,034	1,402,856	1,866,443	1,382,252	2,217,980	19%	60%
Capital	-	28,349	41,635	30,012	32,000	32,000	789,000	2366%	2366%
Capital Equipment Lease	-	-	-	-	-	-	-	0%	0%
Transfers	-	-	-	986,752	-	-	-	-	-
Grants	1,459,304	1,958,302	2,285,747	2,780,166	1,926,382	2,822,425	1,562,535	-19%	-45%
<b>Total Townwide (non-departmental)</b>	<b>2,947,433</b>	<b>3,526,315</b>	<b>3,921,460</b>	<b>5,366,928</b>	<b>4,268,434</b>	<b>4,715,794</b>	<b>4,920,525</b>	<b>15%</b>	<b>4%</b>
<b>Total Expenditures</b>	<b>31,328,473</b>	<b>33,193,632</b>	<b>35,485,478</b>	<b>37,231,952</b>	<b>39,613,643</b>	<b>38,820,793</b>	<b>40,319,036</b>	<b>2%</b>	<b>4%</b>
<b>Net change in fund balances</b>	<b>1,490,169</b>	<b>731,672</b>	<b>1,313,925</b>	<b>1,724,351</b>	<b>(2,013,643)</b>	<b>(1,655,899)</b>	<b>(560,642)</b>	<b>0.00%</b>	
<b>Fund balance - beginning</b>	<b>15,813,557</b>	<b>17,303,726</b>	<b>18,035,398</b>	<b>19,349,323</b>	<b>21,073,674</b>	<b>21,073,674</b>	<b>19,417,775</b>		
<b>Fund balance - ending</b>	<b>17,303,726</b>	<b>18,035,398</b>	<b>19,349,323</b>	<b>21,073,674</b>	<b>19,060,031</b>	<b>19,417,775</b>	<b>18,857,133</b>		

## Debt Service Fund - FY 2018 Budget Summary

	2017						2018		
	2013	2014	2015	2016	Adopted Budget	Estimated Actual	FY 2018 Budget	% change	
								FY 2017 Budget	FY 2017 Est. Actual
<b>Revenues</b>									
Property Taxes	5,493,152	5,064,974	5,084,193	5,136,244	5,324,419	5,093,777	5,337,600	0.2%	4.8%
BABS Subsidy	189,634	171,155	168,051	163,656	169,870	169,870	169,870	0.0%	0.0%
Investment Income	76,527	57,136	37,374	36,913	38,801	36,000	36,000	-7.2%	0.0%
Reserve Restoration 5 mils	-	-	-	-	-	-	4,200,000	100.0%	100.0%
<b>Transfers In:</b>									
Beach Preservation Fees	3,113,645	3,106,277	4,381,225	2,531,437	3,336,913	2,536,913	5,986,288	79.4%	136.0%
Hospitality Fees	1,637,313	1,562,670	1,616,427	1,633,112	1,627,113	1,627,113	2,324,350	42.9%	42.9%
Tax Increment Financing	4,064,432	4,093,289	4,122,476	-	772,500	-	5,535,000	616.5%	0.0%
Real Estate Transfer Fees	2,152,296	2,169,797	2,269,578	2,243,681	2,237,884	1,875,913	2,260,263	1.0%	20.5%
Hospitality Tax Bond	1,061,140	-	-	-	-	-	-	0.0%	0.0%
Series 2013 GO Bonds	664,056	-	-	-	-	-	-	0.0%	0.0%
Lease Revenue	-	119,782	10,889	65,336	65,000	65,000	65,000	0.0%	0.0%
<b>Total Revenues</b>	<b>18,452,195</b>	<b>16,345,080</b>	<b>17,690,213</b>	<b>11,810,379</b>	<b>13,572,500</b>	<b>11,404,586</b>	<b>25,914,371</b>	90.9%	127.2%
<b>Expenditures</b>									
Administrative	23,625	17,025	11,024	11,025	38,790	38,790	40,000	3.1%	3.1%
Payment to Escrow Agent	-	-	-	-	25,000	-	50,000	100.0%	100.0%
Transfer to Beach Fees	-	-	1,900,110	-	-	-	-	0.0%	0.0%
Debt Issue Costs	-	-	-	-	750,000	-	750,000	0.0%	100.0%
Principal	11,645,000	12,950,000	12,995,000	7,420,000	7,680,000	8,040,000	7,595,000	-1.1%	-5.5%
Interest	4,265,011	4,080,573	3,702,272	3,278,425	5,078,710	2,062,870	15,765,000	210.4%	664.2%
<b>Total Expenditures</b>	<b>15,933,636</b>	<b>17,047,598</b>	<b>18,608,406</b>	<b>10,709,450</b>	<b>13,572,500</b>	<b>10,141,660</b>	<b>24,200,000</b>	78.3%	138.6%
<b>Net change in fund balances</b>	<b>2,518,559</b>	<b>(702,518)</b>	<b>(918,193)</b>	<b>1,100,929</b>	<b>-</b>	<b>1,262,926</b>	<b>1,714,371</b>		
<b>Fund balance - beginning</b>	<b>6,587,994</b>	<b>9,106,553</b>	<b>8,404,035</b>	<b>7,485,842</b>	<b>8,586,771</b>	<b>8,586,771</b>	<b>9,849,697</b>		
<b>Fund balance - ending</b>	<b>9,106,553</b>	<b>8,404,035</b>	<b>7,485,842</b>	<b>8,586,771</b>	<b>8,586,771</b>	<b>9,849,697</b>	<b>11,564,068</b>		

## Capital Improvement Program - FY 2018 Budget Summary

THOUSANDS OF DOLLARS													
FY 2018 Budget	FY 2018 Property Taxes	Beach Fee Transfer In	Beach Bond	GO Bond	Hospitality Tax Transfer In	TIF Bond	Sunday Liq. Permit Fees	Road Usage Fee	2018 COPS	Lease	Sale of Land		
PATHWAYS													
US 278-B (William Hilton Parkway) Shelter Cove Plaza to Beaufort County Sheriff's Office	75				75								
Pathway Accessibility & Safety Enhancement Projects	25				25								
TOTAL	100	-	-	-	100	-	-	-	-	-	-	-	-
ROADWAY IMPROVEMENTS													
Private Dirt Roads *	650							650					
Intersection Improvements at Shelter Cove Towne Center	125				125								
TOTAL	775	-	-	-	125	-	-	650	-	-	-	-	-
PARK DEVELOPMENT													
Parks Upgrades	300						300						
Cordillo Courts Upgrades	200						200						
TOTAL	500	-	-	-	-	-	500	-	-	-	-	-	-
EXISTING FACILITIES & INFRASTRUCTURE													
Rec Center Building Upfit	309				309								
Rec Center Pool Dome Replacement	316				316								
TOTAL	625	-	-	-	625	-	-	-	-	-	-	-	-
NEW FACILITIES & INFRASTRUCTURE													
Sewer Service Projects	2,526				2,526								
Fire Hydrant Expansion Project	100					100							
TOTAL	2,626	-	-	-	2,526	100	-	-	-	-	-	-	-
BEACH MAINTENANCE													
Beach Management & Monitoring	500		500										
Dune Fencing & Planting	300		300										
Beach Renourishment Project	7,750			7,750									
TOTAL	8,550	-	800	7,750		-	-	-	-	-	-	-	-
LAND													
Undefined Project / Legal Fees	20												20
TOTAL	20	-	-	-		-	-	-	-	-	-	-	20
OTHER CAPITAL EXPENDITURES													
Cost of Issuance	641			125	141		275			100			
Medic Unit, Specialty Vehicle, TIC replacement	2,085									2,085			
Rec Center CIP	109									109			
Other storm related projects not covered by FEMA	150									150			
Transfer to General Fund	743	453					50				65	175	
TOTAL	3,728	453	-	125	141	-	275	50	-	2,444	65	175	
TOTAL BUDGET BY FUNDING SOURCE													
TOTAL FY 2018 BUDGET	16,924	453	800	7,875	3,292	325	275	550	650	2,444	65	195	

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

**MEMORANDUM**

**TO:** Stephen G. Riley, ICMA-CM, Town Manager

**FROM:** Scott Liggett, PE, Director Public Projects & Facilities

**DATE:** June 7, 2017

**RE:** **Hilton Head Public Service District Sewer System Expansion Project – Reimbursement Agreement**

---

**Recommendation:** The Hilton Head Public Service District has presented the attached cost reimbursement agreement for the consideration of Town Council. The Public Facilities Committee has reviewed and recommends that Town Council authorize the Town Manager to execute the agreement.

**Summary:** The attached agreement is reflective of the Year 1 and Year 2 projects as previously approved by Town Council. However, please note the addition of the “Spanish Wells Road Sewer (west)” project to the program. The agreement, if executed would obligate the Town to pay to the District the following actual expenses associated with preliminary design, engineering, site work, construction and other costs for the Town’s Projects set forth in years one (1) and two (2) of the Sewer Plan:

a) Construction Cost:	\$4,792,782.00
b) Construction Contingency:	\$ 479,278.00
c) Design/Engineering Costs to Date:	\$ 253,615.00
d) Projected Design/Engineering Costs:	\$ 80,640.00

Total Construction and Design/Engineering for Years 1-2: **\$5,606,315.00**

The complete Year 1 through Year 5 list of projects to be funded by the Town along with updated cost estimates as provided by the District is provided via attachment.

**Background:** In 2015, Town Council established a cooperative 5 year program with the Hilton Head Public Service District to expand the sewer system within the District’s service area with the goal of providing sewer access to all that desired it. Funding for the program is included in the Capital Projects Fund of the Fiscal Year 2017 and 2018 adopted consolidated Municipal Budgets and is sourced to General Obligation Bonds yet to be issued by the Town.

**COST REIMBURSEMENT AGREEMENT BETWEEN HILTON HEAD PUBLIC SERVICE DISTRICT, AND THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA FOR COSTS ASSOCIATED WITH THE IMPLEMENTATION OF THE MASTER SEWER PLAN**

This Cost Reimbursement Agreement (“*Agreement*”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2017 between Hilton Head Public Service District (the “*District*”), and the Town of Hilton Head Island, South Carolina (the “*Town*” and together with the District, each a “*Party*” or acting collectively, the “*Parties*”).

WHEREAS, the District provides water and sewer service to the northern portion of the Town as well as Jenkins Island (the “*Service Area*”);

WHEREAS, approximately 95% of the customers in the Service Area have sewer service available to them;

WHEREAS, the Parties desire to make sewer service available to customers associated with approximately 900 parcels in the Service Area that do not currently have access to sewer service (the “*Unserved Customers*”);

WHEREAS, the District, in concert with the Town, introduced its 2015 Master Sewer Plan dated April 2015, the provisions of which establish a framework for making sewer service available to the Unserved Customers (the “*Sewer Plan*”);

WHEREAS, the Town has authorized and intends to appropriate funds toward the Sewer Plan to defray the costs constructing sewer force mains necessary to make sewer service available to approximately 500 of the Unserved Customers (the “*Town’s Projects*”);

WHEREAS, the District has authorized and intends to fund the costs of new sewer pump stations needed to facilitate the installation and operation of the new sewer systems for the Unserved Customers;

WHEREAS, the District and its engineers are responsible for the design, implementation, construction and operation of the new sewer infrastructure described in the Sewer Plan and recited herein above;

WHEREAS, the District has incurred and will continue to incur substantial out of pocket costs in undertaking preliminary design and engineering of the Town’s Projects; and

WHEREAS, the Town intends to pay the District for all costs associated with the preliminary design and engineering of the Town’s Projects, and this Agreement shall memorialize the Town’s promise to reimburse the District for all costs incurred by the District to facilitate the development and construction of the Town’s Projects; and

WHEREAS, the Sewer Plan will be implemented over a five (5) year schedule as set forth in Project Schedule attached hereto as Exhibit “A”; and,

WHEREAS, the District has already incurred engineering costs and received a bid for construction costs for years one (1) and two (2) of the Sewer Plan; and

WHEREAS, the Town and District enter into this Cost Reimbursement Agreement for purpose of setting forth the terms and conditions of reimbursement to the District by the Town for all engineering, design and construction costs already incurred and projected to be incurred by the District pertaining to years one (1) and two (2) of the Sewer Plan.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, each of which are acknowledged by the Parties, the Parties hereto agree as follows:

1. The Town shall pay to the District the following actual expenses associated with preliminary design, engineering, site work, construction and other costs for the Town's Projects set forth in years one (1) and two (2) of the Sewer Plan:

a) Construction Cost:	\$4,792,782.00
b) Construction Contingency:	\$ 479,278.00
c) Design/Engineering Costs to Date:	\$ 253,615.00
d) Projected Design/Engineering Costs:	\$ 80,640.00

Total Construction and Design/Engineering for Years 1-2: **\$5,606,315.00**

2. All invoices for reimbursement of actual expenses incurred by the District shall be submitted to the Town in writing, and The Town shall reimburse the District within fifteen (15) days of receipt of such billing or invoice.

3. In the event any Party shall fail to comply with its obligations set forth in the Agreement, and such default shall continue for a period of thirty (30) days after written notice of default has been provided by the other Party, then the complaining party shall be entitled to pursue any and all legal or equitable remedies provided under South Carolina law and/or terminate this Agreement. In the event of any litigation enforcing any terms of this Agreement, the prevailing party shall be entitled reimbursement of reasonable attorneys fees, costs and expenses, including those incurred on appeal, from the non-prevailing party.

4. The failure of any Party to insist upon the strict performance of any provision of this Agreement shall not be deemed to be a waiver of the right to insist upon strict performance of such provisions or of any other provision of this Agreement at any time. Waiver of any breach of this Agreement by either party shall not constitute waiver of subsequent breach.

5. If any provision of this Agreement or any obligation or agreement contained herein is determined by a court of competent jurisdiction to be invalid or unenforceable, that determination shall not affect any other provision, obligation or agreement, each of which shall be construed and enforced as if the invalid or unenforceable portion were not contained herein. That invalidity or unenforceability shall not affect any valid and enforceable application thereof, and each such provision, obligation, or agreement shall be deemed to be effective, operative, made, entered into, or taken in the manner and to the full extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, in duplicate original, the day and year first above written.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]



WITNESSES:

\_\_\_\_\_

\_\_\_\_\_

WITNESSES:

\_\_\_\_\_

\_\_\_\_\_

HILTON HEAD PUBLIC SERVICE  
DISTRICT

By: \_\_\_\_\_  
Pete Nardi

Its: General Manager

TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

By: \_\_\_\_\_  
Stephen G. Riley

Its: Town Manager

## **EXHIBIT A - MASTER SEWER PLAN PROJECT SCHEDULE**

YEAR 1:	SOUTH SPANISH WELLS & DILLON
YEAR 2:	MID MARSHLAND & GUMTREE
YEAR 3:	GUMTREE, SQUIRE POPE & STONEY
YEAR 4:	BAYGALL & JONESVILLE
YEAR 5:	CHAPLIN

# HHPSD Sewer Master Plan Year 1-5 Projects

Lowcountry Engineering Consultants, LLC

Project Cost Estimate Update: Town Funded Projects for Years 1 & 2

4/24/2017

Town Funded Projects						
Year/Area/Road	Parcels Served	Project Construction Cost Estimate 2015*	Project Construction Cost Estimate (From Bids Received 01/12/17)**	Engineering Cost (Actual Cost + Projected Cost)***	Contingency (10%)	Project Total Cost Estimate Updated 03/06/17
<b>Year 1</b>						
<b>AREA 10 - SOUTH SPANISH WELLS</b>						
Nazarene LPS	3	\$ 11,340	\$ 16,700	\$ 108,440	\$ 1,670	
Sassafrass Lane LPS	1	\$ 12,440	\$ 16,745		\$ 1,675	
Trinh Palace LPS	2	\$ 8,480	\$ 14,693		\$ 1,469	
Oak View Drive Sewer	20	\$ 50,820	\$ 364,756		\$ 36,476	
Spanish Wells Road Sewer (East)	5	\$ 82,730	\$ 311,388		\$ 31,139	
Spanish Wells Road Sewer (West)	2		\$ 202,487		\$ 20,249	
Oakview Road B Sewer	4	\$ 15,400	\$ 51,020		\$ 5,102	
Freddie's Way	7	\$ 25,220	\$ 80,847		\$ 8,085	
Sadie Commons		\$ 11,130			\$ -	
Sam Frazier Retreat	9	\$ 21,500	\$ 70,035		\$ 7,004	
Rasta	8	\$ 21,060	\$ 31,435		\$ 3,144	
<b>TOTAL</b>	<b>61</b>	<b>\$ 260,120</b>	<b>\$ 1,160,105</b>	<b>\$ 108,440</b>	<b>\$ 116,011</b>	<b>\$ 1,384,556</b>
<b>AREA 5 - DILLON ROAD</b>						
Dillon Road Sewer	17	\$ 237,900	\$ 870,718	\$ 97,140	\$ 87,072	
Town Access Drive	2	\$ 186,400			\$ -	
Kids Way Sewer	2	\$ 15,920	\$ 23,536		\$ 2,354	
Ferguson Lane Sewer	10	\$ 38,160	\$ 137,060		\$ 13,706	
<b>TOTAL</b>	<b>31</b>	<b>\$ 478,380</b>	<b>\$ 1,031,314</b>	<b>\$ 97,140</b>	<b>\$ 103,131</b>	<b>\$ 1,231,585</b>
<b>Year 2</b>						
<b>AREA 7 - MARSHLAND ROAD</b>						
Marshland Road West Sewer	14	\$ 201,225	\$ 1,240,987	\$ 128,675	\$ 124,099	
Allen Road Sewer		\$ 47,600	\$ 196,765		\$ 19,677	
Julia Dr.		\$ 47,390			\$ -	
Mackerel Dr.	8	\$ 45,840	\$ 170,556		\$ 17,056	
Pinefield Rd.	15	\$ 41,600	\$ 169,098		\$ 16,910	
Dianah Drive Sewer	9	\$ 5,720	\$ 171,146		\$ 17,115	
Marshland Road East Sewer	33	\$ 183,164			\$ -	
William Way Sewer	8	\$ 17,160	\$ 70,678		\$ 7,068	
Aiken Place Sewer	12	\$ 30,490	\$ 130,264		\$ 13,026	
L&L Broadcasting Drive Sewer	3	\$ 11,130	\$ 29,418		\$ 2,942	
Jessica Drive Sewer	8	\$ 16,300	\$ 148,784		\$ 14,878	
Chisholm Drive Sewer	9	\$ 57,660	\$ 273,668		\$ 27,367	
<b>TOTAL</b>	<b>119</b>	<b>\$ 705,279</b>	<b>\$ 2,601,364</b>	<b>\$ 128,675</b>	<b>\$ 260,136</b>	<b>\$ 2,990,175</b>
<b>AREA 2 - GUMTREE ROAD (COMPLETED****)</b>						
Ceasar Place & Eagin Court Sewer	5	\$ 17,200	\$ 76,405	\$ 42,600		
Ned Court Sewer	17	\$ 29,840	\$ 55,030			
Katie Miller Sewer	0	\$ 89,500	\$ 84,525			
Rhiner Dr. Sewer	6	\$ 54,870	\$ 43,895			
<b>TOTAL</b>	<b>28</b>	<b>\$ 191,410</b>	<b>\$ 259,855</b>	<b>\$ 42,600</b>		<b>\$ 302,455</b>
<b>Grand Total Yrs 1 &amp; 2 (Town Funded) =</b>						<b>\$ 5,908,771</b>

\* Original Project Cost Estimates are based on Appendix E, F and G from the 2015 Master Plan and do not include the cost for sewer services nor the contingency for engineering or construction services.

\*\* Updated Project Construction Cost Estimates are from bids received on 1/12/17 for Years 1 and 2 Master Plan Projects from Jordan/R.H. Moore . Cost for sewer services is included. Cost does not include contingency for engineering or construction services.

\*\*\* Updated Project Engineering Cost include actual engineering cost to 03/06/17 and projected engineering cost to complete the project.

\*\*\*\* COMPLETED - Denotes projects completed through 03/06/17. Columns reflect actual construction and engineering costs as noted.

# HHPSD Sewer Master Plan Year 1-5 Projects

Lowcountry Engineering Consultants, LLC

Project Cost Estimate Update: Town Funded Projects for Years 3-5

4/24/2017

Town Funded Projects						
Year/Area/Road	Parcels Served	Project Construction Cost Estimate 2015*	Project Construction Cost Estimate Updated 03/06/17**	Engineering & Inspection (15%)	Contingency (10%)	Project Total Cost Estimate Updated 03/06/17**
<b>Year 3</b>						
<b>AREA 2 - GUMTREE ROAD</b>						
Mobilization			\$ 15,000	\$ 2,250	\$ 1,500	
Clifford Miller Dr. Sewer	1	\$ 43,880	\$ 125,365	\$ 18,805	\$ 12,537	
Duey Hill Dr. LPS	6	\$ 19,180	\$ 22,600	\$ 3,390	\$ 2,260	
Gum Tree Road LPS	12	\$ 48,340	\$ 83,800	\$ 12,570	\$ 8,380	
Gum Tree Road LPS (Future Road)	5	\$ 23,640	\$ 34,800	\$ 5,220	\$ 3,480	
Orange Road LPS	7	\$ 13,310	\$ 24,200	\$ 3,630	\$ 2,420	
<b>TOTAL</b>	<b>31</b>	<b>\$ 148,350</b>	<b>\$ 305,765</b>	<b>\$ 45,865</b>	<b>\$ 30,577</b>	<b>\$ 382,206</b>
<b>AREA 1 - SQUIRE POPE ROAD</b>						
Mobilization			\$ 20,000	\$ 3,000	\$ 2,000	
Cobia Court Sewer	12	\$ 43,675	\$ 173,400	\$ 26,010	\$ 17,340	
Wright Place Sewer	13	\$ 34,520	\$ 126,080	\$ 18,912	\$ 12,608	
Murray Ave LPS	12	\$ 15,180	\$ 32,600	\$ 4,890	\$ 3,260	
Amelia Circle LPS	9	\$ 25,960	\$ 52,200	\$ 7,830	\$ 5,220	
Stingray LPS	5	\$ 21,720	\$ 35,400	\$ 5,310	\$ 3,540	
Outlaw Rd. Sewer	7	\$ 49,600	\$ 126,500	\$ 18,975	\$ 12,650	
<b>TOTAL</b>	<b>58</b>	<b>\$ 190,655</b>	<b>\$ 566,180</b>	<b>\$ 84,927</b>	<b>\$ 56,618</b>	<b>\$ 707,725</b>
<b>AREA 3 - STONEY INITIATIVE AREA</b>						
Mobilization			\$ 20,000	\$ 3,000	\$ 2,000	
Mustang Lane Sewer	16	\$ 72,340	\$ 211,290	\$ 31,694	\$ 21,129	
Lawyer Place	4	\$ 44,330	\$ 118,530	\$ 17,780	\$ 11,853	
Bligen Sewer	15	\$ 82,880	\$ 293,480	\$ 44,022	\$ 29,348	
Driveways Off Hwy 278 Sewer	5	\$ 35,050	\$ 111,750	\$ 16,763	\$ 11,175	
Chamberlin & Kirby LPS (Completed)	4	\$ 25,240		\$ -	\$ -	
Darling LPS	2	\$ 7,780	\$ 12,100	\$ 1,815	\$ 1,210	
Adriana Lane LPS	4	\$ 11,410	\$ 18,700	\$ 2,805	\$ 1,870	
<b>TOTAL</b>	<b>50</b>	<b>\$ 279,030</b>	<b>\$ 785,850</b>	<b>\$ 117,878</b>	<b>\$ 78,585</b>	<b>\$ 982,313</b>
<b>Year 4</b>						
<b>AREA 4 - FISH HAUL / BAY GALL</b>						
Mobilization			\$ 30,000	\$ 4,500	\$ 3,000	
Fish Haul Road Sewer	7	\$ 104,790	\$ 237,540	\$ 35,631	\$ 23,754	
Yuca Dr. LPS	1	\$ 26,120	\$ 43,400	\$ 6,510	\$ 4,340	
Great Barracuda Ln. Sewer	6	\$ 54,870	\$ 115,720	\$ 17,358	\$ 11,572	
Tarpon Trail Sewer	3	\$ 48,980	\$ 95,930	\$ 14,390	\$ 9,593	
Mitchelville Rd. Ext. LPS	4	\$ 13,800	\$ 21,000	\$ 3,150	\$ 2,100	
Adell Ln. Sewer	5	\$ 22,470	\$ 59,320	\$ 8,898	\$ 5,932	
Horse Sugar Ln. Sewer	3	\$ 37,180	\$ 98,930	\$ 14,840	\$ 9,893	
Alice Perry Sewer	5	\$ 14,090	\$ 44,040	\$ 6,606	\$ 4,404	
Triggerfish Trail Sewer	5	\$ 29,430	\$ 78,680	\$ 11,802	\$ 7,868	
Fish Haul Road LPS	2	\$ 13,860	\$ 30,200	\$ 4,530	\$ 3,020	
<b>TOTAL</b>	<b>41</b>	<b>\$ 365,590</b>	<b>\$ 854,760</b>	<b>\$ 128,214</b>	<b>\$ 85,476</b>	<b>\$ 1,068,450</b>
<b>AREA 8 - JONESVILLE RD / MID SPANISH WELLS</b>						
Mobilization			\$ 30,000	\$ 4,500	\$ 3,000	
Thomas Cohen Drive Sewer	7	\$ 16,000	\$ 70,100	\$ 10,515	\$ 7,010	
Spanish Wells Drive Sewer	9	\$ 100,120	\$ 292,920	\$ 43,938	\$ 29,292	
<b>TOTAL</b>	<b>16</b>	<b>\$ 116,120</b>	<b>\$ 393,020</b>	<b>\$ 58,953</b>	<b>\$ 39,302</b>	<b>\$ 491,275</b>
<b>Year 5</b>						
<b>AREA 6 - CHAPLIN INITIATIVE AREA</b>						
Mobilization			\$ 30,000	\$ 4,500	\$ 3,000	
Marshland Road Sewer Extension	2	\$ 16,560	\$ 65,290	\$ 9,794	\$ 6,529	
Christopher Drive LPS	9	\$ 26,260	\$ 48,200	\$ 7,230	\$ 4,820	
Mingo Green LPS	3	\$ 8,660	\$ 16,200	\$ 2,430	\$ 1,620	
Pauline Manor LPS	5	\$ 12,180	\$ 22,600	\$ 3,390	\$ 2,260	
Matilda Dr. LPS	4	\$ 8,000	\$ 15,000	\$ 2,250	\$ 1,500	
<b>TOTAL</b>	<b>23</b>	<b>\$ 71,660</b>	<b>\$ 197,290</b>	<b>\$ 29,594</b>	<b>\$ 19,729</b>	<b>\$ 246,613</b>
			<b>Grand Total Yrs 3-5 (Town Funded) = \$ 3,878,581</b>			

\* Original Project Cost Estimates are based on Appendix E, F and G from the 2015 Master Plan and do not include the cost for sewer services nor the contingency for engineering or construction services.

\*\* Updated Project Cost Estimates are based on unit prices derived from Jordan/R.H. Moore Bid received on 1/12/17 for Years 1 and 2 Master Plan Projects. Cost for sewer services is included. Cost does not include contingency for engineering or construction services.

# HHPSD Sewer Master Plan Year 1-5 Projects

Lowcountry Engineering Consultants, LLC

Project Cost Estimate Update: Non - Town Funded Projects for Years 1-5

4/24/2017

Non-Town Funded Projects						
Year/Area/Road	Parcels Served	Project Construction Cost Estimate 2015*	Project Construction Cost Estimate Updated 03/06/17**	Engineering & Inspection (15%)	Contingency (10%)	Project Total Cost Estimate Updated 03/06/17**
<b>Year 1</b>						
<b>AREA 10 - SOUTH SPANISH WELLS</b>						
Mobilization			\$ 15,000	\$ 2,250	\$ 1,500	
Tanseyleaf Dr. LPS	6	\$ 19,040	\$ 36,300	\$ 5,445	\$ 3,630	
Spanish Wells West LPS	6	\$ 33,560	\$ 62,700	\$ 9,405	\$ 6,270	
Wells East LPS	36	\$ 40,600	\$ 75,500	\$ 11,325	\$ 7,550	
Deep Fording LPS	12	\$ 20,180	\$ 32,600	\$ 4,890	\$ 3,260	
Old House Creek LPS Ext	19	\$ 25,900	\$ 43,000	\$ 6,450	\$ 4,300	
<b>TOTAL</b>	<b>79</b>	<b>\$ 139,280</b>	<b>\$ 265,100</b>	<b>\$ 39,765</b>	<b>\$ 26,510</b>	<b>\$ 331,375</b>
<b>Year 2</b>						
<b>AREA 7 - MARSHLAND ROAD</b>						
Mobilization			\$ 10,000	\$ 1,500	\$ 1,000	
Driveway to MH (Rollers Trailer Park Future)	1	\$ 53,900	\$ 179,930	\$ 26,990	\$ 17,993	
<b>TOTAL</b>	<b>1</b>	<b>\$ 53,900</b>	<b>\$ 189,930</b>	<b>\$ 28,490</b>	<b>\$ 18,993</b>	<b>\$ 237,413</b>
<b>Year 3</b>						
<b>AREA 1 - SQUIRE POPE ROAD</b>						
Mobilization			\$ 15,000	\$ 2,250	\$ 1,500	
Shamrock PS	10	\$ 20,960	\$ 74,665	\$ 11,200	\$ 7,467	
<b>TOTAL</b>	<b>10</b>	<b>\$ 20,960</b>	<b>\$ 89,665</b>	<b>\$ 13,450</b>	<b>\$ 8,967</b>	<b>\$ 112,081</b>
<b>AREA 2 - GUMTREE ROAD</b>						
Mobilization			\$ 15,000	\$ 2,250	\$ 1,500	
Katie Miller Sewer Extension	17	\$ 58,570	\$ 237,220	\$ 35,583	\$ 23,722	
Fetterbush Dr. Sewer	3	\$ 16,750	\$ 44,850	\$ 6,728	\$ 4,485	
<b>TOTAL</b>	<b>20</b>	<b>\$ 75,320</b>	<b>\$ 297,070</b>	<b>\$ 44,561</b>	<b>\$ 29,707</b>	<b>\$ 371,338</b>
<b>AREA 3 - STONEY INITIATIVE AREA</b>						
Mobilization			\$ 10,000	\$ 1,500	\$ 1,000	
Sunday Ford Drive Sewer	32	\$ 73,560	\$ 259,160	\$ 38,874	\$ 25,916	
Screech Owl Lane LPS	1	\$ 8,000	\$ 12,500	\$ 1,875	\$ 1,250	
<b>TOTAL</b>	<b>33</b>	<b>\$ 81,560</b>	<b>\$ 281,660</b>	<b>\$ 42,249</b>	<b>\$ 28,166</b>	<b>\$ 352,075</b>
<b>Year 4</b>						
<b>AREA 4 - FISH HAUL / BAY GALL</b>						
Mobilization			\$ 10,000	\$ 1,500	\$ 1,000	
Mitchellville Road LPS	4	\$ 35,310	\$ 69,200	\$ 10,380	\$ 6,920	
<b>TOTAL</b>	<b>4</b>	<b>\$ 35,310</b>	<b>\$ 79,200</b>	<b>\$ 11,880</b>	<b>\$ 7,920</b>	<b>\$ 99,000</b>
<b>AREA 8 - JONESVILLE RD / MID SPANISH WELLS</b>						
Mobilization			\$ 30,000	\$ 4,500	\$ 3,000	
Jonesville Road Sewer to Replace Ex. LPS	12	\$ 32,190	\$ 100,260	\$ 15,039	\$ 10,026	
Jonesville Road Sewer	6	\$ 60,880	\$ 215,680	\$ 32,352	\$ 21,568	
Elizabeth Road Sewer	2	\$ 31,320	\$ 103,120	\$ 15,468	\$ 10,312	
Benjamin Dr. Sewer	6	\$ 33,800	\$ 122,400	\$ 18,360	\$ 12,240	
Easement Sewer	11	\$ 81,880	\$ 260,660	\$ 39,099	\$ 26,066	
<b>TOTAL</b>	<b>37</b>	<b>\$ 240,070</b>	<b>\$ 832,120</b>	<b>\$ 124,818</b>	<b>\$ 83,212</b>	<b>\$ 1,040,150</b>
<b>Year 5</b>						
<b>AREA 9 - SPANISH WELLS POA</b>						
Mobilization			\$ 15,000	\$ 2,250	\$ 1,500	
LPS Force mains	184	\$ 494,370	\$ 979,050	\$ 146,858	\$ 97,905	
<b>TOTAL</b>	<b>184</b>	<b>\$ 494,370</b>	<b>\$ 994,050</b>	<b>\$ 149,108</b>	<b>\$ 99,405</b>	<b>\$ 1,242,563</b>
<b>AREA 7 - MARSHLAND ROAD (COMPLETED****)</b>						
Gibson Drive LPS (Complete)	36	\$ 76,690	\$ 76,773	\$ 15,430		\$ 92,203
<b>TOTAL</b>						

**Grand Total Yrs 1-5 (Non - Town Funded) = \$ 3,878,197**

\* Original Project Cost Estimates are based on Appendix E, F and G from the 2015 Master Plan and do not include the cost for sewer services nor the contingency for engineering or construction services.

\*\* Updated Project Cost Estimates are based on unit prices derived from Jordan/R.H. Moore Bid received on 1/12/17 for Years 1 and 2 Master Plan Projects. Cost for sewer services is included. Cost does not include contingency for engineering or construction services.

\*\*\*\* COMPLETED - Denotes projects completed through 03/06/17. Columns reflect actual construction and engineering costs as noted.

# HHPSD Sewer Master Plan Year 1-5 Projects

Lowcountry Engineering Consultants, LLC

Project Cost Estimate Update: District Funded Projects for Years 1-5

4/24/2017

District Projects						
Year/Area/Road	Parcels Served	Project Construction Cost Estimate 2015*	Project Construction Cost Estimate Updated 03/06/17**	Engineering & Inspection (15%)	Contingency (10%)	Project Total Cost Estimate Updated 03/06/17**
<b>Year 1</b>						
<b>AREA 10 - SOUTH SPANISH WELLS</b>						
Mobilization			\$ 30,000	\$ 4,500	\$ 3,000	
Spanish Wells PS #1		\$ 314,400	\$ 338,880	\$ 50,832	\$ 33,888	
Muddy Creek PS		\$ 233,000	\$ 373,000	\$ 55,950	\$ 37,300	
Edgewater PS		\$ 497,000	\$ 1,047,000	\$ 157,050	\$ 104,700	
<b>TOTAL</b>		<b>\$ 1,044,400</b>	<b>\$ 1,788,880</b>	<b>\$ 268,332</b>	<b>\$ 178,888</b>	<b>\$ 2,236,100</b>
<b>AREA 5 - DILLON ROAD</b>						
Mobilization			\$ 15,000	\$ 2,250	\$ 1,500	
Replace Summit Drive PS		\$ 200,000	\$ 204,770	\$ 30,716	\$ 20,477	
<b>TOTAL</b>		<b>\$ 200,000</b>	<b>\$ 219,770</b>	<b>\$ 32,966</b>	<b>\$ 21,977</b>	<b>\$ 274,713</b>
<b>Year 2</b>						
<b>AREA 7 - MARSHLAND ROAD</b>						
Mobilization			\$ 20,000	\$ 3,000	\$ 2,000	
Allen Road PS (Mid Marshland Road PS)		\$ 205,000	\$ 309,435	\$ 46,415	\$ 30,944	
Peregine Pt. FM Relocation		\$ 6,000	\$ 11,000	\$ 1,650	\$ 1,100	
Replace Sussex PS		\$ 1,165,000	\$ 1,595,000	\$ 239,250	\$ 159,500	
Gibson Drive PS		\$ 216,550				
<b>TOTAL</b>		<b>\$ 1,592,550</b>	<b>\$ 1,935,435</b>	<b>\$ 290,315</b>	<b>\$ 193,544</b>	<b>\$ 2,419,294</b>
<b>Year 3</b>						
<b>AREA 1 - SQUIRE POPE ROAD</b>						
Mobilization			\$ 15,000	\$ 2,250	\$ 1,500	
Bermuda Pt. PS		\$ 82,500	\$ 110,000	\$ 16,500	\$ 11,000	
Shamrock PS		\$ 600	\$ 1,200	\$ 180	\$ 120	
<b>TOTAL</b>		<b>\$ 83,100</b>	<b>\$ 126,200</b>	<b>\$ 18,930</b>	<b>\$ 12,620</b>	<b>\$ 157,750</b>
<b>AREA 2 - GUMTREE ROAD</b>						
Mobilization			\$ 15,000	\$ 2,250	\$ 1,500	
Boys & Girls Club PS Upgrade (Reuse Pumps)		\$ 201,600	\$ 245,000	\$ 36,750	\$ 24,500	
Marshside FM Relocation		\$ 23,400	\$ 49,500	\$ 7,425	\$ 4,950	
<b>TOTAL</b>		<b>\$ 225,000</b>	<b>\$ 309,500</b>	<b>\$ 46,425</b>	<b>\$ 30,950</b>	<b>\$ 386,875</b>
<b>AREA 3 - STONEY INITIATIVE AREA</b>						
Mobilization			\$ 10,000	\$ 1,500	\$ 1,000	
Spanish Wells LPS to Town Property		\$ 25,020	\$ 50,500	\$ 7,575	\$ 5,050	
<b>TOTAL</b>		<b>\$ 25,020</b>	<b>\$ 60,500</b>	<b>\$ 9,075</b>	<b>\$ 6,050</b>	<b>\$ 75,625</b>
<b>Year 4</b>						
<b>AREA 4 - FISH HAUL / BAY GALL</b>						
Mobilization			\$ 10,000	\$ 1,500	\$ 1,000	
Fort Howell FM Relocation		\$ 3,500	\$ 11,000	\$ 1,650	\$ 1,100	
<b>TOTAL</b>		<b>\$ 3,500</b>	<b>\$ 21,000</b>	<b>\$ 3,150</b>	<b>\$ 2,100</b>	<b>\$ 26,250</b>
<b>AREA 8 - JONESVILLE RD / MID SPANISH WELLS</b>						
Mobilization			\$ 20,000	\$ 3,000	\$ 2,000	
Summerfield FM Relocation		\$ 6,350	\$ 13,600	\$ 2,040	\$ 1,360	
Jonesville Road Sewer to Replace Ex. LPS		\$ 149,760	\$ 388,810	\$ 58,322	\$ 38,881	
<b>TOTAL</b>		<b>\$ 156,110</b>	<b>\$ 422,410</b>	<b>\$ 63,362</b>	<b>\$ 42,241</b>	<b>\$ 528,013</b>
<b>Year 5</b>						
<b>AREA 6 - CHAPLIN INITIATIVE AREA</b>						
Mobilization			\$ 30,000	\$ 4,500	\$ 3,000	
Capital Drive PS		\$ 75,000	\$ 259,400	\$ 38,910	\$ 25,940	
Marshland Road Sewer (Replace LPS)		\$ 166,120	\$ 518,850	\$ 77,828	\$ 51,885	
<b>TOTAL</b>		<b>\$ 241,120</b>	<b>\$ 808,250</b>	<b>\$ 121,238</b>	<b>\$ 80,825</b>	<b>\$ 1,010,313</b>
<b>Miscellaneous MP Upgrades</b>						
<b>AREAS 1 THRU 5 - NORTH SERVICE AREA</b>						
Gravity Sewer (Upsizing & Replacement)		\$ 565,000	\$1,716,660.00	\$ 257,499	\$ 171,666	
Coggins Pt. PS Upgrade		\$ 190,000	\$250,000	\$ 37,500	\$ 25,000	
<b>TOTAL</b>		<b>\$ 755,000</b>	<b>\$ 1,966,660</b>	<b>\$ 294,999</b>	<b>\$ 196,666</b>	<b>\$ 2,458,325</b>
<b>AREAS 6 THRU 10 - SOUTH SERVICE AREA</b>						
Cotesworth PS		\$ 199,500	\$307,000.00	\$ 46,050	\$ 30,700	
Gravity Sewer (Upstream of Cotesworth)		\$ 105,200	\$435,880	\$ 65,382	\$ 43,588	
Colonial Drive PS		\$ 742,500	\$1,005,000.00	\$ 150,750	\$ 100,500	
Gravity Sewer (Upsizing & Replacement)		\$ 272,500	\$908,200	\$ 136,230	\$ 90,820	
<b>TOTAL</b>		<b>\$ 1,319,700</b>	<b>\$ 2,656,080</b>	<b>\$ 398,412</b>	<b>\$ 265,608</b>	<b>\$ 3,320,100</b>

**Grand Total Yrs 1-5 (District Funded) = \$ 12,893,356**

\* Original Project Cost Estimates are based on Appendix E, F and G from the 2015 Master Plan and do not include the cost for sewer services nor the contingency for engineering or construction services.

\*\* Updated Project Cost Estimates are based on unit prices derived from Jordan/R.H. Moore Bid received on 1/12/17 for Years 1 and 2 Master Plan Projects and updated cost per Engineer's updated estimated cost for pump stations. Cost for sewer services is included. Cost does not include contingency for engineering or construction services.

## MEMORANDUM

**TO:** Town Council  
**FROM:** Stephen G. Riley, Town Manager, ICMA-CM  
**VIA:** John Troyer, Director of Finance  
**DATE:** June 13, 2017  
**RE:** **First Reading of Proposed Ordinance No. 2017-11**

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### Recommendation:

That Town Council approves first reading of Proposed Ordinance No. 2017-11 amending Title 10 (Business & Professional Licenses; Franchising and Regulation), Chapter 1(Business and Professional Licenses) and Chapter 9 (Fee Schedule for Billing Ambulance Services).

### Summary:

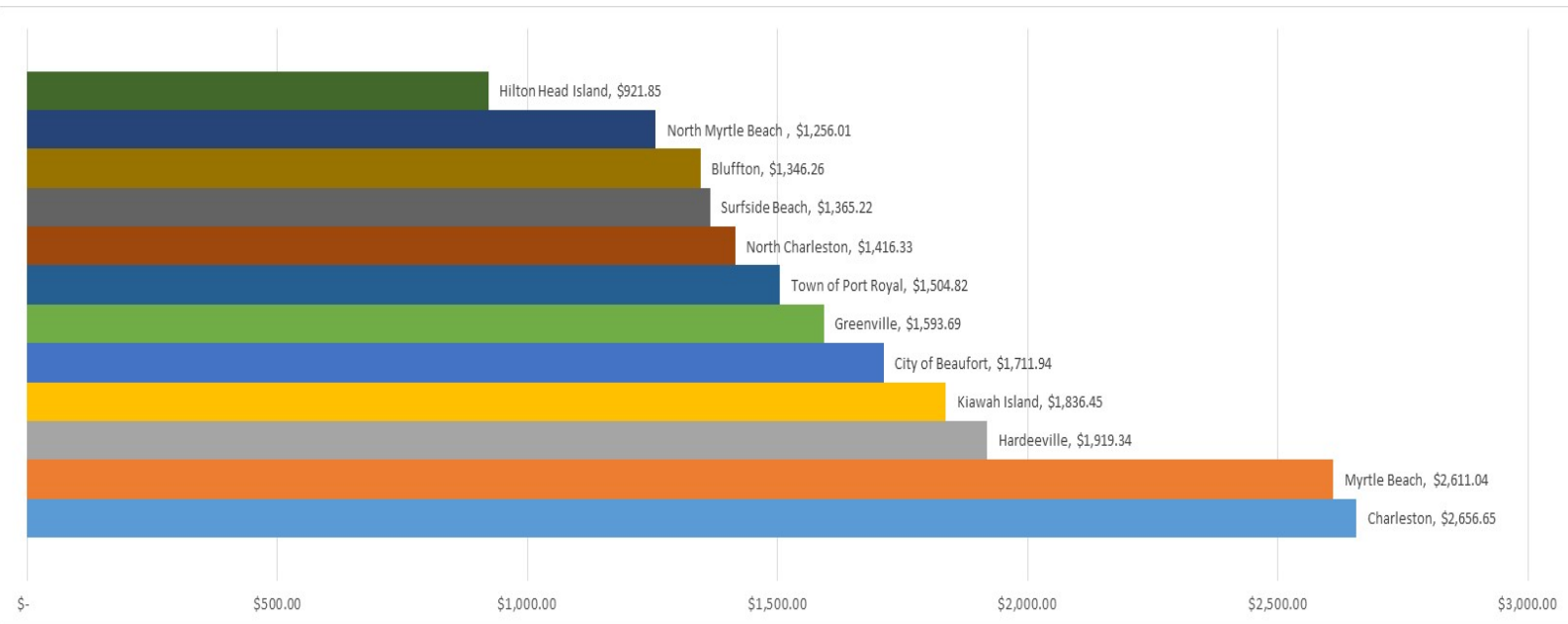
This budget ordinance amends Title 10 (Business & Professional Licenses; Franchising and Regulation), Chapter 1(Business and Professional Licenses) and Chapter 9 (Fee Schedule for Billing Ambulance Services) by increasing the business license and ambulance service rates by 15% per the adopted FY 2018 budget.

In addition, staff has updated certain sections of Title 10 to more accurately reflect current revenue collection enforcement practices.

### Background:

As part of the development of the FY 2018 Budget Town staff analyzed current revenue derived from the issuance of business licenses and ambulance service rates compared to other municipalities. The analysis was part of an effort to realign current revenue streams to more closely reflect the funds necessary to continue to provide the current level of services to Town residents as well as tourists. In the case of both revenue sources the Town's rates were favorably lower than the rates of other municipalities.

Business license fees have not been increased for more than twenty years. The proposed new rates will continue to be below the rates of other municipalities, changes are shown below:



Likewise the Town's ambulance service rates are comparable to other municipalities and will continue to be comparable after the rate increase.

Town staff also updated certain portions of Title 10, obsolete sections were deleted and some new sections were added, to ensure the code was consist with current revenue collection enforcement practices.

AN ORDINANCE OF THE TOWN OF HILTON HEAD ISLAND

ORDINANCE NO. 2017 – \_\_\_\_

PROPOSED ORDINANCE NO. 2017 –11

**AN ORDINANCE TO AMEND TITLE 10 CHAPTER 1 AND CHAPTER 9, OF THE MUNICIPAL CODE OF THE TOWN OF HILTON HEAD ISLAND; TO INCREASE BUSINESS LICENSE AND EMS FEES BY FIFTEEN PERCENT (15%), AS PER THE ADOPTED FISCAL YEAR 2018 BUDGET; AND TO UPDATE AND AMEND SECTIONS OF TITLE 10, CHAPTER 1 TO CONFORM WITH CURRENT PRACTICE; AND PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE.**

**WHEREAS**, the Town Council of the Town of Hilton Head did previously adopt Chapter 1 and Chapter 9 of Title 10 of the Municipal Code of the Town of Hilton Head Island to provide for business license and ambulance service fees; and

**WHEREAS**, the Town Council now desires to revise the business license and ambulance service fees as per the adopted fiscal year 2018 budget by increasing them by fifteen percent (15%); and

**WHEREAS**, the Town Council now desires to update and amend certain sections of Chapters to conform with current practice.

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

**Note: Items stricken are to be deleted; items in bold and underlined are additions.**

Section 1. **Amendment.** That Sec. 10-1-20, Definitions, of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same is hereby amended to read as follows:

- (1) *Business*: A calling, occupation, profession or activity engaged in with the object of gain, benefit or advantage, either directly or indirectly. A charitable organization shall be deemed a business unless the entire proceeds of its operation are devoted to charitable purposes. In addition to the above-described activities constituting doing business in the town, ~~an person individual~~ shall be deemed to be in "business" if that person ~~individual~~ owns and rents more than one (1) residential unit within the town. This applies to both short-term and long-term rentals.

Section 2. **Amendment.** That Sec. 10-1-50, Registration required, of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same is hereby amended to read as follows:

- (a) The owner, agent or legal representative of every business subject to this chapter, whether listed in the classification index or not, shall register the business and make application for a business license on or before May 31st of each year, except that a new business shall be required to have a business license prior to operation within the town. Application shall be on a form provided by the license inspector which shall contain the **last four digits of their** social security number ~~and/or~~ the **full** federal employer's identification number, the business name as reported on the South Carolina income tax return, and all other information about the applicant and the business deemed necessary to carry out the purposes of this chapter by the license inspector. The applicant shall certify that the information given in the application is true, that the gross income is accurately reported, or estimated for a new business, without any unauthorized deductions, and that all assessments and personal property taxes due and payable to the town have been paid. With regard to registration of insurance companies and brokers for nonadmitted insurance companies, the Municipal Association of South Carolina is designated as the exclusive agent of the town and is empowered to utilize all procedures and actions authorized by ordinance or state law.



Section 3. **Amendment.** That Sec. 10-1-50, Registration required, of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same is hereby amended to read as follows:

**~~(e) Elimination of commercial waste. On the business license application form, each business shall fully disclose its method of solid waste handling and shall present proof of such solid waste disposal before a license is granted.~~**

Section 4. **Amendment.** Rates identified in Sec. 10-1-190, Classifications, rates schedules, of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same herby are amended as follows:

	Income: 0--\$5,000 Up to \$5,000 minimum		All over \$5,000 Rate per thousand or fraction thereof	
Class	Old Rate	New Rate	Old Rate	New Rate
1	\$ <del>37.50</del>	\$ <b>43.20</b>	\$ <del>0.60</del>	\$ <b>0.70</b>
2	<del>43.75</del>	<b>50.40</b>	<del>0.72</del>	<b>0.90</b>
3	<del>50.00</del>	<b>57.50</b>	<del>0.84</del>	<b>1.00</b>
4	<del>56.25</del>	<b>64.70</b>	<del>0.96</del>	<b>1.20</b>
5	<del>62.50</del>	<b>71.90</b>	<del>1.08</del>	<b>1.30</b>
6	<del>68.75</del>	<b>79.10</b>	<del>1.20</del>	<b>1.40</b>
7	<del>75.00</del>	<b>86.30</b>	<del>1.32</del>	<b>1.60</b>

Section 5. **Amendment.** That Sec. 10-1-190, Classifications, rates schedules, of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same are hereby amended to read as follows:

*Nonresident business rate:*

Unless otherwise specifically provided, all rates shall be doubled for businesses **located outside of the Town limits** ~~located in county and~~ **or for** itinerants having no fixed place of business. ~~within the town and triple for businesses located out of county.~~

~~The following alternate rates shall apply to all classifications of manufacturers engaged in interstate commerce which elect to pay based on total gross income from all sources:~~

Income	Base	Rate per \$1,000 or fraction
<del>First \$100,000.00</del>	\$ <del>62.50</del>	\$ <del>0.60</del>
<del>Over \$100,000.00</del>		<del>0.50</del>

# CLASS 8 RATES

SIC – 15, 16, 17

		Minimum		Per \$1,000 or fraction	
	Income	Old Rate	New Rate	Old Rate	New Rate
A. Having <u>a</u> place of business within the Town <b>limits</b>					
First	\$ 5,000.00	\$ <del>43.75</del>	\$ <b>50.40</b>		
Over	5,000.00			\$ <del>0.72</del>	\$ <b>0.90</b>
B. Having <u>a</u> place of business <del>in county, but not in the</del> <b>outside of town limits</b>					
First	5,000.00	<del>87.50</del>	<b>100.70</b>		
Over	5,000.00			<del>1.44</del>	<b>1.70</b>
<del>C. Having no place of business within the town or county</del>					
<del>First</del>	<del>5,000.00</del>	<del>131.25</del>			
<del>Over</del>	<del>5,000.00</del>			<del>2.16</del>	

~~For Type "C" contractors, the total fee for the full amount of the contract shall be paid prior to commencement of work and shall entitle contractor to complete the job without regard to the normal license expiration date.~~ A trailer at the construction site, a home office or structure in which the contractor resides is not a permanent place of business under this ordinance.

No contractor shall be issued a business license until all state and town qualification examination and trade license requirements have been met. Each contractor shall post a sign in plain view on each job identifying the contractor with the job.

**Any person or entity that designs or installs irrigation systems ("landscape contractor") must be licensed to do so by the Town of Hilton Head Island, South Carolina. Prior to issuance or renewal of the license required herein, each landscape contractor or designated employee of said landscape contractor shall pass a certification test given by the Town of Hilton Head Island, South Carolina. Said license and certification must be shown at the annual renewal of the town business license. See Sec. 13-3-310 of the Town Code for additional information regarding this requirement.**

SIC – 40 Railroad Companies-(See **South Carolina Code of Laws**, Code section 12-23-210)

## SIC – 5093

		Minimum		Per \$1,000 or fraction	
	Income	Old Rate	New Rate	Old Rate	New Rate
Junk or scrap dealers					
First	\$ 5,000.00	\$ <del>93.75</del>	\$ <b>107.90</b>		
Over	5,000.00			\$ <del>1.44</del>	\$ <b>2.00</b>

## SIC – 55

		Minimum		Per \$1,000 or fraction	
	Income	Old Rate	New Rate	Old Rate	New Rate
Automotive, motor vehicle dealers and farm machinery, retail					
First	\$ 5,000.00	\$ <del>43.75</del>	\$ <b>50.40</b>		
Over	5,000.00			\$ <del>0.72</del>	\$ <b>0.90</b>

## SIC – 5813

		Minimum		Per \$1,000 or fraction	
	Income	Old Rate	New Rate	Old Rate	New Rate
Drinking places (alcoholic beverages, beer and wine consumed on premises)					
First	\$ 5,000.00	\$ <del>93.75</del>	\$ <b>107.90</b>		
Over	5,000.00			\$ <del>1.44</del>	\$ <b>1.70</b>

## SIC – 5932

		Minimum		Per \$1,000 or fraction	
	Income	Old Rate	New Rate	Old Rate	New Rate
Pawnbrokers, all types					
First	\$ 5,000.00	\$ <del>93.75</del>	\$ <b>107.90</b>		
Over	5,000.00			\$ <del>1.44</del>	\$ <b>1.70</b>

## SIC – 5962

		Minimum		Per \$1,000 or fraction	
	Income	Old Rate	<u>New Rate</u>	Old Rate	<u>New Rate</u>
Vending machines and all other coin-operated automatic merchandising machines (Not included in business gross oncome)					
First	\$ 5,000.00	\$ <del>93.75</del>	\$ <b>107.90</b>		
Over	5,000.00			\$ <del>1.44</del>	\$ <b>1.70</b>

## SIC – 5963

Peddlers, solicitors, canvassers, door-to-door sales, direct retail sales of merchandise. (Non-resident rates apply).

		Minimum		Per \$1,000 or fraction	
	Income	Old Rate	<u>New Rate</u>	Old Rate	<u>New Rate</u>
A. Regular activities (more than two sale periods of more than three days each per year)					
First	\$ 5,000.00	\$ <del>87.50</del>	\$ <b>100.70</b>		
Over	5,000.00			\$ <del>1.44</del>	\$ <b>1.70</b>

		Minimum		Per \$1,000 or fraction	
	Income	Old Rate	<u>New Rate</u>	Old Rate	<u>New Rate</u>
B. Seasonal activities (not more than two sale periods of more than three days each year, separate license required for each sale period)					
First	\$ 5,000.00	\$ <del>43.75</del>	\$ <b>50.30</b>		
Over	5,000.00			\$ <del>0.72</del>	\$ <b>0.90</b>

SIC – 5999

	Income	Minimum		Per \$1,000 or fraction	
		Old Rate	New Rate	Old Rate	New Rate
Promoter/Coordinator of Arts and Crafts Shows					
First	\$ 5,000.00	<del>\$ ——— 43.75</del>	<b>\$ 50.40</b>		
Over	5,000.00			<del>\$ ——— 0.72</del>	<b>\$ 0.90</b>
Plus, for each participating vendor		5.00	5.00		

SIC – 7993

Amusement machines, coin-operated

A. Music machines, kiddie rides, and amusement machines licensed pursuant to S.C. Code section 12-21-2720(A)(1) and (A)(2)

	Income	Minimum	
		Old Rate	New Rate
1. Operator of machine (Section 12-21-2746) .....	\$ 5,000.00	<del>\$12.50 per machine, PLUS \$12.50 business license for operation of all machines (not on gross income)</del>	<b><u>\$14.40 per machine, PLUS \$14.40 business license for operation of all machines (not on gross income)</u></b>

	Income	Minimum		Per \$1,000 or fraction	
		Old Rate	New Rate	Old Rate	New Rate
2. Distributor selling or leasing machines (not licensed by the state as an operator pursuant to section 12-21-2728): (Non-resident rates apply.)					
First	\$ 5,000.00	<del>\$ ——— 187.50</del>	<b>\$ 215.70</b>		
Over	5,000.00			<del>\$ ——— 2.88</del>	<b>\$ 3.40</b>

B. ~~Video poker and~~ Amusement machines license pursuant to S.C. Code Ann. section 12-21-2720(A)(3):

	Income	Minimum	
		Old Rate	New Rate
1. Operator of machine (Section 12-21-2720(B))	\$ 5,000.00	<del>\$180.00 per machine, PLUS \$12.50 business license (not on gross income)</del>	<b><u>\$210.00 per machine, PLUS \$14.40 business license (not on gross income)</u></b>

		Minimum		Per \$1,000 or fraction	
	Income	Old Rate	<u>New Rate</u>	Old Rate	<u>New Rate</u>
2. Distributor selling or leasing machines (not licensed by the state as an operator pursuant to section 12-21-2728): (Non-resident rates apply.)					
First	\$ 5,000.00	<del>\$ 187.50</del>	<u>\$ 215.70</u>		
Over	5,000.00			<del>\$ 2.88</del>	<u>\$ 3.40</u>

SIC – 7999

		Minimum		Per \$1,000 or fraction	
	Income	Old Rate	<u>New Rate</u>	Old Rate	<u>New Rate</u>
Billiard or pool tables, all types					
First	\$ 5,000.00	<del>\$ 93.75</del>	<u>\$ 107.90</u>		
Over	5,000.00			<del>\$ 1.44</del>	<u>\$ 1.70</u>
Additional license per table		5.00	5.00		

SIC – 7999

		Minimum		Per \$1,000 or fraction	
	Income	Old Rate	<u>New Rate</u>	Old Rate	<u>New Rate</u>
Carnivals and circuses					
First	\$ 5,000.00	<del>\$ 187.50</del>	<u>\$ 215.70</u>		
Over	5,000.00			<del>\$ 5.85</del>	<u>\$ 6.80</u>

## ALPHABETICAL BUSINESS CLASSIFICATION INDEX

Real estate

Operator, lessor (~~more than \$10,000 annual gross income~~)

## FEE SCHEDULE FOR BILLING AMBULANCE SERVICES

Section 6. **Amendment.** That Sec. 10-9-10, General Fee Schedule, of the Municipal Code of the Town of Hilton Head Island, South Carolina, be and the same is hereby amended to read as follows:

Billing Category		Old Rates	New Rates
BLS	(Basic Life Support)	<del>\$400.00 plus \$6.50 mileage rate</del>	<b><u>460.00 plus \$7.50 mileage rate</u></b>
BLS	(Basic Life Support) Emergency	<del>\$400.00 plus \$6.50 mileage rate</del>	<b><u>460.00 plus \$7.50 mileage rate</u></b>
ALS 1	(Advanced Life Support level 1)	<del>\$450.00 plus \$6.50 mileage rate</del>	<b><u>520.00 plus \$7.50 mileage rate</u></b>
ALS 1	(Advanced Life Support level 1) Emergency	<del>\$450.00 plus \$6.50 mileage rate</del>	<b><u>520.00 plus \$7.50 mileage rate</u></b>
ALS 2	(Advanced Life Support level 2)	<del>\$875.00 plus \$6.50 mileage rate</del>	<b><u>1,010.00 plus \$7.50 mileage rate</u></b>

Section 7. **Severability.** If any sections, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not attest the validity of the remaining portions thereof. All previous ordinances or portions of ordinances in conflict with this Ordinance are hereby repealed.

Section 8. **Effective Date.** This Ordinance shall be effective upon adoption by the Town Council for the Town of Hilton Head Island, South Carolina.

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

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

\_\_\_\_\_  
Krista Wiedmeyer, Town Clerk

APPROVED AS TO FORM:

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

First Reading:

Second Reading:

Introduced by Council Member:

\_\_\_\_\_



## **MEMORANDUM**

**TO:** Town Council

**FROM:** Stephen G. Riley, ICMA-CM, Town Manager

**VIA:** John M. Troyer, CPA, Director of Finance

**DATE:** June 6, 2017

**RE:** **First Reading of Proposed Ordinance No. 2017-13 GO Bonds for \$28,500,000**  
**First Reading of Proposed Ordinance No. 2017-14 Special Obligation Tax Increment Financing Bonds for \$32,000,000**  
**First Reading of Proposed Ordinance No. 2017-15 Special Obligation Beach Fee Bond Ordinance for \$36,000,000**  
**First Reading of Proposed Ordinance No. 2017-16 General Obligation Taxable Bonds to replenish reserves for \$18,000,000**

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### **Recommendation:**

Town Council approves first reading of Proposed Ordinance No. 2017-13 which establishes authority for issuing not to exceed \$28,500,000 in General Obligation bonds to fund the 2016-2017 Capital Plan and the 2017-2018 Capital Plan for GO bonds.

Town Council approves first reading of Proposed Ordinance No. 2017-14 which establishes authority for issuing not to exceed \$32,000,000 in Tax Increment Financing Bonds to fund the 2016-2017 Capital Plan and the 2017-2018 Capital Plan for TIF projects.

Town Council approves first reading of Proposed Ordinance No. 2017-15 which establishes authority for issuing not to exceed \$36,000,000 in special obligation bonds (beach preservation fee pledge) for the beach renourishment project which will be repaid and pledged from beach preservation fees.

Town Council approves first reading of Proposed Ordinance No. 2017-16 which establishes authority for issuing not to exceed \$18,000,000 in General Obligation taxable bonds to restore reserve funds depleted with the response to Hurricane Matthew. These bonds will be repaid with a 5 mil over-ride and expected receipts from the State and the County for Hurricane Matthew response.

**Summary:** Staff recommends that Council adopt these four ordinances which are described in the background section below. These ordinances have been prepared with the



input of the Town's bond counsel and financial advisor for the Town's most advantageous benefit.

These are anticipated to be issued over the summer and early fall. The Town has issued \$25 million in Bond Anticipation Notes in the Fall of 2016 which will be repaid with the proceeds of these bonds – primarily with the Beach bonds, but also TIF and GO bonds. This was the plan last year to issue the BANs as a temporary financing measure which would be replaced this year. The GO includes \$21.2 million approved last year and replaces it with updated numbers to include this year's capital plan. The Town will continue to work closely with its bond counsel and financial advisor to achieve the most advantageous implementation of these Ordinances.

**Background:** The four ordinances proposed in this series are for the following debt financing recommendations.

1. Ordinance 2017-13 proposes to fund the GO capital needs for and to redeem a portion of the Bond Anticipation Note issued in 2016. This funds the Capital Plan and the Certificates of Participation (COPS) (Not to exceed amount – \$28,500,000)
2. Ordinance 2017-14 proposes to issue Tax Increment Financing Bonds to provide funding for TIF projects including USCB and some related road projects. The bonds will also be used to help redeem part of the Bond Anticipation Note issued in 2016. These are special obligation bonds (pledging the revenues of the Tax Increment Revenues). Staff will work with the assistance of bond counsel and the financial advisor to get the most favorable rates for the Town. (Not to exceed amount – \$32,000,000)
3. Ordinance 2017-15 proposes to issue Special Obligation Beach fee bonds (new money) to finance redemption of part of the Bond Anticipation Notes issued in 2016 and to complete the additional Beach work provided for in the capital plan. These bonds will be repaid with Beach fees. (Not to exceed – \$36,000,000) This amount includes some anticipated debt service reserve funds which would help achieve the lowest cost of capital.
4. Ordinance 2017-16 proposes to issue General Obligation Bonds to replenish reserves used for the response to Hurricane Matthew. These bonds would be repaid with a 5 mil over-ride. Some funds are expected from both the State and the County, but amounts have not been determined from either entity. If no funds are received from the State and the County, the 5 mils are expected to cover the \$18 million in 5 years. As funds are received from the State and the County, the Town could opt to end the millage over-ride earlier than the planned 5 years. These bonds are taxable because of the nature of the use of the proceeds. These bonds would help position the Town for the 2017 hurricane season by replacing the reserves now – rather than later at an undetermined time in an undetermined amount. The Town's bond counsel and the Town's financial advisor have both recommended this action. Town staff will work with both for best presentation to the bond market for the most favorable terms available. Beyond readiness for the next hurricane season, the bonds are a strong signal to the rating agencies and the financial markets that the Town has responded to Hurricane Matthew with appropriate financial resoluteness. (Not to exceed amount – \$18,000,000)

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$28,500,000 GENERAL OBLIGATION BONDS, IN ONE OR MORE SERIES, IN ONE OR MORE YEARS, WITH APPROPRIATE SERIES DESIGNATIONS, OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; FIXING THE FORM AND CERTAIN DETAILS OF THE BONDS; AUTHORIZING THE TOWN MANAGER OR HIS LAWFULLY AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; OTHER MATTERS RELATING THERETO; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Town Council has been advised that the Town's capital improvement plan includes several capital projects (the "Capital Projects") that would appropriately be funded through the issuance of general obligation bonds; and

WHEREAS, the Town's Administration has not yet determined the exact amount needed in order to fund the Capital Projects; and

WHEREAS, pursuant to Ordinance No. 2016-09 enacted on June 7, 2016, the Town issued its \$25,000,000 General Obligation Bond Anticipation Notes, Series 2016, dated October 5, 2016 (the "2016 Notes"), the proceeds of which were used to fund a portion of the Capital Projects; and

WHEREAS, in order to authorize the issuance of general obligation bonds to be used to retire all or a portion of the general obligation bond anticipation notes and to fund the Capital Projects, it is necessary for Town Council to enact an ordinance; and

WHEREAS, Town Council previously enacted Ordinance No. 2016-10 on June 7, 2016, authorizing not to exceed \$21,200,000 general obligation bonds to retire all or a portion of the Series 2016 Notes at maturity and to fund the Capital Projects; and

WHEREAS, Town Council has been informed that additional Capital Projects need to be funded from the proceeds of general obligation bonds increasing the not to exceed amount from \$21,200,000 to \$28,500,000.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AS FOLLOWS:

**SECTION 1. Findings and Determinations.** The Town Council (the "Town Council") of the Town of Hilton Head Island, South Carolina (the "Town"), hereby finds and determines:

(a) The Town is an incorporated municipality located in Beaufort County, South Carolina, and as such possesses all powers granted to municipalities by the Constitution of the State of South Carolina, 1895, as amended (the "Constitution") and laws of the State of South Carolina (the "State").

(b) Article X, Section 14 of the Constitution provides that general obligation debt may be incurred by the governing body of each municipality of the State for any public and corporate purpose in an amount not exceeding eight (8%) percent of the assessed value of all taxable property of such municipality and upon such terms and conditions as the General Assembly may prescribe. Such Article further provides

that if general obligation debt is authorized by a majority vote of the qualified electors of the municipality voting in a referendum authorized by law, there shall be no conditions or restrictions limiting the incurring of such indebtedness except as specified in such Article.

(c) Title 5, Chapter 21, Article 5, Code of Laws of South Carolina, 1976, as amended (the "Municipal Bond Act"), provides that the municipal council of any municipality may issue general obligation bonds of such municipality for any corporate purpose of such municipality to any amount not exceeding the constitutional debt limitation applicable to such municipality.

(d) The Municipal Bond Act provides that as a condition precedent to the issuance of bonds an election be held and the result be favorable thereto. Title 11, Chapter 27, Code of Laws of South Carolina 1976, as amended (the S.C. Code"), provides that if an election be prescribed by the provisions of the Municipal Bond Act, but not be required by the provisions of Article X of the Constitution, then in every such instance, no election need be held (notwithstanding the requirement therefor) and the remaining provisions of the Municipal Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.

(e) The assessed value of all the taxable property in the Town as of June 30, 2016, for purposes of computation of the Town's constitutional debt limit, is \$918,731,530. Eight percent of such sum is \$73,498,522. As of the date hereof, the outstanding general obligation debt of the Town subject to the limitation imposed by Article X, Section 14(7) of the Constitution is \$51,767,220. Thus, the Town may incur \$22,731,302 of additional general obligation debt within its applicable debt limitation. The Town will ensure that at the time of issuance the final par amount of the Bonds issued will be within its 8% constitutional debt limit.

The Town also intends to issue not to exceed \$18,000,000 Taxable General Obligation Bonds, with an appropriate series designation, the final par amount of which will count against the Town's 8% constitutional debt limit.

(f) Pursuant to Ordinance No. 2013-03 duly enacted by the Town Council on May 7, 2013, the Town has adopted Written Procedures Related to Tax-Exempt Debt.

(h) It is now in the best interest of the Town for the Town Council to provide for the issuance and sale of not to exceed \$28,500,000 aggregate principal amount general obligation bonds of the Town to provide funds for the purposes of (i) retiring or redeeming a portion of the 2016 Notes; (ii) funding other capital improvements including but not limited to projects related to the Island Recreation Center, fire stations, sewer systems and equipment acquisition for fire and rescue (the "Projects"); (iii) reimbursing the Town for funds previously expended on the Projects; and (iv) paying costs of issuance of the Bonds (hereinafter defined).

SECTION 2. Authorization and Details of the Bonds. Pursuant to the aforesaid provisions of the Constitution and laws of the State, there is hereby authorized to be issued not to exceed \$28,500,000 general obligation bonds of the Town (the "Bonds") for the purposes listed in Section 1(g) above.

The Bonds shall be issued as fully-registered Bonds; shall be dated their date of delivery; shall be in denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of the Bonds maturing in each year; shall be numbered from R-1 upward; shall bear interest at such times as hereafter designated by the Town Manager or his lawfully authorized designee at such rate or rates as may be determined at the time of the sale thereof; and shall mature serially in successive annual installments as determined by the Town Manager or his lawfully authorized designee.

SECTION 3. Delegation of Authority to Determine Certain Matters Relating to the Bonds. The Town Council hereby expressly delegates to the Town Manager the authority, with respect to the Bonds, to determine (a) the maturity dates and the respective principal amounts maturing on such dates; (b) the interest payment dates; (c) the redemption provisions, if any; (d) the Registrar/Paying agent; (e) whether to publish notice of the adoption of this ordinance under the provisions of Section 11-27-40(8), of the S.C. Code; (f) the date and time of the sale, including whether or not the Bonds should be sold on the same date as one or more series or on separate dates as separate series; and (g) such other matters as are necessary or appropriate. The Town Manager is further directed to consult with the Town's financial advisor and bond counsel in making any such decisions.

The Town Council hereby further delegates to the Town Manager or his lawfully authorized designee the authority to receive bids on behalf of the Town Council and the authority to award the sale of the Bonds to the lowest bidder therefor, in accordance with the terms of the Notice of Sale for the Bonds, provided the true interest cost does not exceed 5.00%. After the sale of the Bonds, the Town Manager or his lawfully authorized designee shall submit a written report to the Town Council setting forth the results of the sale of the Bonds.

SECTION 4. Registration, Transfer and Exchange of Bonds. The Town shall cause books (herein referred to as the "registry books") to be kept at the offices of the Registrar/Paying Agent, for the registration and transfer of the Bonds. Upon presentation at its office for such purpose the Registrar/Paying Agent shall register or transfer, or cause to be registered or transferred, on such registry books, the Bonds under such reasonable regulations as the Registrar/Paying Agent may prescribe.

Each Bond shall be transferable only upon the registry books of the Town, which shall be kept for such purpose at the principal office of the Registrar/Paying Agent, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar/Paying Agent duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any such Bond the Registrar/Paying Agent on behalf of the Town shall issue in the name of the transferee a new fully-registered Bond or Bonds, of the same aggregate principal amount, interest rate and maturity as the surrendered Bond. Any Bond surrendered in exchange for a new registered Bond pursuant to this Section shall be canceled by the Registrar/Paying Agent.

The Town and the Registrar/Paying Agent may deem or treat the person in whose name any fully-registered Bond shall be registered upon the registry books as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such Bond and for all other purposes and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Town nor the Registrar/Paying Agent shall be affected by any notice to the contrary. In all cases in which the privilege of transferring Bonds is exercised, the Town shall execute and the Registrar/Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. Neither the Town nor the Registrar/Paying Agent shall be obliged to make

any such transfer of Bonds during the fifteenth (15th) day of the calendar month preceding an interest payment date on such Bonds.

SECTION 5. Record Date. The Town establishes a record date for the payment of interest or for the giving of notice of any proposed redemption of Bonds, and such record date shall be the fifteenth (15th) day (whether or not a business day) preceding an interest payment date on such Bond or, in the case of any proposed redemption of Bonds, such record date shall be the fifteenth (15th) day (whether or not a business day) prior to the mailing of notice of redemption of Bonds.

SECTION 6. Mutilation, Loss, Theft or Destruction of Bonds. In case any Bond shall at any time become mutilated in whole or in part, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the owner, the Town shall execute and the Registrar shall authenticate and deliver at the principal office of the Registrar, or send by registered mail to the owner thereof at his request, risk and expense a new Bond of the same series, interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute Bond shall furnish the Town and the Registrar evidence or proof satisfactory to the Town and the Registrar of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity as may be required by the laws of the State or such greater amount as may be required by the Town and the Registrar. Any duplicate Bond issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance as was the original Bond in lieu of which such duplicate Bond is issued, and shall be entitled to equal and proportionate benefits with all the other Bonds of the same series issued hereunder.

All expenses necessary for the providing of any duplicate Bond shall be borne by the applicant therefor.

SECTION 7. Form of Bonds. The Bonds shall be in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 8. Execution of Bonds. The Bonds shall be executed in the name of the Town with the manual or facsimile signature of the Mayor of the Town attested by the manual or facsimile signature of the Town Clerk under the seal of the Town which shall be impressed, imprinted or reproduced thereon. The Bonds shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. Each Bond shall bear a certificate of authentication manually executed by the Registrar/Paying Agent in substantially the form set forth herein.

SECTION 9. Security for the Bonds. The full faith, credit, taxing power and resources of the Town are hereby irrevocably pledged for the payment of the principal and interest of the Bonds as they respectively mature and for the creation of such sinking fund as may be necessary to provide for the prompt payment thereof. There shall be levied and collected annually upon all taxable property of the Town an ad valorem tax, without limitation as to rate or amount, sufficient for such purposes. The Town at its option may also utilize any other funds available therefor for the payment of the principal of and interest on the Bonds.

SECTION 10. Defeasance. The obligations of the Town herein made or provided for, shall be fully discharged and satisfied as to any portion of the Bonds, and such Bond or Bonds shall no longer be deemed to be outstanding hereunder when:

(a) such Bond or Bonds shall have been purchased by the Town and surrendered to the Town for cancellation or otherwise surrendered to the Town or the Paying Agent and is canceled or subject to cancellation by the Town or the Paying Agent; or

(b) payment of the principal of and interest on such Bonds either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Paying Agent in trust and irrevocably set aside exclusively for such payment (1) moneys sufficient to make such payment or (2) Government Obligations (hereinafter defined) maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment and all necessary and proper fees, compensation and expenses of the Paying Agent. At such time as the Bonds shall no longer be deemed to be outstanding hereunder, such Bonds shall cease to draw interest from the due date thereof and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this Ordinance.

“Government Obligations” shall mean any of the following:

(i) direct obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which, in the opinion of the Attorney General of the United States, is fully and unconditionally guaranteed by the United States of America;

(ii) non-callable, U. S. Treasury Securities - State and Local Government Series (“SLGS”);

(iii) general obligation bonds of the State, its institutions, agencies, Towns and political subdivisions which, at the time of purchase, carry a AAA rating from Standard & Poor’s or a Aaa rating from Moody’s Investors Service; and

(iv) a defeasance obligation as defined in Section 6-5-10 of the S.C. Code as such may be amended from time to time.

(c) Such Bond or Bonds shall be defeased as provided in Section 11-14-110 of the S.C. Code as such may be amended from time to time.

The Town has reserved the right to modify this definition to conform to amendments in State law regarding legal investments of public funds.

**SECTION 11. Exemption from State Taxes.** Both the principal of and interest on the Bonds shall be exempt, in accordance with the provisions of Section 12-2-50 of the S.C. Code, from all State, county, municipal, school district and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

**SECTION 12. Eligible Securities.** The Bonds initially issued (the “Initial Bonds”) will be eligible securities for the purposes of the book-entry system of transfer maintained by The Depository Trust Company, New York, New York (“DTC”), and transfers of beneficial ownership of the Initial Bonds shall be made only through DTC and its participants in accordance with rules specified by DTC. Such beneficial ownership must be of \$5,000 principal amount of bonds of the same maturity or any integral multiple of \$5,000.

The Initial Bonds shall be issued in fully-registered form, one Bond for each of the maturities of the Bonds, in the name of Cede & Co., as the nominee of DTC. When any principal of or interest on the Initial Bonds becomes due, the Paying Agent, on behalf of the Town, shall transmit to DTC an amount equal to such installment of principal and interest. DTC shall remit such payments to the beneficial owners of the Bonds or their nominees in accordance with its rules and regulations.

Notices of redemption of the Initial Bonds or any portion thereof shall be sent to DTC in accordance with the provisions of the Ordinance.

If (a) DTC determines not to continue to act as securities depository for the Bonds, or (b) the Town has advised DTC of its determination that DTC is incapable of discharging its duties, the Town shall attempt to retain another qualified securities depository to replace DTC. Upon receipt by the Town of the Initial Bonds together with an assignment duly executed by DTC, the Town shall execute and deliver to the successor securities depository bonds of the same principal amount, interest rate and maturity registered in the name of such successor.

If the Town is unable to retain a qualified successor to DTC or the Town has determined that it is in its best interest not to continue the book-entry system of transfer or that interests of the beneficial owners of the Bonds might be adversely affected if the book-entry system of transfer is continued (the Town undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify beneficial owners of the Bonds by mailing an appropriate notice to DTC, upon receipt by the Town of the Initial Bonds together with an assignment duly executed by DTC, the Town shall execute, authenticate and deliver to the DTC participants bonds in fully-registered form in the denomination of \$5,000 or any integral multiple thereof.

**SECTION 13. Sale of Bonds, Form of Notice of Sale.** The Bonds shall be sold at public sale. A Notice of Sale shall be distributed to prospective bidders and a summary of such Notice shall be published in a newspaper having general circulation in the State or in a financial publication published in the City of New York, State of New York, or both, not less than seven (7) days prior to the date set for such sale in substantially the form attached hereto as Exhibit B and incorporated herein by reference.

**SECTION 14. Preliminary and Final Official Statement.** The Town Council hereby authorizes and directs the Town Manager or his lawfully authorized designee to prepare, or cause to be prepared, a Preliminary Official Statement to be distributed to prospective purchasers of the Bonds together with the Notice of Sale. The Town Council authorizes the Town Manager or his lawfully authorized designee to designate the Preliminary Official Statement as “near final” for purposes of Rule 15c2-12 of the Securities Exchange Commission (the “Rule”). The Town Manager or his lawfully authorized designee is further authorized to see to the completion of the final form of the Official Statement upon the sale of the Bonds so that it may be provided to the purchasers of the Bonds.

**SECTION 15. Filings with Central Repository.** In compliance with Section 11-1-85 of the S.C. Code, as amended, the Town covenants that it will file or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of an annual independent audit of the Town within thirty (30) days of the Town's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, event specific information of an event which adversely affects more than five (5%) percent of the tax revenues of the Town or the Town's tax base.

SECTION 16. Continuing Disclosure. In compliance with the Rule, the Town covenants and agrees for the benefit of the holders from time to time of the Bonds to execute and deliver prior to closing, and to thereafter comply with the terms of a Continuing Disclosure Certificate in substantially the form attached hereto and incorporated herein by reference as Exhibit C. In the event of a failure of the Town to comply with any of the provisions of the Continuing Disclosure Certificate, an event of default under this Ordinance shall not be deemed to have occurred. In such event, the sole remedy of any bondholder or beneficial owner shall be an action to compel performance by the Town.

SECTION 17. Deposit and Use of Proceeds. The proceeds derived from the sale of the Bonds shall be deposited with the Town in a special fund and shall be applied solely to the purposes for which the Bonds have been issued, including payment of costs of issuance of the Bonds, except that the premium, if any, shall be placed in a sinking fund for the Bonds.

SECTION 18. Tax Covenants. The Town hereby covenants and agrees with the holders of the Bonds that it will not take any action which will, or fail to take any action which failure will, cause interest on the Bonds to become includable in the gross income of the holders of the Bonds for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder (the "Code") in effect on the date of original issuance of the Bonds. The Town further covenants and agrees with the holders of the Bonds that no use of the proceeds of the Bonds shall be made which, if such use had been reasonably expected on the date of issue of the Bonds would have caused the Bonds to be "arbitrage bonds," as defined in Section 148 of the Code, and to that end the Town hereby shall:

- (i) comply with the applicable provisions of Sections 103 and 141 through 150 of the Code and any regulations promulgated thereunder so long as the Bonds are outstanding;
- (ii) establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and
- (iii) make such reports of such information at the time and places required by the Code.

SECTION 19. Declaration of Intent to Reimburse Certain Expenditures. This Ordinance shall constitute the Town's declaration of official intent pursuant to Regulation §1.150-2 of the Code to reimburse the Town from a portion of the proceeds of the Bonds for expenditures it anticipates incurring (the "Expenditures") with respect to the Referendum Projects set forth in Section 2(f) hereof prior to the issuance of the Bond. The Expenditures which are reimbursed are limited to Expenditures which are: (a) properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of placed in service under Regulation §1.150-2 of the Code) under general federal income tax principals; or (2) certain de minimis or preliminary Expenditures satisfying the requirements of Regulation §1.150-2(f) of the Code. The source of funds for the Expenditures with respect to these projects will be the Town's reserve funds. To be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (a) the date on which the Expenditures were paid; or (b) the date such projects were placed in service, but in no event more than three (3) years after the original Expenditures.



SECTION 20. Miscellaneous. The Town Council hereby authorizes the Mayor and the Town Clerk, the Town Manager, the Director of Finance and any lawfully authorized designee to execute such documents and instruments as may be necessary to effect the issuance of the Bonds or make modifications in any documents including but not limited to the form of the Bond or Notice of Sale, if necessary. The Town Council hereby retains the law firm of McNair Law Firm, P.A. as bond counsel and Stifel, as financial advisor in connection with the issuance of the Bonds. The Town Manager is authorized to execute such contracts, documents or engagement letters as may be necessary and appropriate to effectuate these engagements.

SECTION 21. Severability. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 22. Codification. This Ordinance shall be forthwith codified in the Code of Town Ordinances in the manner required by law.

SECTION 23. Effective Date. This Ordinance shall be effective upon its enactment by the Town Council of the Town of Hilton Head Island, South Carolina.

[Signature Page follows]

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

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

ATTEST:

\_\_\_\_\_  
Krista Wiedmeyer  
Town Clerk

APPROVED AS TO FORM:

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

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

Introduced by Council Member:

\_\_\_\_\_

**FORM OF BOND**

UNITED STATES OF AMERICA  
 STATE OF SOUTH CAROLINA  
 THE TOWN OF HILTON HEAD ISLAND  
 \$\_\_\_\_\_ GENERAL OBLIGATION BOND  
 SERIES \_\_\_\_\_

No. R-

<u>INTEREST</u> <u>RATE</u>	<u>MATURITY</u> <u>DATE</u>	<u>ORIGINAL</u> <u>ISSUE DATE</u>	<u>CUSIP</u>
%			

REGISTERED HOLDER:

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that the Town of Hilton Head Island, South Carolina (the "Town"), is justly indebted and, for value received, hereby promises to pay to the registered holder named above, or registered assigns, the principal amount shown above on the maturity date shown above, upon presentation and surrender of this Bond at the principal office of \_\_\_\_\_ in \_\_\_\_\_ (the "Paying Agent"), and to pay interest on such principal sum from the date hereof at the interest rate per annum shown above until this Bond matures. Interest on this Bond is payable semiannually on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year commencing \_\_\_\_\_ 1, 20\_\_, until this Bond matures, and shall be payable by check or draft mailed to the person in whose name this Bond is registered on the registration books of the Town maintained by the registrar, presently \_\_\_\_\_ in \_\_\_\_\_ (the "Registrar"), at the close of business on the fifteenth (15th) day of the calendar month next preceding each semiannual interest payment date. The principal and interest on this Bond are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts; provided, however, that interest on this fully-registered Bond shall be paid by check or draft as set forth above.

This Bond shall not be entitled to any benefit under the Ordinance of the Town authorizing the Bonds, nor become valid or obligatory for any purpose, until the Certificate of Authentication hereon shall have been duly executed by the Registrar.

For the payment of the principal and interest of this Bond as they respectively mature and for the creation of such sinking fund as may be necessary to provide for the prompt payment hereof, the full faith, credit, taxing power and resources of the Town are hereby irrevocably pledged, and there shall be levied and collected annually upon all taxable property of the Town an ad valorem tax, without limitation as to rate or amount, sufficient for such purposes.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinance. One bond certificate with respect to each date on which the Bonds are stated to mature, registered in the name of the securities depository

nominee, is being issued and required to be deposited with the securities depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the securities depository's participants, beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the securities depository and its participants pursuant to rules and procedures established by the securities depository and its participants. The Town and the Registrar/Paying Agent will recognize the securities depository nominee, while the registered owner of this bond, as the owner of this bond for all purposes, including payments of principal of and redemption premium, if any, and interest on this bond, notices and voting. Transfer of principal and interest payments to participants of the securities depository will be the responsibility of the securities depository, and transfer of principal, redemption premium, if any, and interest payments to beneficial owners of the Bonds by participants of the securities depository will be the responsibility of such participants and other nominees of such beneficial owners. The Town will not be responsible or liable for such transfers of payments or for maintaining, supervision or reviewing the records maintained by the securities depository, the securities depository nominee, its participants or persons acting through such participants. While the securities depository nominee is the owner of this bond, notwithstanding, the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this Bond shall be made in accordance with existing arrangements between the Registrar/Paying Agent or its successors under the Ordinance and the securities depository.

This Bond is one of a series of Bonds of like date of original issue, tenor and effect, except as to number, date of maturity, denomination, [redemption provisions] and rate of interest, aggregating \_\_\_\_\_ Dollars issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended; Title 11, Chapter 27, Code of Laws of South Carolina 1976, as amended, and Ordinance No. \_\_\_\_\_ duly enacted by the Town Council of the Town.

[Redemption Provisions]

This Bond is transferable as provided in the Ordinance, only upon the books of the Town kept for that purpose at the principal office of the Registrar by the registered holder in person or by his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered holder or his duly authorized attorney. Thereupon a new fully-registered Bond or Bonds of the same aggregate principal amount, interest rate, and maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance. The Town, the Registrar and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

Under the laws of the State of South Carolina (the "State"), this Bond and the interest hereon are exempt from all State, county, municipal, school district and other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State to exist, to happen and to be performed precedent to or in the issuance of this Bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the amount of this Bond, together with all other indebtedness of the Town does not exceed the applicable limitation of indebtedness under the laws of the State; and, that provision has been made for the levy and collection of a tax, without limit, on all taxable property in the Town sufficient to pay

the principal and interest of this Bond as they respectively mature and to create such sinking fund as may be necessary therefor.

IN WITNESS WHEREOF, THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, has caused this Bond to be signed with the manual or facsimile signature of the Mayor of the Town, attested by the manual or facsimile signature of the Town Clerk and the seal of the Town impressed, imprinted or reproduced hereon.

TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

[FORM OF REGISTRAR'S CERTIFICATE OF AUTHENTICATION]

Date of Authentication:

This Bond is one of the bonds described in the within mentioned Ordinance of the Town of Hilton Head Island, South Carolina.

\_\_\_\_\_,  
as Registrar

By: \_\_\_\_\_  
Authorized Officer

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - as tenants in common

UNIF GIFT MIN ACT -

TEN ENT - as tenants by the  
entireties

\_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

JT TEN - as joint tenants with  
right of survivorship  
and not as tenants in  
common

under Uniform Gifts to  
Minors Act \_\_\_\_\_  
(state)

Additional abbreviations may also be used though not in above list.

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns  
and transfers unto \_\_\_\_\_  
(Name and Address of Transferee)

\_\_\_\_\_ the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_  
\_\_\_\_\_ attorney to transfer the within Bond on the books kept  
for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature Guaranteed

\_\_\_\_\_  
Notice: Signature(s) must be  
guaranteed by an institution which is a  
a participant in the  
registered Securities Transfer Agents  
Medallion Program ("STAMP")  
or similar program.

\_\_\_\_\_  
(Authorized Officer)

\_\_\_\_\_  
Notice: The signature to  
the assignment must correspond  
with the name of the  
holder as it appears upon the  
face of the within Bond in every  
particular, without alteration  
or enlargement or any change  
whatever.

A copy of the final approving legal opinion to be rendered shall accompany each Bond and preceding the  
same a certificate shall appear, which shall be signed on behalf of the Town with a manual or facsimile  
signature of the Town Clerk in the following form:

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the  
final legal opinion (except for date and letterhead) of McNair Law Firm, P.A., Columbia, South  
Carolina, approving the issue of Bonds of which the within Bond is one, the original of which  
opinion was manually executed, dated and issued as of the date of delivery of and payment for the  
Bonds, and a copy of which is on file with the Town of Hilton Head Island, South Carolina.

THE TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

By \_\_\_\_\_  
Town Clerk

## FORM OF NOTICE OF SALE

\$ \_\_\_\_\_ GENERAL OBLIGATION BONDS, SERIES \_\_\_\_\_  
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

Time and Place of Sale: NOTICE IS HEREBY GIVEN that proposals addressed to the undersigned will be received on behalf of the Town Council of the Town of Hilton Head Island, South Carolina (the "Town"), in Council Chambers, One Town Center Court, Hilton Head Island, South Carolina, until 11:00 a.m., South Carolina time, on \_\_\_\_\_, \_\_\_\_\_, at which time said proposals will be publicly opened for the purchase of \_\_\_\_\_ (\$ \_\_\_\_\_) General Obligation Bonds, Series \_\_\_\_\_ of the Town (the "Bonds").

Sealed Bids: Each hand delivered proposal shall be enclosed in a sealed envelope marked "Proposal for \$ \_\_\_\_\_ General Obligation Bonds, Series 20\_\_\_\_, Town of Hilton Head Island, South Carolina" and should be directed to the Director of Finance at the address in the first paragraph hereof.

Electronic Bids: Electronic proposals must be submitted through i-Deal's Parity Electronic Bid Submission System ("Parity"). No electronic bids from any other providers of electronic bidding services will be accepted. Information about the electronic bidding services of Parity may be obtained from i-Deal, 40 W. 23rd Street, 5th floor, New York, New York 10010, Customer Support, telephone (212) 404-8102.

**PROPOSALS MAY BE DELIVERED BY HAND OR BY ELECTRONIC BID, BUT NO PROPOSAL SHALL BE CONSIDERED WHICH IS NOT ACTUALLY RECEIVED BY THE TOWN AT THE PLACE, DATE AND TIME APPOINTED, AND THE TOWN SHALL NOT BE RESPONSIBLE FOR ANY FAILURE, MISDIRECTION, DELAY OR ERROR RESULTING FROM THE SELECTION BY ANY BIDDER OF ANY PARTICULAR MEANS OF DELIVERY OF BIDS.**

Book-Entry-Only Bonds: The Bonds will be issued in fully-registered form. One Bond representing each maturity will be issued to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), as registered owner of the Bonds and each such Bond will be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry-only form in the principal amount of \$5,000 or any integral multiple thereof not exceeding the principal amount of Bonds maturing each year; Purchasers will not receive physical delivery of certificates representing their interest in the Bonds purchased. The winning bidder, as a condition to delivery of the Bonds, will be required to deposit the Bond certificates representing each maturity with DTC. The Bonds will be dated \_\_\_\_\_ 1, \_\_\_\_\_ and will mature serially in successive annual installments on \_\_\_\_\_ 1 in each of the years and in the principal amounts as follows:

_____1	Principal Amount*	_____1	Principal Amount*
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\*Preliminary, subject to adjustment.

Adjustment of Maturity Schedule. If, after final computation of the proposals, the Town determines in its sole discretion that the funds necessary to accomplish the purposes for which the Bonds are being issued are either more or less than the proceeds of the sale of the amount of the Bonds as shown in this Notice of Sale, it reserves the right either to decrease or increase the principal amount of the Bonds (all calculations to be rounded to the near \$5,000), provided that any such decrease or increase shall not exceed 10% of the par amount. Such adjustment(s), if any, shall be made within twenty-four (24) hours of the award of the Bonds. In order to calculate the yield on the Bonds for federal tax law purposes and as a condition precedent to the award of the Bonds, bidders must disclose to the Town in connection with their respective bids the price (or yield to maturity) at which each maturity of the Bonds will be reoffered to the public.

In the event of any adjustment of the maturity schedule for the Bonds as described herein, no rebidding or recalculation of the proposals submitted will be required or permitted. Nevertheless, the award of the Bonds will be made to the bidder whose proposal produces the lowest true interest cost solely on the basis of the Bonds offered, without taking into account any adjustment in the amount of the Bonds pursuant to this paragraph.

The Bonds will bear interest from the date thereof payable semiannually on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, commencing \_\_\_\_\_ 1, \_\_\_\_\_.

[Redemption Provisions]

Registrar/Paying Agent: Within twenty-four (24) hours of the sale of the Bonds, the Town will designate a registrar and paying agent ("Registrar/Paying Agent") for the Bonds. The Registrar/Paying Agent shall be a bank, trust company, depository or transfer agent located either within or without the State of South Carolina.

Bid Requirements: Bidders shall specify the rate or rates of interest per annum which the Bonds are to bear, to be expressed in multiples of 1/20 or 1/8 of 1% with no greater difference than two percent (2%) between the highest and lowest rates of interest named by a bidder. Bidders are not limited as to the number of rates of interest named, but the rate of interest on each separate maturity must be the same single rate for all Bonds of that maturity from their date to such maturity date. A bid for less than all the Bonds, a bid at a price less than par or a bid which includes a premium of more than 1% will not be considered. In addition to the bid price, the successful bidder must pay accrued interest from the date of the Bonds to the date of full payment of the purchase price.

Good Faith Deposit: A good faith deposit is not required.



Bid Form: It is requested but not required that you submit your bid on the Proposal for Purchase of Bonds supplied with the Official Statement.

Official Statement: Upon the award of the Bonds, the Town will prepare an official statement (the “Official Statement”) in substantially the same form as the preliminary official statement subject to minor additions, deletions and revisions as required to complete the Official Statement. Within seven (7) business days after the award of the Bonds, the Town will deliver the Official Statement to the successful bidder in sufficient quantity to comply with Rule G-32 of the Municipal Securities Rulemaking Board. The successful bidder agrees to supply to the Town within 24 hours after the award of the Bonds all necessary pricing information and any Underwriter identification necessary to complete the Official Statement.

Security: The Bonds shall constitute binding general obligations of the Town, and the full faith, credit, resources and taxing power of the Town are irrevocably pledged for the payment of the principal and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor. There shall be levied and collected annually upon all taxable property of the Town a tax, without limitation as to rate or amount, sufficient for such purposes.

Continuing Disclosure: In order to assist the bidders in complying with S.E.C. Rule 15c2-12(b)(5), the Town will undertake, pursuant to an ordinance and a Continuing Disclosure Certificate, to provide certain annual financial information and notices of the occurrence of certain events, if material. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement.

Legal Opinion: The Town shall furnish upon delivery of the Bonds the final approving opinion of McNair Law Firm, P.A., Columbia, South Carolina, which opinion shall accompany each Bond, together with the usual closing documents, including a certificate that no litigation is pending affecting the Bonds.

Certificate as to Issue Price: The successful bidder must provide a certificate to the Town by the date of delivery of the Bonds, stating the initial reoffering price of the Bonds to the public (excluding bond houses and brokers) and the price at which a substantial amount of the Bonds were sold to the public, in form satisfactory to Bond Counsel. A sample copy of such a certificate may be obtained from Bond Counsel.

Delivery: The Bonds will be delivered on or about \_\_\_\_\_, \_\_\_\_\_, in New York, New York, at the expense of the Town or at such other place as may be agreed upon with the purchaser at the expense of the purchaser. The balance of the purchase price then due (including the amount of accrued interest) must be paid in federal funds or other immediately available funds.

CUSIP Numbers: It is anticipated that CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of its proposal. All expenses in relation to the printing of CUSIP identification numbers on the Bonds shall be paid for by the Town; provided, however, that the CUSIP Service Bureau charge for the assignment of said numbers shall be the responsibility of and shall be paid for by the successful bidder.

Award of Bid. The Bonds will be awarded to the bidder or bidders offering to purchase the Bonds at the lowest true interest cost (TIC) to the Town. The TIC will be the nominal interest rate which, when compounded semiannually and used to discount all debt service payments on the Bonds (computed at the interest rates specified in the bid and on the basis of a 360-day year of twelve 30-day months) to the dated date of the Bonds, results in an amount equal to the price bid for the Bonds. In the case of a tie bid, the winning bid will be awarded by lot. The Town reserves the right to reject any and all bids or to waive irregularities in any bid. Bids will be accepted or rejected no later than 3:00 p.m., South Carolina time, on the date of the sale.

Additional Information: The Preliminary Official Statement and the Official Notice of Sale of the Town with respect to the Bonds are available via the internet at <http://www.idealprospectus.com> and will be furnished to any person interested in bidding on the Bonds upon request to McNair Law Firm, P. A., Post Office Box 11390, Columbia, South Carolina 29211, attention: Francenia B. Heizer, Esquire, telephone (803) 799-9800, e-mail: [fheizer@mcnair.net](mailto:fheizer@mcnair.net). The Preliminary Official Statement shall be reviewed by bidders prior to submitting a bid. Bidders may not rely on this Official Notice of Sale as to the complete information concerning the Bonds. For additional information, please contact the Town's Bond Counsel, Francenia B. Heizer, Esquire, McNair Law Firm, P. A., Post Office Box 11390, Columbia, South Carolina 29211, telephone (803) 799-9800, e-mail: [fheizer@mcnair.net](mailto:fheizer@mcnair.net) or the Town's Financial Advisor, Brenton J. Robertson, Managing Director, Stifel, 515 Gervais Street, Columbia, South Carolina 20201, telephone (803) 331-3848, e-mail: [robertsonb@stifel.com](mailto:robertsonb@stifel.com).

Town of Hilton Head Island, South Carolina

## FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by the Town of Hilton Head Island, South Carolina (the “Town”) in connection with the issuance of \$\_\_\_\_\_ General Obligation Bonds, Series \_\_\_\_\_ (the “Bonds”). The Bonds are being issued pursuant to an Ordinance adopted by the Town Council of the Town (the “Council”). The Town covenants and agrees as follows:

**SECTION 1. Purpose of the Disclosure Certificate.** This Disclosure Certificate is being executed and delivered by the Town for the benefit of the beneficial owners and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below).

**SECTION 2. Definitions.** The following capitalized terms shall have the following meanings:

“Annual Report” shall mean any Annual Report provided by the Town pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“Bonds” shall mean the \$\_\_\_\_\_ General Obligation Bonds, Series \_\_\_\_\_, of the Town of Hilton Head Island, South Carolina, dated \_\_\_\_\_.

“Dissemination Agent” shall mean the Town or any successor Dissemination Agent designated in writing by the Town and which has filed with the Town a written acceptance of such designation.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

“National Repository” shall mean for purposes of the Rule, the Electronic Municipal Market Access (EMMA) system created by the Municipal Securities Rulemaking Board.

“Participating Underwriter” shall mean \_\_\_\_\_ and any other original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“Repository” shall mean each National Repository and each State Depository, if any.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State Depository” shall mean any public or private repository or entity designated by the State of South Carolina as a state depository for the purpose of the Rule. As of the date of this Disclosure Certificate, there is no State Depository.

**SECTION 3. Provision of Annual Reports.**

(a) The Town shall, or shall cause the Dissemination Agent to provide, not later than February 1 of each year, commencing in 20\_\_\_\_, to the Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than fifteen (15) business days prior to such date the Town shall provide the Annual Report to the Dissemination Agent, if other than the Town; provided, that if the audited financial statements required pursuant to Section 4 hereof to be included in the Annual Report are not available for inclusion in the Annual Report as of such date,

unaudited financial statements of the Town may be included in such Annual Report in lieu thereof, and the Town shall replace such unaudited financial statements with audited financial statements within fifteen (15) days after such audited financial statements become available for distribution. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the Town may be submitted separately from the balance of the Annual Report.

(b) If the Town is unable to provide to the Repository an Annual Report by the date required in subsection (a), the Town shall send a notice to the Municipal Securities Rulemaking Board and State Depository, if any, in substantially the form attached hereto as Exhibit A.

(c) The Dissemination Agent shall:

(1) determine each year prior to the date for providing the Annual Report the name and address of each National Repository and each State Depository, if any; and

(2) if the Dissemination Agent is other than the Town, file a report with the Town and (if the Dissemination Agent is not the Registrar) the Registrar certifying whether the Annual Report has been provided pursuant to this Disclosure Certificate, and, if provided, stating the date it was provided, and listing the Repository to which it was provided.

#### SECTION 4. Content of Annual Reports.

(a) The Town's Annual Report shall contain or incorporate by reference the most recent audited financial statements, which shall be prepared in conformity with generally accepted accounting principles (or, if not in such conformity, to be accompanied by a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information) applicable to governmental entities such as the Town, and shall, in addition, contain or incorporate by reference the following, for the immediately preceding fiscal year:

- (1) Town population;
- (2) Total anticipated state appropriations subject to withholding under Article X, Sec. 14, South Carolina Constitution;
- (3) Outstanding indebtedness of the Town;
- (4) Market value/assessment summary of taxable property in Town;
- (5) Tax Rates for Town;
- (6) Tax collections for Town; and
- (7) Five largest taxpayers (including fee-in-lieu-of-tax) for Town.

(b) Audited Financial Statements prepared in accordance with GAAP as described in the Official Statement will be included in the Annual Report.

Any or all of the items listed above may be included by specific reference from other documents, including official statements of debt issues with respect to which the Town is an "obligated person" (as defined by the Rule), which have been previously filed with the National Repository or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The Town will clearly identify each such document so incorporated by reference.

## SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the Town shall give, or cause to be given, notice of the occurrence of any of the following events (the “Listed Events”):

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders;
- (8) Bond calls;
- (9) Tender offers;
- (10) Defeasances;
- (11) Release, substitution, or sale of property securing repayment of the securities;
- (12) Rating changes;
- (13) Bankruptcy, insolvency, receivership or similar event of the Town;
- (14) The consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of the assets of the Town other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (15) Appointment of a successor or additional trustee or the change of name of a trustee.

(b) Whenever the Town obtains knowledge of the occurrence of a Listed Event described in subsections (a)(2), (7), (8), (11), (14), or (15) above, the Town shall as soon as possible determine if such event would be material under applicable federal securities laws. If the Town determines that knowledge of the occurrence of such event would be material under applicable federal securities laws, the Town shall promptly, and no later than 10 days after the occurrence of the event, file a notice of such occurrence with the Repository.

(c) Whenever the Town obtains knowledge of the occurrence of a Listed Event described in subsections (a)(1), (3), (4), (5), (6), (9), (10), (12), or (13) above, the Town shall promptly, and no later than 10 days after the occurrence of the event, file a notice of such occurrence with the Repository.

(d) Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8), (9), and (10) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds. For the purposes of the event identified in (a)(13) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Town in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Town, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of

reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Town.

SECTION 6. Termination of Reporting Obligation. The Town's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds.

SECTION 7. Dissemination Agent. The Town may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be the Town.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Town may amend this Disclosure Certificate and any provision of this Disclosure Certificate may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the Town, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

SECTION 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Town from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Town chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Certificate, the Town shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the Town, or the Dissemination Agent to comply with any provision of this Disclosure Certificate, any beneficial owner may take such actions as may be necessary and appropriate, including seeking injunctive relief or specific performance by court order, to cause the Town, or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Ordinance, and the sole remedy under this Disclosure Certificate in the event of any failure of the Town, or the Dissemination Agent to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of the Dissemination Agent. The provisions of this Section 11 shall apply if the Issuer is not the Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and to the extent permitted by applicable law and other public policy considerations, the Issuer agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of their powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Town, the Dissemination Agent, the Participating Underwriters, and Holders from time to time of the Bonds and shall create no rights in any other person or entity.

TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

By: \_\_\_\_\_  
Town Manager

Dated: \_\_\_\_\_, 20\_\_

NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of Town: Town of Hilton Head Island, South Carolina

Name of Bond Issue: \$\_\_\_\_\_ General Obligation Bonds, Series \_\_\_\_\_,  
Town of Hilton Head Island, South Carolina

Date of Issuance: \_\_\_\_\_

NOTICE IS HEREBY GIVEN that The Town of Hilton Head Island, South Carolina (the “Town”) has not provided an Annual Report with respect to the above-named Bonds as required by Sections 3 and 4 of the Continuing Disclosure Certificate executed and delivered by the Town as Dissemination Agent. The Town has notified us in writing that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA



## ORDINANCE

AUTHORIZING THE ISSUANCE AND SALE OF NOT EXCEEDING \$32,000,000 PRINCIPAL AMOUNT TAX INCREMENT BONDS, IN ONE OR MORE SERIES, WITH APPROPRIATE SERIES DESIGNATIONS, OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, FOR THE PURPOSE OF PAYING THE COST OF CERTAIN REDEVELOPMENT PROJECTS; DELEGATING THE AUTHORITY TO THE TOWN MANAGER TO DETERMINE CERTAIN MATTERS WITH RESPECT TO THE BONDS; PRESCRIBING THE FORM AND DETAILS OF THE BONDS; LIMITING THE PAYMENT OF THE BONDS FROM THE SOURCES PROVIDED HEREIN; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS THEREOF; AMENDING AND RESTATING ORDINANCE NO. 2004-29, AS PREVIOUSLY AMENDED, AND CONFIRMING AMENDMENTS TO ORDINANCE NO. 09-20; AND OTHER MATTERS RELATING THERETO.

WHEREAS, the Town Council (the "Town Council") of the Town of Hilton Head Island, South Carolina (the "Town"), enacted Ordinance No. 99-35 on December 7, 1999, establishing and approving a plan for the redevelopment of a portion of the Town pursuant to the Hilton Head Tax Increment Financing Development Plan dated October 1999 (the "Original TIF Plan"); and

WHEREAS, pursuant to Ordinance No. 2004-29 enacted by the Town Council on June 15, 2004 (the "2004 Bond Ordinance"), the Town issued \$8,000,000 principal amount of its Tax Increment Bond, Series 2004, dated June 25, 2004 (the "2004 Bond"); and

WHEREAS, pursuant to Ordinance No. 2008-10 enacted by the Town Council on April 15, 2008 (the "First Supplemental Ordinance" and, together with the 2004 Bond Ordinance, the "Prior Bond Ordinance"), the Town also issued \$22,000,000 principal amount of its Tax Increment Bond, Series 2008, dated April 17, 2008 (the "2008 Bond"), and amended the 2004 Bond Ordinance and Ordinance No. 90-26 enacted by the Town Council on October 1, 1990, in order to permit the Town to issue from time to time Bonds payable from a pledge of Tax Revenues and amounts on deposit in the Additional Security Fund (as such terms are defined in the First Supplemental Ordinance), including but not limited to the Town's real estate transfer fee fund; and

WHEREAS, the 2004 Bond and 2008 Bond matured on December 1, 2014, and June 1, 2015, respectively, and are no longer outstanding under the Prior Bond Ordinance; and

WHEREAS, pursuant to Ordinance No. 2014-13 enacted by the Town Council on June 10, 2014, the Town Council amended the Original TIF Plan (as so amended, the "Amended TIF Plan"), as follows: (1) extending the time for the implementation of the Original TIF Plan, as amended for an additional ten years; (2) increasing the cap on TIF expenditures from \$65 million in the Original TIF Plan to a cumulative \$115 million through the Amended TIF Plan; (3) describing the TIF Projects (as defined in the Amended TIF Plan) which will be included in the Amended TIF Plan; and (4) establishing binding terms and conditions upon which Hilton Head Public Service District (the "PSD"), Beaufort County, South Carolina (the "County"), and the School District of Beaufort County, South Carolina (the "School District"), would agree to participate in the Amended TIF Plan; and

WHEREAS, the governing bodies of each of the PSD, the County and the School District adopted resolutions consenting to the Amended TIF Plan, based on the terms and conditions referenced above; and

WHEREAS, the Town desires to undertake certain of the TIF Projects (the “New Projects”), and to issue not exceeding \$32,000,000 principal amount of its Tax Increment Bonds, in one or more series, with appropriate series designations (the “New Bonds”), to finance, among other things, the Costs of Acquisition and Construction of the New Projects, including Costs of Issuance (as such terms are defined herein), and to fund or otherwise satisfy the reserve requirement for a debt service Reserve Account, if any, established for a series of the New Bonds; and

WHEREAS, the Town Council has been advised that the Prior Bond Ordinance should be further amended in order to establish debt service Reserve Accounts, if any, for Bonds issued thereunder, to permit the replenishment of such debt service Reserve Accounts from deposits of the Town’s real estate transfer fees and to make other changes thereto, and that it would be most expedient to enact this Ordinance to authorize the New Bonds to finance the New Projects and amend and restate the Prior Bond Ordinance in its entirety;

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AS FOLLOWS:

## ARTICLE I

### DEFINITIONS

Section 1. Definitions. The terms in this Section 1 shall for all purposes of this Ordinance have the respective meanings given to them in the Ordinance and in Section 1 hereof.

“2004 Bond” shall mean the \$8,000,000 Tax Increment Bond, Series 2004 issued on June 25, 2004.

“2008 Bond” shall mean the \$22,000,000 Tax Increment Bond, Series 2008, issued on April 17, 2008.

“Act” shall mean Title 31, Chapter 6, Code of Laws of South Carolina 1976, as amended (being the Tax Increment Financing Law), and as such Act may be further amended from time to time.

“Additional Bonds” shall mean any Bond issued as provided in Section 8.1 herein which shall be secured on a parity with any other Bonds issued hereunder.

“Additional Security Fund” shall mean the fund of that name established pursuant to Section 4.2 hereof.

“Amended TIF Plan” shall mean the amendments to the Original TIF Plan entitled: “Amended Tax Increment Financing Plan for the Town of Hilton Head Island Redevelopment Area” dated March 2014, as approved by Ordinance No. 2014-13 enacted by the Town Council on June 10, 2014, and as the same may be amended from time to time hereafter.

“Beneficial Owner” shall mean any purchaser who acquires beneficial ownership interest in any Initial Bond held by the Depository. In determining any Beneficial Owner the Town, the Trustee (if any), the Registrar and the Paying Agent may rely exclusively upon written representations made and information given to the Town, the Trustee (if any), the Registrar and the Paying Agent, as the case may be, by the Depository or its Participants with respect to any Initial Bond held by the Depository or its Participants in which a beneficial ownership interest is claimed.

“Bond” or “Bonds” shall mean any Bond, some of the Bonds, or all of the Bonds issued under and pursuant to the Bond Ordinance, including the New Bonds and any Additional Bonds issued from time to time.

“Bondholder(s)” or the term “Holder(s)” or the term “Owner(s)” or any similar term shall mean the registered owner or owners of any Outstanding Bond or Bonds.

“Bond Ordinance” shall mean this Ordinance (which amends and restates the Prior Bond Ordinance in its entirety) and any Supplemental Ordinance hereafter enacted authorizing the issuance of a series of Bonds.

“Bond Year” shall mean such date or dates as may be determined in connection with any Series of Bonds.

“Book-Entry Form” or “Book-Entry System” shall mean with respect to the Initial Bonds, a form or system, as applicable, under which (a) the ownership of beneficial interests in the Initial Bonds may be transferred only through a book-entry and (b) physical bond certificates in fully registered form are registered only in the name of a Depository or its nominee as Holder, with the physical bond certificates “immobilized” in the custody of the Depository. The book-entry maintained by the Depository is the record that identifies the owners of participatory interests in the Initial Bonds, when subject to the Book-Entry System.

“Books of Registry” shall mean the registration books maintained by the Town in accordance with Section 3.3 hereof.

“Business Day” means any day other than a Saturday, a Sunday or a day on which banking institutions in the State are required or authorized by law (including executive orders) to close.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Cost of Acquisition and Construction” shall mean, to the extent permitted by the Act, Redevelopment Project Costs, including Cost of Issuance. Cost of Acquisition and Construction shall include the reimbursement of funds previously advanced by the Town with respect to the New Projects.

“Cost of Issuance” shall mean all items of expense, directly or indirectly payable or reimbursable by or to the Town and related to the authorization, sale and issuance of the New Bonds including, but not limited to, printing costs, costs of preparation and reproduction of documents, filing and recording fees, initial fees and charges of the Registrar, legal fees and charges, auditing and accounting fees and charges, fees and disbursements of consultants and professionals, costs of credit ratings, fees and charges for preparation, execution, transportation and safekeeping of bonds, costs and expenses of refunding, bond insurance premiums, financing charges and any other costs, charges or fees in connection with the original issuance of the New Bonds.

“County” shall mean Beaufort County, South Carolina.

“Custodian” shall mean one or more banks or financial institutions to hold the Series Construction Fund, if any, as selected by the Town Manager pursuant to Section 10.2 hereof.

“Debt Service” shall mean, with respect to each Series of Bonds and with respect to any particular Bond Year, the aggregate of the amounts to be paid or set aside (or estimated to be required to be paid or set aside) in the Special Tax Allocation Fund in such Bond Year for the payment of the

principal of, redemption premium, if any, and interest (to the extent not capitalized) on such Series of Bonds.

“Default” or “Event of Default” shall mean any of those defaults specified in and defined by Article XI hereof.

“Depository” shall mean any securities depository that is a “clearing corporation” within the meaning of the New York Uniform Commercial Code and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended, operating and maintaining, with its participants or otherwise, a Book-Entry System to record ownership of beneficial interests in the Initial Bonds, and to effect transfers of the Initial Bonds, in Book-Entry Form, and includes and means initially The Depository Trust Company (a limited-purpose trust company), New York, New York.

“First Supplemental Ordinance” shall mean Ordinance No. 2008-10 enacted by the Town Council on April 15, 2008.

“Government Obligations” shall mean any of the following, if and to the extent the same are at the time legal investments of the Town:

(a) non-callable bonds, notes or direct obligations and general obligations of the United States or agencies thereof or obligations, the payment of principal or interest on which, in the opinion of the Attorney General of the United States, is fully and unconditionally guaranteed by the United States of America; and

(b) non-callable, U.S. Treasury Certificates, Notes and Bonds (including State and Local Government Series - “SLGS”);

(c) non-callable, direct obligations of the U.S. Treasury which have been stripped by the U.S. Treasury;

(d) non-callable, interest strips of obligations issued by Resolution Funding Corporation which are backed by the full faith and credit of the United States; and

(e) non-callable (or not subject to further call), prerefunded municipal bonds which are rated “Aaa” by Moody’s or “AAA” by S&P.

“Insurer” shall mean each insurance company providing a Surety Bond, or any successor thereto or assignee thereof.

“Insurer Default” shall mean there shall exist a default in the payment by the Insurer of principal of or any interest on any New Bond when required to be made by the applicable Surety Bond.

“Interest Payment Date” shall mean such date or dates as shall be determined by the Town Manager for each Series of Bonds for the payment of interest.

“Junior Bonds” shall mean either (a) bonds secured by a pledge of Tax Revenues junior and subordinate in all respects to the pledge securing the Bonds or (b) any other form of indebtedness, including lease purchase obligations, secured by sums available in the Special Tax Allocation Fund after provision has been made for all payments required to be made with respect to the Bonds as provided in this Ordinance.

“Letter of Credit” shall mean, subject to Section 8 hereof, a letter of credit (if any) issued by a bank or other financial institution satisfactory to the Town, to satisfy all or a portion of the Series Reserve Requirement.

“New Bonds” shall mean not exceeding \$13,000,000 principal amount of the Town’s Tax Increment Bonds, authorized to be issued hereunder in one or more series.

“New Projects” shall mean, collectively, the Redevelopment Projects to be financed with the proceeds of the New Bonds and such other projects as may be approved by the Town Manager and permitted by the Amended TIF Plan.

“Ordinance” shall mean this ordinance as originally enacted and, unless the context shall clearly indicate otherwise, as it may be from time to time hereafter supplemented, modified or amended.

“Original TIF Plan” shall mean the redevelopment plan entitled: “Tax Increment Financing District” dated October 1999 approved and adopted pursuant to the Redevelopment Ordinance.

“Outstanding” when used with respect to any Bonds shall have the construction given to such term in Article XIII hereof; i.e., a Bond shall not be Outstanding if such Bond is not, or would not be, at the time, deemed to be Outstanding by reason of the operation and effect of Article XIII.

“Paying Agent” shall mean for each Series of Bonds the respective paying agent or paying agents, if any, appointed pursuant to Section 10.2 hereof.

“Permitted Investments” shall mean those investments described in Section 6-5-10 of the Code of Laws of South Carolina 1976, as amended, as now or hereafter amended and in effect from time to time, or any authorization relating to the investment of Town funds, and (b) the South Carolina Pooled Investment Fund or similar State administered pool investment, as same shall be approved by the Bond Insurer, if any.

“Placement Agent” shall mean Stifel.

“Principal Payment Date” shall mean such date or dates as shall be determined by the Town Manager for each Series of Bonds for the payment of principal.

“Prior Bond Ordinance” shall mean Ordinance No. 2004-29 enacted by the Town Council on June 15, 2004, as amended by the First Supplemental Ordinance, which is amended and restated in its entirety by this Ordinance.

“Record Date” shall mean with respect to any Series of Bonds the fifteenth (15th) day (whether or not a Business Day) of the calendar month immediately preceding an Interest Payment Date or such other day as may be provided in this Ordinance.

“Redevelopment Ordinance” shall mean Ordinance No. 99-35 dated December 7, 1999, establishing and approving the Original TIF Plan.

“Redevelopment Projects” shall mean one or more projects pursuant to the Original TIF Plan and the Amended TIF Plan, to wit:

1. Completion of projects within the Original TIF Plan, Planning/Design/Land Acquisition for items 2, 3 and 4 described below and related Financing Costs and Project Management (estimated in the aggregate at \$13,124,597).
2. Coligny/Pope Initiative Area
  - A. Coligny Area Improvements
  - B. University of South Carolina – Beaufort (USCB) at Office Park Road
3. Chaplin Linear Park
4. Mathews/Chaplin and Stoney Projects
5. Financing Costs and Project Management for the foregoing projects 2, 3 and 4 (items 2, 3, 4 and 5 are estimated in the aggregate at \$50,000,000).

“Redevelopment Project Area” shall mean the area within the Town identified as such in the Amended TIF Plan.

“Redevelopment Project Costs” shall mean costs incurred in connection with the Redevelopment Projects, the repayment to the Town of any moneys used to replenish the Series Debt Service Reserve Account, if any, established for a Series of Bonds, the repayment to the Town of any funds expended on Costs of Acquisition and Construction of the Redevelopment Projects, and any other items included as “redevelopment project costs” as defined in the Act.

“Registrar” shall mean for each Series of Bonds, the respective bank, trust company, depository or transfer agent appointed as registrar pursuant to Section 10.2 hereof. The Town may appoint itself, acting through the Town Clerk, to serve as Registrar.

“School District” shall mean the School District of Beaufort County, South Carolina.

“Series” or “Series of Bonds” or “Bond of Series” shall mean all Bonds designated as being of the same series issued and delivered on original issuance in a simultaneous transaction, and any Bond thereafter delivered in lieu thereof or in substitution therefor pursuant to this Ordinance.

“Series Construction Fund” shall mean one or more Funds established pursuant to Section 10.1 hereof into which a portion of the proceeds of a Series of the New Bonds will be deposited and from which such proceeds will be disbursed to pay the Costs of Acquisition and Construction of the New Projects (including the Costs of Issuance). Pursuant to Section 10.1, each Series Construction Fund shall be further identified or designated to relate to the specific Series of the New Bonds issued hereunder.

“Series Debt Service Account” shall mean one or more Accounts established pursuant to Section 5.3 hereof to provide for the payment of the principal of and interest on the Series of Bonds related thereto. Pursuant to Section 5.3, each Series Debt Service Account shall be further identified or designated to relate to the specific Series of the New Bonds issued hereunder.

“Series Debt Service Reserve Account” shall mean one or more Accounts, if any, established pursuant to Section 5.4 hereof (a) to insure the timely payment of the principal and interest on the Series of Bonds related thereto; and (b) to provide for the redemption of the Series of Bonds related thereto. Pursuant to Section 5.4, each Series Debt Service Reserve Account shall be further identified or designated to relate to the specific Series of the New Bonds issued hereunder.

“Series Interest Sub-Account” shall mean the Sub-Account of that name of the New Bonds and Series Debt Service Account established pursuant to Section 5.3 of this Ordinance with respect to any series of Additional Bonds pursuant to a Supplemental Ordinance.

“Series Principal Sub-Account” shall mean the Sub-Accounts of that name with respect to the New Bonds of the Series Debt Service Account established pursuant to Section 5.3 of this Ordinance and with respect to any Series of Additional Bonds pursuant to a Supplemental Ordinance.

“Series Reserve Requirement” shall mean the amount, if any, established pursuant to Section 5.4 hereof.

“Surety Bond” shall mean, subject to Section 5.4, the reserve policy or surety bond, if any, issued by the Insurer in connection with the New Bonds and payable to the Paying Agent.

“Supplemental Ordinance” shall mean any ordinance enacted by the Town Council providing for the issuance of Bonds issued as provided in Article VIII, and any ordinance enacted by the Town Council pursuant to and in compliance with the provisions of Article XIV hereof amending or supplementing the provisions of this Ordinance.

“State” shall mean the State of South Carolina.

“Tax Revenues” shall mean the amounts of ad valorem taxes, if any, determined in accordance with Section 5.1 hereof and collected in each year in the Redevelopment Project Area which amounts shall be deposited upon receipt by the Town in the Special Tax Allocation Fund, and shall include the proportionate amount of any increased ad valorem taxes due to the late payment of such taxes.

“Tax Year” shall mean the consecutive twelve (12) month period during which ad valorem real property taxes of the Town are levied and collected, presently being the period from July 1 to June 30.

“Taxing Districts” shall mean the Town, the County, the School District and the PSD.

“TIF Capital Projects Account” shall mean the account of that name established pursuant to Section 5.4 of this Ordinance with respect to the New Bonds.

“Town” shall mean the Town of Hilton Head Island, South Carolina, an incorporated municipality of the State situated in the County.

“Town Council” shall mean the Town Council of the Town of Hilton Head Island, South Carolina.

“Trustee” shall mean the bank or financial institution appointed by the Town, as determined by the Town Manager pursuant to Section 10.2 hereof.

“Underwriter” shall mean such bank or financial institution selected by the Town Manager pursuant to Section 10.2 hereof.

## ARTICLE II

### FINDINGS AND DETERMINATIONS

Section 2.1. Findings and Determinations. The Town Council hereby finds and determines:

(a) The Town is an incorporated municipality located in the County, and as such possesses all powers granted to municipalities by the Constitution and general laws of the State.

(b) Pursuant to Section 5-5-10, Code of Laws of South Carolina 1976, as amended, the Town has selected the Town Council-Manager form of government and is governed by a Council composed of a Mayor and six (6) council members which constitute the governing body of the Town.

(c) Article X, Section 14, of the Constitution of the State of South Carolina, 1895, as amended (the "Constitution"), provides that the General Assembly may authorize by general law that indebtedness for the purpose of redevelopment within incorporated municipalities may be incurred, and that the debt service of such indebtedness be provided from the added increments of tax revenues to result from a redevelopment project.

(d) Pursuant to the Act, the governing bodies of the incorporated municipalities of the State are vested with all powers consistent with the Constitution of the State necessary, useful, and desirable to enable them to accomplish redevelopment in areas which are or threatened to become blighted. Incorporated municipalities are further authorized to issue bonds under the Act to finance a "redevelopment project" as defined in the Act.

(e) Pursuant to the Prior Bond Ordinance, the Town issued the 2004 Bond and the 2008 Bond, both of which are no longer outstanding thereunder.

(f) The Town proposes to construct and acquire any one or more of the Redevelopment Projects with the proceeds of the New Bonds authorized by this Ordinance and such Additional Bonds as may be issued from time to time.

(g) The total expenditures for public improvements to be funded pursuant to the Original TIF Plan totaled approximately \$65,000,000, which was funded in part with proceeds of the 2004 Bond and the 2008 Bond. Pursuant to the Amended TIF Plan, the total expenditures for public improvements was increased to approximately \$115,000,000, to be funded in part with proceeds of the New Bonds for the New Projects.

(h) The Town further proposes to make certain amendments to the Prior Bond Ordinance, while also continuing several of the provisions thereof; as such, it is in the best interest of the Town to amend and restate the Prior Bond Ordinance in its entirety.

(i) It is now in the best interest of the Town for the Town Council to provide for the issuance and sale of the New Bonds of the Town from time to time pursuant to the aforesaid provisions of the Constitution and laws of the State in a not exceeding amount of \$32,000,000 to provide funds to pay the Redevelopment Project Costs for any one or more of the New Projects and to fund or satisfy the reserve requirement for the Series Debt Service Reserve Account, if any, established for the New Bonds.

(j) The application of a portion of the proceeds of the New Bonds for the Costs of Acquisition and Construction of the Redevelopment Projects is necessary and in the best interest of the



Town and will promote the health, safety, morals and welfare of the residents of the Town. The issuance of the New Bonds and Additional Bonds as may be issued will provide funds to further implement the Amended TIF Plan. Each of the Redevelopment Projects constitutes a “redevelopment project” within the meaning of the Act, and the New Bonds will be issued for corporate purposes and public purposes of the Town.

### ARTICLE III

#### AUTHORIZATION OF THE NEW BONDS

Section 3.1. Authorization of the New Bonds. Pursuant to the aforesaid provisions of the Constitution and the Act, there is hereby authorized to be issued one or more Series of Bonds designated “Town of Hilton Head Island, South Carolina, Tax Increment Bonds, Series (year)” (the “New Bonds”), including such further words, numbers or letters as may be necessary or desirable to identify individual series thereof, the purposes thereof, or the taxable status thereof, in the aggregate principal amount of not to exceed \$32,000,000, for the purposes set forth in Article II above.

Section 3.2. Details of the New Bonds.

(a) Unless otherwise determined by the Town Manager pursuant to Section 10.2 hereof, the New Bonds shall mature on June 1 in each of the years (the “Principal Payment Dates”) and in the principal amounts, and bear interest at the rates per annum (calculated on the basis of a 360-day year comprised of twelve 30-day months), as determined by the Town Manager, pursuant to Section 10.2 hereof.

(b) Such of the New Bonds as the Town Manager shall determine pursuant to Section 10.2 hereof shall be subject to mandatory redemption at a redemption price equal to the principal amount of the New Bonds to be redeemed, together with interest accrued from the date of redemption, in the years and in the amounts determined by the Town Manager, pursuant to Section 10.2 hereof.

At its option, to be exercised on or before the sixtieth (60th) day prior to any mandatory redemption date, the Town may (i) deliver to the Trustee (if any) or Registrar for cancellation New Bonds which are subject to mandatory redemption in any aggregate principal amount desired or (ii) receive a credit in respect of its mandatory redemption obligation for any such New Bonds which, prior to such date, have been purchased or redeemed (otherwise than through the operation of the mandatory redemption requirement) by the Town and cancelled by the Trustee (if any) or Registrar and not theretofore applied as a credit against any mandatory redemption obligation. Each New Bond so delivered or previously purchased or redeemed shall be credited by the Trustee (if any) or Registrar, at one hundred percent (100%) of the principal amount thereof, to the obligation of the Town on those respective mandatory redemption obligations in chronological order or such other manner as directed in writing by the Town to the Trustee (if any) or Registrar, and the principal amount of the New Bonds to be redeemed by operation of the mandatory redemption requirement shall be accordingly reduced.

(c) Such of the New Bonds as may be determined by the Town Manager pursuant to Section 10.2 hereof shall be subject to redemption prior to maturity, at the option of the Town, in whole or in part at any time in such order of their maturities as the Town shall determine and by lot within a maturity, at the respective redemption prices with respect to each New Bond, expressed as a percentage of principal amount of the New Bonds to be redeemed, as shall be determined by the Town Manager pursuant to Section 10.2 hereof, together, in each such case, with the interest accrued on such principal amount to the date fixed for redemption.

(d) The Trustee (if any) shall give notice of redemption of the New Bonds by first-class mail, postage prepaid, to the Holders thereof as shown on the Books of Registry of the Town not less than thirty (30) days prior to the date fixed for the redemption thereof. The Trustee (if any), without further authorization or direction from the Town, shall give notice of all mandatory redemptions within the time periods and in the manner specified above, with respect to optional redemptions.

(e) The New Bonds shall originally be dated the date of delivery of the New Bonds, or such other date as the Town Manager shall determine pursuant to Section 10.2 hereof, and shall be issued as fully registered Bonds in the denominations of \$5,000 and integral multiples of \$5,000. The New Bonds shall be numbered and lettered in such a fashion as to maintain a proper record thereof.

(f) Principal of and redemption premium, if any, on the New Bonds shall be payable at the designated corporate trust office of the Paying Agent. Interest on the New Bonds shall be payable on each Interest Payment Date, in each case to the Holders as of the immediately preceding Record Date, such interest to be paid by the Paying Agent by check or draft mailed to each Holder at the address as it appears on the Books of Registry maintained at the designated corporate trust office of the Paying Agent, and in the case of a Holder of \$1,000,000 or more in principal amount of New Bonds, by wire transfer to an account within the continental United States upon the timely receipt of a written request of such Holder. Payment of the principal of and interest on such New Bonds may be payable to the Holder thereof without presentation and surrender of such New Bonds.

(g) The New Bonds shall be in substantially the form set forth in Exhibit A hereto, with such necessary or appropriate variations, omissions and insertions as are incidental to the series, numbers, denominations, maturities, dates, interest rate or rates, redemption provisions, the purpose of issuance and other details thereof or as are otherwise permitted or required by law or by this Ordinance. The New Bonds shall be executed in the name and on behalf of the Town by the manual or facsimile signatures of the Mayor and Town Clerk.

(h) A copy of the approving opinion to be rendered on the New Bonds shall be printed on the back of such New Bonds, preceding the same a certificate shall appear, which shall be signed on behalf of the Town by a facsimile signature of the Town Clerk. Such certificate shall be in the form substantially as follows:

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the approving opinion of McNair Law Firm, P.A., Columbia, South Carolina, the original of which was manually executed, dated and issued as of the date of the delivery of and payment for the bonds, and a copy of which is on file with the Town.

THE TOWN OF HILTON HEAD, SOUTH CAROLINA

By: \_\_\_\_\_  
Town Clerk

Section 3.3. Town as Registrar and Registration of New Bonds. The Town shall cause Books of Registry to be kept by the Registrar, for the registration and transfer of the New Bonds. Upon presentation at the office of the Town Clerk of the Town or at the corporate trust office of the Registrar for such purpose, the Registrar shall register or transfer, or cause to be registered or transferred, on the Books of Registry, the New Bonds under such reasonable regulations as the Registrar may prescribe. The Town shall serve as the Registrar and Paying Agent for the New Bonds or the Town Manager may

appoint a bank, trust company, depository or transfer agent as registrar and paying agent, as determined pursuant to Section 10.2 hereof.

Unless the New Bonds are issued pursuant to the Book Entry System (subject to Section 3.5 hereof), the New Bonds shall be transferable only upon the Books of Registry of the Town, which shall be kept for such purpose at the office of the Town Clerk or the corporate trust office of the Registrar, if any, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney. Upon the transfer of the New Bonds, the Registrar shall cause to be issued in the name of the transferees new fully registered New Bonds of the same aggregate principal amounts, interest rates and maturities as the surrendered New Bonds. The New Bonds, if surrendered in exchange for new registered New Bonds pursuant to this Section, shall be canceled by the Town.

The Town and the Registrar and Paying Agent, if any, may deem or treat the person in whose name any fully registered New Bonds shall be registered upon the Books of Registry as the absolute owner of such New Bonds; whether such New Bonds shall be overdue or not, for the purpose of receiving payment of the principal of, interest and redemption premium, if any, on such New Bonds and for all other purposes; and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such New Bonds to the extent of the sum or sums so paid, and neither the Town, the Paying Agent nor the Registrar, if any, shall be affected by any notice to the contrary.

Section 3.4. Transfer of Bonds. In all cases in which the privilege of transferring the New Bonds are exercised, the Town shall execute and the Registrar shall authenticate and deliver the New Bonds in accordance with the provisions of this Ordinance. The Registrar shall not be obligated to make any such transfer of the New Bonds after the Record Date and before the respective interest payment date with respect to the New Bonds after the New Bonds have been called for redemption. The Town has established a Record Date for the payment of interest or for the giving of notice of any proposed redemption of the New Bonds.

Section 3.5. Book-Entry System; Recording and Transfer of Ownership of the New Bonds.

The New Bonds may be initially issued as eligible securities for the purposes of the Book-Entry System of transfer maintained by the Depository (the "Initial Bonds"), as determined by the Town Manager pursuant to Section 10.2 hereof, in which case the provisions of this Section 3.5 shall control, and transfers of beneficial ownership of the Initial Bonds shall be made only through the Depository and its participants in accordance with rules specified by the Depository. Such beneficial ownership must be of \$5,000 principal amount of Initial Bonds of the same Series and maturity or any integral multiple of \$5,000.

The Initial Bonds will be issued in fully-registered form, as a single bond representing the entire principal amount of each Series of the New Bonds or one New Bond for each of the maturities of each Series of the New Bonds, in the name of Cede & Co., as the nominee of the Depository. When any principal of, premium, if any, or interest on the Initial Bonds becomes due, the Town shall transmit or cause the Paying Agent to transmit to the Depository an amount equal to such installment of principal, premium, if any, and interest. Such payments will be made to Cede & Co. or other nominee of the Depository as long as it is owner of record on the applicable Record Date. Cede & Co. or other nominee of the Depository shall be considered to be the owner of the Initial Bonds so registered for all purposes of this Ordinance, including, without limitation, payments as aforesaid and receipt of notices. The Depository shall remit such payments to the Beneficial Owners of the New Bonds or their nominees in accordance with its rules and regulations.

Notices of redemption of the Initial Bonds or any portion thereof shall be sent to the Depository in accordance with the provisions of this Ordinance.

The Depository is expected to maintain records of the positions of Participants in the Initial Bonds, and the Participants and persons acting through Participants are expected to maintain records of the Beneficial Owners in the Initial Bonds. The Town, the Trustee (if any), the Registrar and the Paying Agent make no assurances that the Depository and its Participants will act in accordance with such rules or expectations on a timely basis, and the Town, the Trustee (if any), the Registrar and the Paying Agent shall have no responsibility for any such maintenance of records or transfer of payments by the Depository to its Participants, or by the Participants or persons acting through Participants to the Beneficial Owners.

The Town, the Trustee (if any), the Paying Agent and the Registrar may treat the Depository (or its nominee) as the sole and exclusive owner of the New Bonds registered in its name for the purpose of payment of the principal of, interest or premium, if any, on the New Bonds, giving any notice permitted or required to be given to Bondholders under the General Bond Ordinance or this Ordinance, registering the transfer of the New Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever, and shall not be affected by any notice to the contrary. The Town, the Trustee (if any), the Paying Agent and the Registrar shall not have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the New Bonds under or through the Depository or any Participant, or any other person which is not shown on the Books of Registry of the Town maintained by the Registrar as being a Bondholder, with respect to: the accuracy of any records maintained by the Depository or any Participant or the maintenance of any records; the payment by the Depository or any Participant of any amount in respect of the principal of, interest or premium, if any, on the New Bonds; the sending of any transaction statements; the delivery or timeliness of delivery by the Depository or any Participant of any notice which is permitted or required to be given to Bondholders thereunder; the selection of Bondholders to receive payments upon any partial redemption of the New Bonds; or any consent given or other actions taken by the Depository as a Bondholder.

If (a) the Depository determines not to continue to act as securities depository for the New Bonds, and gives reasonable notice to the Registrar or the Town, or (b) the Town has advised the Depository of the Town's determination that the Depository is incapable of discharging its duties, then the Town shall attempt to retain another qualified securities depository to replace the Depository. Upon receipt by the Town or the Registrar of the Initial Bonds together with an assignment duly executed by the Depository, the Town shall execute and deliver to the successor depository, the New Bonds of the same principal amount, interest rate and maturity. If the Town is unable to retain a qualified successor to the Depository, or the Town has determined that it is in its best interest not to continue the Book-Entry System of transfer or that interests of the Beneficial Owners of the New Bonds might be adversely affected if the Book-Entry System of transfer is continued (the Town undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify Beneficial Owners of the New Bonds by mailing an appropriate notice to the Depository, upon receipt by the Town of the Initial Bonds together with an assignment duly executed by the Depository, the Town shall execute, authenticate and deliver to the Depository Participants the New Bonds in fully-registered form, in authorized denomination; provided, however, that the discontinuation of the Book-Entry System of registration and transfer with respect to the New Bonds or the replacement of the Depository or any successor depository shall be subject to the applicable rules and procedures of the Depository or such successor depository on file or otherwise approved by the Securities and Exchange Commission.

## ARTICLE IV

### SECURITY FOR AND PAYMENT OF BONDS

Section 4.1. Pledge of Special Tax Allocation Fund. The Bonds, together with the interest thereon shall be payable, in such coin or currency of the United States of America which at the time of such payment is legal tender for public and private debts, from and secured by a pledge of funds in and to be deposited in the Special Tax Allocation Fund established in Article V hereof and all sub-accounts therein. Such funds are hereby irrevocably pledged for the payment of the principal of, premium, if any, and interest on the Bonds, to the extent said amount is not paid from the proceeds of the Bonds.

The Bonds do not constitute an indebtedness of the Town within any State constitutional provisions (other than Article X, Section 14, Paragraph 10 of the Constitution authorizing obligations payable solely from special sources not involving revenues from any tax or license) or statutory limitation. The Bonds shall not be a debt of the Town, nor a charge, lien or encumbrance, legal or equitable, upon any property of the Town or upon any income, receipts or revenues thereof, other than the amounts on deposit in the Special Tax Allocation Fund. No recourse shall be had for the payment of the Bonds or the interest thereon against the general fund of the Town, nor shall the credit or taxing power of the Town be deemed to be pledged thereto. The full faith, credit and taxing powers of the Town are not pledged to the payment of the principal of or interest on the Bonds.

Section 4.2. Establishment and Pledge of Additional Security Fund.

(a) There is hereby continued under the Prior Bond Ordinance the Additional Security Fund of the Town into which there shall be deposited an amount, if any, determined by the Town Manager pursuant to Section 10.2 hereof (the "Additional Security Fund Requirement"), from the Town's real estate transfer fee fund or any other legally available source; provided, that for the avoidance of doubt, the Additional Security Fund and the provisions of this Section 4.2 are intended to be available as security for the New Bonds only if determined by the Town Manager pursuant to Section 10.2 hereof (which may be in addition to or in lieu of the provisions of Section 5.4 hereof). Amounts on deposit in the Additional Security Fund (if any, determined by the Town Manager pursuant to Section 10.2 hereof) are pledged as additional security for the New Bonds on a ratable basis without preference.

(b) The Additional Security Fund shall be held by such bank or financial institution selected by the Town Manager, as custodian, and invested and reinvested as directed in writing by the Town, in accordance with the requirements of Section 6.8 hereof.

(c) If sufficient Tax Revenues have not been deposited into the Special Tax Allocation Fund to make the payments required on the New Bonds to be made at the next Principal Payment Date or Interest Payment Date, or if amounts are withdrawn from the Series Debt Service Reserve Account to make such payments pursuant to Section 5.3(c) hereof, in each case as determined by the Town Manager pursuant to Section 10.2 hereof, the Town will transfer or cause to be transferred from the Additional Security Fund such amounts as shall be necessary to make all required payments in full or to replenish the Series Debt Service Reserve Account, as applicable.

(d) If funds are withdrawn from the Additional Security Fund, the Town will restore the Additional Security Fund to the Additional Security Fund Requirement within 90 days from the date of such withdrawal from its real estate transfer fee or any other legally available source.

(e) The Additional Security Fund shall remain in existence until such time as the Town Manager or the Finance Director of the Town shall certify to the Holders of the New Bonds that the Tax

Revenue collected in such number of Fiscal Years as determined by the Town Manager pursuant to Section 10.2 hereof, are not less than such percentage of debt service on the New Bonds as determined by the Town Manager pursuant to Section 10.2 hereof. Such certification shall be provided in writing to the Holders of the New Bonds. After such notice, the Additional Security Fund shall be terminated, and all amounts on deposit therein shall be returned to the Town. The pledge of the Additional Security Fund shall terminate at that time.

## ARTICLE V

### CONTINUATION OF SPECIAL TAX ALLOCATION FUND AND INVESTMENT OF MONEYS

Section 5.1. Continuation of Special Tax Allocation Fund and Accounts Therein. There is hereby continued the special fund of the Town created by the Prior Bond Ordinance and designated as the “Town of Hilton Head Island - Special Tax Allocation Fund” (the “Special Tax Allocation Fund”)

The Special Tax Allocation Fund shall contain the following accounts and sub-accounts:

(a) one or more Series Debt Service Accounts to be held by the Town or the Trustee (if any) appointed pursuant to Section 10.2 hereof, which shall contain the Series Interest Sub-Account and the Series Principal Sub-Account.

(b) if determined by the Town Manager to be necessary pursuant to Section 5.4 hereof, one or more Series Debt Service Reserve Accounts to be held by the Town or the Trustee (if any) appointed pursuant to Section 10.2 hereof.

Upon the enactment of this Ordinance and the issuance of the New Bonds hereunder, there shall be deposited in the Special Tax Allocation Fund the amounts of ad valorem taxes (heretofore defined as “Tax Revenues”), if any, determined as follows. After the total equalized assessed valuation of the taxable real property in the Redevelopment Project Area exceeds the certified “total initial equalized assessed value” established in accordance with the Act and set forth in Article VI hereof of all taxable real property in the Redevelopment Project Area, the ad valorem taxes, if any, arising from the levies upon taxable real property in the Redevelopment Project Area by the Taxing Districts, and tax rates determined in the manner provided by the Act and Article VI hereof each year after the New Bonds have been issued until the Bonds have been retired must be divided as follows:

(a) That portion of taxes levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the total initial equalized assessed value of all taxable real property in the Redevelopment Project Area must be allocated to and, when collected, must be paid by the Beaufort County Treasurer to the respective Taxing Districts in the manner required by law in the absence of the adoption of the Original TIF Plan.

(b) That portion, if any, of taxes which is attributable to the increase in the current equalized assessed valuation of all taxable real property in the Redevelopment Project Area over and above the total initial equalized assessed value of taxable real property in the Redevelopment Project Area (the “Incremental Tax Revenues”) must be allocated to and, when collected, must be paid to the Town which shall deposit the taxes into the Special Tax Allocation Fund for the purpose of paying the Redevelopment Project Costs and debt service on the Bonds; provided, however:

(1) with respect to the School District, only the Incremental Tax Revenues generated from 75% of the debt service millage of the School District up to but not exceeding \$13,000,000 in the aggregate, shall be deposited into the Special Tax Allocation Fund, and any Incremental Tax Revenues generated above \$13,000,000 in the aggregate, together with any Incremental Tax Revenues generated from the remaining 25% of the School District's debt service millage and any of its operating millage, shall be paid by the Beaufort County Treasurer to the School District;

(2) with respect to the County, the Incremental Tax Revenues generated from the millage of the County and deposited into the Special Tax Allocation Fund shall be limited to the lesser of (A) \$26,000,000 in the aggregate or (B) the cost necessary to establish the University of South Carolina Beaufort Campus within the incorporated boundaries of the Town, as promptly certified in writing by the County to the Town (provided that the Town shall not be required to refund to the County any Incremental Tax Revenues deposited to the Special Tax Allocation Fund, if such refund would prevent the principal or interest on the Bonds from being timely paid from amounts on deposit therein);

(3) with respect to the PSD, the Incremental Tax Revenues to be included in funding the Amended TIF Plan will be generated from the millage of the PSD for no more than ten years; and

(4) the Incremental Tax Revenues generated with respect to the Taxing Districts shall be limited to no more than ten years, which shall be based on tax years 2015 through 2024 (and correlate to the Taxing Districts' fiscal years 2016 through 2025).

Section 5.2. Deposits to Special Tax Allocation Fund. The taxes collected and paid to the Town pursuant to paragraph (b) of Section 5.1 have been heretofore defined and are hereinafter referred to as "Tax Revenues." There shall be and are hereby authorized to be deposited into the Special Tax Allocation Fund Tax Revenues in the following order of priority:

First, there shall be transferred ratably and on a parity in the Series Debt Service Accounts the amounts required by this Ordinance;

Second, there shall be transferred ratably and on a parity in the Series Debt Service Reserve Accounts, if any, the amount necessary to replenish such accounts;

Third, there shall be transferred to the TIF Capital Projects Account the amounts determined hereunder.

Section 5.3. Series Debt Service Account. There shall be established in the Special Tax Allocation Fund for the New Bonds a special account of the Town to be designated the Series Debt Service Account (and within such account, a Series Interest Sub-Account and Series Principal Sub-Account) which should be kept on deposit with the Town for the benefit of the Holders of the New Bonds; provided, however, that upon the issuance of one or more Series of New Bonds, separate accounts and sub-accounts may be established for the payment of debt service on such Series of New Bonds, with such additional numbers or letters to identify its relevance, but each such separate account (and subaccounts) will be considered the "Series Debt Service Account" with respect to the related Series of New Bonds.

(a) Series Interest Sub-Account. There shall be established and maintained for the purpose of paying the interest on the New Bonds as the same becomes due and payable the Series Interest Sub-Account in the Series Debt Service Account. Not later than the 15th day of the month preceding each Interest Payment Date, the Town shall transfer for deposit into the Series Debt Service Account for credit to the Series Interest Sub-Account an amount derived from Tax Revenues equal to the installment of interest on the New Bonds then falling due.

(b) Series Principal Sub-Account. There shall be established and maintained for the purpose of paying the principal of the New Bonds as it matures the Series Principal Sub-Account in the Series Debt Service Account. Not later than the 15th day of the month preceding each Principal Payment Date, the Town shall transfer for deposit into the Series Debt Service Account to the credit of the Series Principal Sub-Account an amount derived from Tax Revenues equal to the installment of principal on the New Bonds then falling due.

(c) Transfers from Series Debt Service Reserve Account. If, on the dates when the payments required by paragraphs (a) and (b) of this Section are to be made, the deposits made pursuant to said paragraphs (a) and (b) are less than the sum required to pay the succeeding installment of principal or interest, or both, a sum equal to such deficiency shall be transferred from the Series Debt Service Reserve Account and added to the payment to be made pursuant to paragraphs (a) and (b).

Moneys in the Series Interest Sub-Account and the Series Principal Sub-Account shall be used and applied solely to the payment of the interest on and the retirement of the principal of and premium, if any, on the New Bonds and shall be used and applied in accordance with the provisions of this Section and this Ordinance. Withdrawals from such sub-accounts shall be made by the Town in the manner in which withdrawals from the other funds of the Town are made in order to transfer such moneys to the Paying Agent for the New Bonds. Such withdrawals shall be made so that the necessary moneys shall be available to the Paying Agent three (3) Business Days prior to the date on which principal or interest, or both, are payable on the New Bonds.

Section 5.4. Series Debt Service Reserve Account. If the Town Manager determines pursuant to Section 10.2 hereof, there may be established in the Special Tax Allocation Fund for the New Bonds a special account of the Town to be designated the Series Debt Service Account for the benefit of the Holders of one or more Series of New Bonds (if any) and the amount of the applicable Series Reserve Requirement, and, if so, such Series Debt Service Reserve Account shall be established on the date of the original delivery of such Series of New Bonds and held by the Trustee (if any), all as provided in the Ordinance; provided, however, that (1) upon the issuance of one or more Series of New Bonds, separate funds or accounts may be established (if at all) for each Series of New Bonds, with such additional numbers or letters to identify its relevance, but each such separate fund or account will be considered the "Series Debt Service Reserve Account" with respect to the related Series of New Bonds; and (2) in the event of any full or partial defeasance of a Series of New Bonds under Article XIII of this Ordinance, then the Series Reserve Requirement established for such Series of New Bonds shall be recalculated based on the then Outstanding principal amount of such Series.

If the Series Debt Service Reserve Account is established, the Series Reserve Requirement initially will be satisfied by the Town by the deposit of cash into the Series Debt Service Reserve Account, with the purchase of a Surety Bond, the provision of a Letter of Credit or any combination of the foregoing, in each case for the benefit of the Holders of the New Bonds.

Moneys in the Series Debt Service Reserve Account shall be used for the following purposes, and for no other:



(a) To prevent a Default in the payment of the principal of or interest on the New Bonds, by reason of the fact that moneys in the Special Tax Allocation Fund are insufficient for such purposes;

(b) To pay the principal of, interest on, and redemption premium, if any, of the New Bonds at maturity or in the event that all Outstanding New Bonds are redeemed as a whole;

(c) To effect partial redemption of the New Bonds, provided that such redemption be undertaken in accordance with the provisions of the Ordinance permitting a partial redemption of the New Bonds and the balance remaining in the Series Debt Service Reserve Account following such partial redemption shall not be less than the Series Reserve Requirement; and

(d) To effect the retirement of New Bonds through purchase under the conditions herein prescribed.

Whenever the market value (determined as of the valuation dates specified in Section 5.7 hereof) of the cash and securities in the Series Debt Service Reserve Account shall exceed the Series Reserve Requirement, such excess may at the direction of the Town either (1) be used to repurchase and retire New Bonds at prices not exceeding the call price first to become available or then prevailing or (2) be transferred to another account of the Special Tax Allocation Fund. Purchases of New Bonds shall be effected by the Town; and whenever New Bonds shall have been purchased pursuant to this authorization, it shall be the duty of the Trustee (if any) or Registrar to cancel and destroy such New Bonds and to deliver certificates evidencing such act to the Town.

Whenever the aggregate value of cash and securities in the Series Debt Service Reserve Account shall be less than the Series Reserve Requirement (whether because of a transfer pursuant to Section 5.3(c) to pay Debt Service on the New Bonds, a re-valuation of the Series Debt Service Reserve Account or otherwise), there shall be deposited, first, from the Town's real estate transfer fee fund, second, from the Additional Security Fund (if any), and, third, from Tax Revenues such amounts as are necessary to cure any deficiency that exists therein; provided, also that in the event amounts are deposited into the Series Debt Service Reserve Account or Additional Security Fund (if any) from the Town's real estate transfer fee fund, following the payment of Debt Service on the New Bonds for the current Bond Year and the replenishment of the Series Debt Service Reserve Account pursuant hereto, the Town may elect to transfer Tax Revenues to replenish the Town's real estate transfer fee fund. Such deposits shall be made in equal, successive, monthly deposits in the same amount so as to restore the value of cash and securities in the Series Debt Service Reserve Account to the Series Reserve Requirement during the succeeding twelve (12) months.

Section 5.5. Dissolution of Special Tax Allocation Fund. Upon the payment of all Redevelopment Project Costs in the amount of \$115,000,000, the payment of all amounts of principal and interest due on the Bonds, which is scheduled for June 1, 2025, and the distribution of any surplus moneys pursuant to the Act, the Town shall enact an ordinance dissolving the Special Tax Allocation Fund for the Redevelopment Project Area and terminating the designation of the Redevelopment Project Area as a "redevelopment project area" for purposes of the Act. Thereafter, the rates of the Taxing Districts must be extended and taxes levied, collected and distributed in the manner applicable in the absence of the adoption of the Amended TIF Plan and the issuance of the Bonds under the Act.

Section 5.6. Investment Income. All investment income or interest earnings on any Principal Sub-Account shall be transferred to the Interest Sub-Account for the applicable Series of New Bonds and applied as a credit against the next interest payment due on the applicable Series of New Bonds. All investment income or interest earnings on an Interest Sub-Account shall be retained therein and applied as

a credit against the next interest payment due on the applicable Series of New Bonds. The Town shall account for all amounts earned on each Fund and Account.

Section 5.7. Investment of Moneys Held by the Town. (a) Moneys in all funds and accounts created hereunder may be invested by the Town in Permitted Investments; provided, that the maturity date or the date on which such Permitted Investments may be redeemed at the option of the holder thereof shall coincide as nearly as practicable with (but in no event shall be later than) the date or dates in which moneys in the funds or accounts for which the investments were made will be required for the purposes thereof. The Town shall, not later than May 15 of each year, determine the value as of the preceding May 1 or the succeeding Business Day thereafter, in the Special Tax Allocation Fund and accounts therein created by this Ordinance.

(b) Amounts credited to a fund or account may be invested, together with amounts credited to one or more other funds or accounts, in the same Permitted Investments; provided, that (i) each such investment complies in all respects with the provisions of subsection (a) of this Section as they apply to each fund or account for which the joint investment is made, and (ii) the Town maintains separate records for each fund and account and such investments are accurately reflected therein.

(c) Except as otherwise specifically provided herein, in computing the amount in any fund or account, Permitted Investments purchased as an investment of moneys therein (taking into account straight line amortizations and accretions of premiums and discounts) shall be valued at the original cost or current market value thereof, or at the redemption price thereof, if then redeemable at the option of the holder, in either event inclusive of accrued interest.

(d) The Town may rely on an opinion of counsel that any investment constitutes a Permitted Investment as defined in this Ordinance.

## ARTICLE VI

### DETERMINATION OF ASSESSED VALUE

The Redevelopment Project Area, as designated in Ordinance No. 99-35 and as it may be amended or supplemented from time to time, shall be the Redevelopment Project Area for purposes of this Ordinance. The Redevelopment Project Area is more particularly described in Exhibit B to Ordinance No. 99-35.

The County Auditor, shall, upon the request of the Town, determine and certify: (1) the most recently ascertained equalized assessed value of all taxable real property within the Redevelopment Project Area, as of the date of enactment of Ordinance No. 99-35, which value is the "initial equalized assessed value" of such property; and (2) the total equalized assessed value of all taxable real property within the Redevelopment Project Area by adding together the most recently ascertained equalized assessed value of each taxable lot, block, tract, or parcel of real property within the Redevelopment Project Area, which value is the "total initial equalized assessed value" of the taxable real property within the Redevelopment Project Area.

After the County Auditor has certified the total initial equalized assessed value of the taxable real property in the Redevelopment Project Area, then in respect to every Taxing District in the Redevelopment Project Area, the County Auditor or any other official required by law to ascertain the amount of the equalized assessed value of all taxable property within the Redevelopment Project Area for the purpose of computing the rate percent of tax to be extended upon taxable property within such Redevelopment Project Area shall in every year the Bonds are Outstanding for Redevelopment Projects in

the Redevelopment Project Area ascertain the amount of value of all taxable real property in the Redevelopment Project Area by including in the amount the certified total initial equalized assessed value of all taxable real property in such Redevelopment Project Area in lieu of the equalized assessed value of all taxable real property in such Redevelopment Project Area. The rate percent of tax determined must be extended to the current equalized assessed value of all property in the Redevelopment Project Area in the same manner as the rate percent of tax is extended to all other taxable property in the Taxing Districts. The method of extending taxes established under this Section terminates when the Town adopts an ordinance dissolving the Special Tax Allocation Fund for the Redevelopment Projects.

## ARTICLE VII

### ALTERATION OF BOUNDARIES OF THE REDEVELOPMENT PROJECT AREA

To the extent permitted by the Act and as permitted by the provisions of Article XIV(a), the Town may alter the exterior boundaries of the Redevelopment Project Area and general land uses established by the Amended TIF Plan or nature of the Redevelopment Projects; subject, however, to each of the following conditions:

(a) The Town Council must enact an ordinance approving the aforesaid changes in accordance with the provisions of the Act;

(b) Any alteration of the exterior boundaries of the Redevelopment Project Area shall not result in a reduction of the total current equalized assessed valuation in the Redevelopment Project Area immediately prior to such deletion; and

(c) The Town shall receive an opinion of nationally recognized bond counsel that any actions taken pursuant to this Article will not impair the exemption from federal income tax of the interest on the Tax Exempt Obligations (as defined herein).

## ARTICLE VIII

### ADDITIONAL PARITY BONDS; JUNIOR BONDS

Section 8.1. Additional Parity Bonds. (a) To the extent permitted by law, including the Act, and the provisions of this Ordinance, the Town may from time to time, if not in Default in the payment of principal of and interest on the Bonds then Outstanding and if no other Event of Default has occurred and is continuing, issue Additional Bonds pursuant to a Supplemental Ordinance. Such Additional Bonds may be issued for such purposes as may be permitted by the Act upon compliance with the Additional Bonds test set forth below.

(b) Such Additional Bonds may be issued only if (i) the Town Manager or the Finance Director for the Town shall certify that the Tax Revenues collected during the Fiscal Year prior to the Fiscal Year in which such Additional Bonds are to be issued, are not less than such percentage of debt service on the New Bonds and any Additional Bonds, all as determined by the Town Manager pursuant to Section 10.2 hereof; or (ii) the Series Debt Service Reserve Fund or Additional Security Fund is established and maintained as provided in Sections 5.4 or 4.2 hereof, as determined by the Town Manager pursuant to Section 10.2 hereof.

Section 8.2. Refunding Bonds. Without complying with the provisions of Section 8.1 hereof, the Town by means of a Supplemental Ordinance enacted in compliance with the provisions of the Act and any

other statutory provisions authorizing the issuance of refunding bonds, including by advance refunding, may issue refunding bonds.

Section 8.3. Junior Bonds. The Town may issue Junior Bonds in such amount as it may from time to time determine, payable from the Tax Revenues, provided that such Junior Bonds are issued to secure funds to defray Redevelopment Project Costs, or to refund bonds, junior bonds, or any notes, or other obligations issued to finance or to aid in financing Redevelopment Project Costs, and provided further that the pledge of Tax Revenues securing Junior Bonds shall at all times be subordinate and inferior to the pledge securing the Bonds.

## ARTICLE IX

### COVENANTS

As long as the Bonds are Outstanding and unpaid, the Town shall abide by all of the covenants, undertakings and provisions contained in this Ordinance or in any Bonds issued hereunder, including the following:

(a) Redevelopment Projects. The Town will continue to undertake the remaining Redevelopment Projects in accordance with the Act and the Amended TIF Plan.

(b) Management and Operation of Amended TIF Plan. The proceeds of the sale of the Bonds will be deposited and used as provided herein, and the Town will own, manage and operate all the Redevelopment Projects in a sound manner.

(c) Lien of Bonds. The Town will not issue any obligations which have any lien upon the Tax Revenues prior or superior to the lien of the Bonds.

(d) To Pay Principal of and Interest on Bonds. The Town will duly and punctually pay or cause to be paid the principal of and interest on the Bonds solely from the sources provided herein.

(e) Maintenance of Additional Security Fund. The Town will maintain the Additional Security Fund at a level equal to the Additional Fund Requirement (if any) until such time as it is terminated pursuant to Section 4.2(e) hereof.

(e) Maintenance of Records, Accounts and Audits. The Town will at all times keep, or cause to be kept, proper and current books and accounts (separate from all other records and accounts) in which complete and accurate entries shall be made of all transactions relating to the Redevelopment Projects and the Tax Revenues and other funds relating to the Redevelopment Projects. The Town shall execute such reporting certificate or other agreement with the holders of the Bonds, regarding the on-going preparation and delivery of information related to the Bonds.

(f) Federal Tax Covenant. The Town covenants and agrees with the Holders of the New Bonds issued as tax exempt obligations (the "Tax Exempt Obligations") that no use of the proceeds of the Tax Exempt Obligations shall be made which, if such use had been reasonably expected on the date of issue of the Tax Exempt Obligations would have caused the Tax Exempt Obligations to be "arbitrage bonds," as defined in the Code; and to that end the Town shall:

(i) comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder (or any applicable successor provisions thereto) so long as the Tax Exempt Obligations are Outstanding;

(ii) establish such funds, make such calculations and pay such amounts, in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States;

(iii) make such reports of such information at the times and places required by the Code;

(iv) not take any action which will, or fail to take any action which failure will, cause interest on the Tax Exempt Obligations to become includable in the gross income of the Bondholders for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Tax Exempt Obligations.

(g) Continuing Disclosure. Pursuant to Section 11-1-85 of the Code of Laws of South Carolina 1976, as amended ("Section 11-1-85"), the Town covenants that it will file with a central repository for availability in the secondary bond market when requested:

(a) An annual independent audit, within thirty (30) days of the Town's receipt of the audit; and

(b) Event specific information within thirty (30) days of an event adversely affecting more than five (5%) of tax revenues or the Town's tax base.

The only remedy for failure by the Town to comply with the covenant of this paragraph shall be an action for specific performance of this covenant. The Town specifically reserves the right to amend or delete this covenant to reflect any change in Section 11-1-85, without the consent of any New Bondholder.

## ARTICLE X

### SERIES CONSTRUCTION FUND; SALE OF THE NEW BONDS; DISPOSITION OF THE PROCEEDS OF THE NEW BONDS

Section 10.1. Series Construction Fund. There is hereby created and established the Series Construction Fund, which fund shall be held by the Town or a Custodian; provided, however, that upon the issuance of one or more Series of New Bonds, separate funds or accounts may be established for such Series of New Bonds, with such additional numbers or letters to identify its relevance, but each such separate fund or account will be considered the "Series Construction Fund" with respect to the related Series of New Bonds. If the Series Construction Fund is held by a Custodian, the Town Manager is authorized and directed to negotiate, execute and deliver such construction fund agreements or other agreements with such bank or other financial institution as may be necessary or desirable in connection therewith. The Series Construction Fund established for a particular Series of New Bonds shall be accounted for as a single fund, however the moneys on deposit therein may be held by one or more Custodians. The moneys on deposit in the Series Construction Fund shall be used and applied to pay all or a portion of the Costs of Acquisition and Construction of the New Projects, including all Costs of Issuance related to the New Bonds.

Moneys held for the credit of the Series Construction Fund shall be invested to the fullest extent practicable and reasonable, in Permitted Investments, maturing at such times and in such amounts as shall be required to provide moneys to make the payments required to be made from such Fund.

Withdrawals from the Series Construction Fund shall be made in the manner withdrawals from other funds of the Town are made.

If after the payment in full of all costs of the New Projects (or retiring at maturity or redeeming prior to maturity all or a portion of any bond anticipation notes issued by the Town therefor) and Costs of Issuance or after adequate provision has been made for such payment any moneys remain in the Series Construction Fund, such excess shall be paid into the related Series Debt Service Fund and shall be used only for the payment of the principal of and interest on the related Series of New Bonds or, in the alternative, to acquire Outstanding New Bonds at a price (exclusive of accrued interest) not exceeding the face amount thereof.

#### Section 10.2. Sale and Issuance of New Bonds.

(a) The Town Manager, upon the advice of the Town's bond counsel and financial advisor, is hereby authorized and empowered to undertake any one or more of the following actions: (a) determine the original issue dates of each Series of the New Bonds; (b) determine the aggregate principal amount of the New Bonds, if less than authorized by this Ordinance, and each Series thereof (including the portions thereof to be issued on a taxable or tax-exempt basis); (c) determine the principal amount of each maturity of each Series of the New Bonds; (d) determine the Interest Payment Dates, including the initial Interest Payment Dates, and the Principal Payment Dates for each Series of the New Bonds; (e) determine the optional redemption dates and terms of redemption of each Series of the New Bonds; (f) determine the interest rates for each Series of the New Bonds; (g) determine the New Bonds to be subject to mandatory and optional redemption and the redemption prices of the New Bonds subject to optional redemption; (h) determine which Series of the New Bonds, if any, should be initially issued pursuant to the Book-Entry System; (i) determine whether the Series Debt Service Reserve Account and/or Additional Security Fund will be established or continued with regard to each Series of New Bonds and, if so, the amount of the applicable Series Reserve Requirement and/or Additional Security Fund Requirement and manner in which either or both will be satisfied; (j) determine the required debt service calculations and fiscal years of determination for purposes of Sections 4.2 and 8.1 hereof; (k) determine whether each Series of the New Bonds will be sold publicly (and, if so, designate the Underwriter therefor) or directly to one or more purchasers in a private offering or private placement transaction; (l) determine any original issue discount or original issue premium at which each Series of the New Bonds will be sold, or whether any Underwriter's discount or other fee will be paid to the purchasers of the New Bonds; (m) designate the Trustee, if any, Registrar and Paying Agent for the New Bonds and Custodian, if any, for the Series Construction Fund; and (n) agree to any other terms, provisions and matters necessary or advisable to effect the issuance of each Series of the New Bonds.

(b) Each Series of the New Bonds shall either be sold publicly, following a private sale to the Underwriter, or directly to one or more purchasers in a private offering or private placement transaction through the Placement Agent. In connection with a public offering, the Town Manager is hereby authorized and directed to approve the form of Bond Purchase Agreement, together with such amendments and modifications to the form thereof as the Town Manager shall negotiate and approve, and to execute the Bond Purchase Agreement, as so modified and amended, and deliver the same to the Underwriter, the Town Manager's execution and delivery of the Bond Purchase Agreement constituting conclusive evidence of approval of the matters therein contained; that, if executed, the New Bonds contemplated by the Bond Purchase Agreement shall be sold to the Underwriter upon the terms and conditions set forth in the Bond Purchase Agreement and upon the basis of the representations therein set forth, and that all conditions precedent to or concurrent with the acceptance of the Bond Purchase Agreement by the Town will be met prior to the Town's execution thereof. Notwithstanding the foregoing, the Town Manager is hereby authorized to take all actions, including the preparation and dissemination of requests for proposals and the preparation, publication and/or distribution of information, offering documents or private placement memoranda (which may be in the respective forms of the Bond Purchase Agreement and/or hereinafter defined Preliminary Official Statement, as applicable, together with such amendments and modifications as

may be approved by the Town Manager), all relating to the Town, each Series of the New Bonds and the Beach Preservation Fees, to solicit interest and receive offers from financial institutions to purchase one or more Series of the New Bonds in a private offering, and to accept such offer which is in the best interest of the Town and execute such documents as may be necessary in connection therewith.

(c) The Town Manager is hereby authorized and directed to prepare a Preliminary Official Statement relating to a public offering of each Series of the New Bonds (the "Preliminary Official Statement"), and to take such actions necessary to "deem final" the Preliminary Official Statement for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.

(d) The Town hereby authorizes the Final Official Statement of the Town to be dated on or about the date of the execution and delivery of the Bond Purchase Agreement, relating to each Series of the Bonds substantially in the form of the Preliminary Official Statement, with such modifications as the Town Manager approves; the Town Manager of the Town is hereby authorized and directed to execute copies of the Final Official Statement and deliver the same to the Underwriter, which execution and delivery shall be conclusive evidence of the approval of any such modifications; and the Town hereby authorizes the use of the Preliminary Official Statement and Final Official Statement and the information contained therein in connection with the public offering and sale of each Series of the New Bonds by the Underwriter.

(e) The Town Council hereby ratifies, confirms and approves the actions of the Town Manager heretofore undertaken with regard to applications for Surety Bonds, Letters of Credit, other credit enhancements, and liquidity arrangements relating to the New Bonds from municipal bond insurance companies or other financial institutions and to enter into, execute and deliver on behalf of the Town, such loan, insurance, reimbursement or guaranty agreements as shall be necessary and advisable, with advice of bond counsel, in connection with the transactions and other matters referred to herein; provided, however, that the representations and covenants contained in such agreements may be incorporated in this Ordinance as if fully set forth herein.

(f) A copy of this Ordinance shall be filed with the minutes of the meeting at which this Ordinance is enacted.

(g) The Town Council hereby authorizes and directs all of the officers and employees of the Town to carry out or cause to be carried out all obligations of the Town hereunder and to perform such other actions as they shall consider necessary or advisable in connection with the issuance, sale and delivery of the New Bonds.

(h) The Town Council hereby authorizes the Town Manager or his designee to negotiate the terms of, and execute, in the name and on behalf of the Town, and deliver investment agreements, forward delivery agreements, repurchase agreements and other agreements in connection with the New Bonds, to prepare and solicit bids for providers of such agreements and to execute, in the name and on behalf of the Town, written confirmations of any such agreements and other documents as may be necessary in connection therewith.

(i) The Town Council hereby ratifies, confirms and approves the actions of the Town Manager heretofore undertaken with regard to applications for Surety Bonds, Letters of Credit, other credit enhancements, and liquidity arrangements relating to the New Bonds from municipal bond insurance companies or other financial institutions and to enter into, execute and deliver on behalf of the Town, such loan, insurance, reimbursement or guaranty agreements as shall be necessary and advisable, with advice of counsel, in connection with the transactions and other matters referred to herein; provided, however, that the

representations and covenants contained in such agreements may be incorporated in this Ordinance as if fully set forth herein.

Section 10.3. Disposition of Proceeds of New Bonds and Certain Other Moneys. The proceeds derived from the sale of the New Bonds, net of any original issue discount or premium (or both), any Underwriter's discount or fees payable to the purchaser thereof and any premiums paid to providers of Surety Bonds or Letters of Credit (if any), shall be deposited with (or at the order of) the Town, the Trustee or the Custodian, as applicable, and used for the following purposes:

(a) If the Town Manager determines that a Series Debt Service Reserve Account shall be established for a Series of New Bonds and the Series Reserve Requirement shall be funded with a portion of the proceeds of a Series of the New Bonds, there shall be deposited with the Trustee for deposit into such Series Debt Service Reserve Account an amount equal to the applicable Series Reserve Requirement.

(b) The remainder of the proceeds of any Series of the New Bonds shall be deposited into the Series Construction Fund established in Section 10.1 hereof to pay all or a portion of the Costs of Acquisition and Construction for the New Projects, including Costs of Issuance, for such Series of New Bonds.

The respective amounts specified in this Section 10.3 shall be determined by the Town upon delivery of any Series of the New Bonds.

## ARTICLE XI

### EVENTS OF DEFAULT

With respect to the New Bonds, the following shall constitute "Events of Default" by the Town:

(a) If payment by the Town of the principal of the New Bonds whether at maturity or by proceedings for redemption by declaration as provided in Section 12.1 hereof, or otherwise, is not made on the date such principal is due and payable; or

(b) If payment by the Town of any installment of interest on any New Bond is not made on the date such installment of interest is due and payable; or

(c) If the Town shall fail or refuse to comply with the provisions of the Act, or shall fail in the due and punctual performance of any of the covenants, conditions, agreements and provisions contained in the New Bonds or in this Ordinance on the part of the Town to be performed, and such failure continues for sixty (60) days after written notice specifying such failure and requiring the same to be remedied has been given to the Town by the Holders of not less than twenty percent (20%) in principal amount of the New Bonds then Outstanding or any or committee therefor; or

(d) If any proceeding is instituted, with the consent or acquiescence of the Town, for the purpose of effecting a composition between the Town and its creditors and if the claim of such creditors is in any circumstance payable from any of the Tax Revenues or any other moneys pledged and charged in this Ordinance for the payment of the New Bonds, or any such proceedings are instituted for the purpose of adjusting the claims of such creditors, pursuant to any federal or State statute now or hereafter enacted; or

(e) If the Town is for any reason rendered incapable of fulfilling its obligations hereunder in any material respect.



## ARTICLE XII

### REMEDIES UPON EVENT OF DEFAULT

Section 12.1. Declaration of Principal and Interest as Due. Upon the occurrence of an Event of Default, and at any time thereafter while such Event of Default continues, then and in each and every case the Trustee (if any) in its own name and as trustee of an express trust, on behalf and for the benefit and protection of the Holders of all Outstanding Bonds, may, and upon the written request of the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding shall, or if there is no Trustee, the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding or any or committee therefor may, declare the principal of the Bonds then Outstanding, together with all accrued and unpaid interest thereon, if not already due, to be due and payable immediately, and upon any such declaration the same shall become and be due and payable immediately, anything contained in this Ordinance or in the Bonds to the contrary notwithstanding. This provision is subject, however, to the condition that if at any time after the principal of the Bonds, together with the accrued and unpaid interest thereon and other moneys secured hereby, have been so declared due and payable and before any further action has been taken (other than the making of the above declaration), the principal amount then due according to the maturity date or dates otherwise specified therein (except as a result of such declaration) and all arrears of interest upon the Bonds, except interest accrued but not yet due on the Bonds, have been paid or caused to be paid, and all other Events of Default, if any, which have occurred have been remedied, cured or secured, then and in each and every such case the Holders of twenty-five percent (25%) in principal amount of the Bonds then Outstanding or the Trustee (if any) if so directed by such Holders, by notice in writing delivered to the Town and the Trustee (if any), as applicable, may waive such Default and its consequences and rescind and annul such declaration. No such waiver or rescission or annulment shall extend to or affect any subsequent Default or impair or exhaust any right or power related to such subsequent Default.

Section 12.2. Suits at Law or in Equity and Mandamus. In case any one or more of the Events of Default shall happen and be continuing, then and in every such case, but subject to the provisions, limitations and conditions of Section 12.1 hereof so far as the remedies provided in said Section are concerned, the Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding, or therefor, may, for the equal benefit and protection of the other Holder of the Bonds similarly situated,

(a) by mandamus or other suit, action or proceeding at law or in equity, enforce such Bondholder's rights against the Town and require and compel the Town to perform and carry out its duties and obligations under the Act and this Ordinance, and to perform and carry out its covenants and agreements with the Bondholders;

(b) by action or suit in equity require the Town to account as if such Town were the trustee of an express trust;

(c) by action or suit in equity enjoin any acts or things which may be unlawful or in violation of the rights of the Bondholders; or

(d) bring suit upon the Bonds.

Section 12.3. Remedies Not Exclusive; Effect of Waiver of Default; Effect of Abandonment of Proceedings or Adverse Determination. The Holders from time to time of the Bonds shall be entitled to all the remedies and benefits of this Ordinance as are and as shall be provided by law, and, subject to the provisions of Sections 12.1 and 12.2, nothing herein shall be construed to limit the rights or remedies of any such Holders under any applicable statute that may now exist or be enacted hereafter. No remedy conferred by the Act and this Section upon any Holder of the Bonds are intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred by the Act and this Section or by any other law now or hereafter existing. Every substantive right and remedy conferred upon the Holder of the Bonds may be enforced and exercised from time to time and as often as may be deemed expedient.

No waiver of any Default or breach of duty or contract by any Holder of the Bonds shall extend to or affect any subsequent Default or breach of duty or contract, or shall impair any rights or remedies thereon. No delay or omission of any Holder of the Bonds or coupon, if any, to exercise any right or power shall be construed to be a waiver of any such Default or acquiescence therein.

In case any suit, action or proceeding to enforce any right or exercise any remedy shall be brought or taken and then discontinued or abandoned, or shall be determined adversely to any Holder of the Bonds, then and in every case, the Town and such Holder shall be restored to their former positions and rights and remedies as if no suit, action or proceeding had been brought or taken.

Section 12.4. Restrictions on Bondholder's Action. (a) Except as provided in (b) below, no Holder of any Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of this Ordinance or the execution of any trust under this Ordinance or for any remedy under this Ordinance unless such Holder shall have previously given to the written notice of the happening of an Event of Default and the Holders of at least twenty-five percent (25%) in principal amount of the Bonds then Outstanding shall have filed a written request with the Town and the Trustee (if any) and shall have offered the reasonable opportunity, either to exercise the powers granted in this Ordinance or by the laws of the State or to institute such action, suit or proceeding in its own name, and unless such Holders shall have offered to the Town or the Trustee (if any) adequate security and indemnity against the costs, fees (including reasonable attorneys' fees), expenses and liabilities to be incurred therein or thereby, and the Town or the Trustee (if any) shall have refused to comply with such request for a period of sixty (60) days after receipt by it of such notice, request and offer of indemnity, it being understood and intended that no one or more Holders of Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the pledge created by this Ordinance, or to enforce any right under this Ordinance, except in the manner herein provided; and that all proceedings at law or in equity to enforce any provision of this Ordinance shall be instituted, had and maintained in the manner provided in this Ordinance and for the equal benefit of all Holders of the Outstanding Bonds.

(b) Nothing contained in this Ordinance or the Bonds shall affect or impair the obligation of the Town, which is absolute and unconditional, to pay from the sources provided herein at the respective dates of maturity and places therein expressed the principal of (and premium, if any) and interest on the Bonds to the respective Holders thereof, or affect or impair the right of action, which is also absolute and unconditional, of any Holder to enforce such payment of his Bonds.

Section 12.5. Application of Revenues and Other Moneys After Default. During the continuance of an Event of Default, all moneys received by the Town pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses and advances incurred or made by the Town with respect thereto, be applied as follows:

(a) Unless the principal of all outstanding Bonds shall have become or have been declared due and payable:

First: To the payment to the persons entitled thereto of all installments of interest then due on the Bonds in the order of maturity of such installments, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the person entitled thereto, without any discrimination or preference; and

Second: To the payment to the persons entitled thereto of the unpaid principal amounts or redemption premium, if any, of any Bonds which shall have become due (other than Bonds previously called for redemption in accordance with the provisions hereof), whether at maturity or by call for redemption, in the order of their due dates, and if the amounts available shall not be sufficient to pay in full all the Bonds due on any date, then to the payment thereof ratably, according to the principal amounts or redemption premium, if any, due on such date, to the persons entitled thereto, without any discrimination or preference.

(b) If the principal amounts of all Outstanding Bonds shall have become or have been declared due and payable, to the payment of the principal amounts and interest then due and unpaid upon the Bonds without preference or priority of principal over interest or of interest over principal, of any installment of interest over any other installment of interest, or of any Bonds over any other Bonds, ratably, according to the amounts due respectively for principal amounts and interest, to the persons entitled thereto without any discrimination or preference.

(c) If the principal amounts of all Outstanding Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article, then, subject to the provisions of paragraph (b) of this Section 12.5 (in the event that the principal of all Outstanding Bonds shall later become due or be declared due and payable), the moneys shall be applied in accordance with the provisions of paragraph (a) of this Section 12.5.

(d) Whenever moneys are to be applied by the Town pursuant to the provisions of this Section 12.5, such moneys shall be applied by it at such times, and from time to time, as the Paying Agent shall determine, having due regard for the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Paying Agent shall apply such moneys, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the principal amounts to be paid on such dates shall cease to accrue. The Paying Agent shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date, and shall not be required to make payment to the Holder of any Bonds until such Bonds shall be presented to the Paying Agent for appropriate endorsement of any partial payment or for cancellation if fully paid.

(e) Whenever all principal of, premium, if any, and interest on all Bonds have been paid under the provisions of this Section and all expenses and charges of the shall have been paid, any balance remaining in the Funds and Accounts shall be paid to the Town.

## ARTICLE XIII

### DEFEASANCE

The obligations of the Town under this Ordinance and the liens, pledges, charges, trusts and the covenants and agreements of the Town herein made or provided for shall be fully discharged and satisfied as to the Bonds and such Bonds shall no longer be deemed to be Outstanding hereunder when:

(a) the Bonds shall have been purchased by the Town and surrendered to the Town for cancellation or otherwise surrendered to the Town and is canceled or subject to cancellation by the Town; or

(b) payment of the principal of, premium, if any, and interest on the Bonds either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with a Paying Agent, in trust and irrevocably set aside exclusively for such payment, (A) moneys sufficient to make such payment, or (B) Government Obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment. At such time as the Bonds shall no longer be deemed to be Outstanding hereunder, as aforesaid, such Bonds shall cease to draw interest from the due date thereof, and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this Ordinance.

Any moneys so deposited with the Paying Agent as provided in this Article may at the direction of the Town also be invested and reinvested in Government Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Government Obligations in the hands of such Paying Agent which is not required for the payment of the Bonds with respect to which such deposit is made and interest thereon with respect to which such moneys shall have been so deposited, shall be returned to the Town.

Notwithstanding any provision hereof which may be contrary to the provisions of this Article, all moneys or Government Obligations set aside and held in trust pursuant to the provisions of this Article for the payment of the Bonds shall be applied to and used solely for the payment of the Bonds with respect to which such moneys and Government Obligations have been so set aside in trust.

Any provision hereof to the contrary notwithstanding, if moneys or Government Obligations have been deposited or set aside with the Paying Agent pursuant to this Article for the payment of the Bonds and the Bonds shall not have in fact been actually paid in full, no amendment to the provisions of this Article shall be made without the consent of the Bondholder of each Bond affected thereby.

## ARTICLE XIV

### AMENDMENTS OR SUPPLEMENTS TO THIS ORDINANCE

The Town shall not amend this Ordinance except in accordance with the provisions of this Article.

(a) The Town may, from time to time and without the consent of any Holder of the Bonds, (i) make any amendments or modifications hereto which may be required to permit this Ordinance to be qualified under the Trust Indenture Act of 1939, as amended; (ii) make any modification or amendment of this Ordinance not inconsistent herewith required for the correction of language or to cure any ambiguity

or defective provisions, omission, mistake or manifest error herein contained; (iii) make any amendments or supplements hereto to grant to or confer upon the Bondholders additional rights, remedies, power and authority, or to grant to or confer upon any Bondholders committee or for the Bondholders any additional rights, power or authority; (iv) to add to the security of the Holders of the Bonds; or (v) alter the Amended TIF Plan or the Redevelopment Project Area in accordance with Article VII hereof.

(b) From time to time the Holders of sixty-six and two-thirds percent (66 2/3%) in principal amount of the Bonds then Outstanding by an instrument or instruments in writing signed by such Holders and filed with the Town or the Trustee (if any), shall have power to assent to and authorize any modification or amendment of the provisions of this Ordinance that may be proposed by the Town or of the rights and obligations of the Town and of the Holders of Bonds issued hereunder; and any action herein authorized to be taken with the assent and authority given as aforesaid of the Holders of sixty-six and two-thirds percent (66-2/3%) in principal amount of the Bonds at the time Outstanding shall be effective and binding upon all of the Holders of the Bonds Outstanding and upon the Town as fully as though such action were specifically and expressly authorized by the terms of this Ordinance; provided always, that without the consent of the Holder of the Bonds, no such modification shall be made which will (i) extend the time of payment of principal of, premium, if any, or the interest on the Bonds, or reduce the principal amount thereof or the rate of interest thereon or the premium payable upon the redemption thereof; or (ii) authorize the creation of any pledge superior to the pledge for the Bonds; or (iii) reduce the percentage in principal amount of the Bonds required to assent to or authorize any such modification to this Ordinance. For the purpose of computations required by this paragraph, any portion of the Bonds directly or indirectly owned or controlled by the Town shall be disregarded.

(c) Prior to issuing any Bonds authorized pursuant to Article VIII hereof, the Town shall enact a Supplemental Ordinance setting for the details thereof.

Any modification or amendment or supplement of the provisions of this Ordinance shall be set forth in an ordinance to be enacted by the Town.

## ARTICLE XV

### TRUSTEE; RESIGNATION OF TRUSTEE; LIABILITY OF TRUSTEE FOR INVESTMENTS

Section 15.1. Trustee. As determined pursuant to Section 10.2 hereof, the Town Manager shall be authorized to designate the bank or financial institution to serve as Trustee under this Ordinance. If a Trustee is so designated, the provisions of this Article XV shall apply throughout.

Prior to the delivery of the Bonds, the Trustee shall signify its acceptance of the powers, duties and obligations conferred and imposed upon it by this Ordinance by executing and delivering to the Town a written instrument of acceptance.

The Trustee shall (a) prior to the occurrence of an Event of Default as set forth in Article XI hereof, and after the curing of all Events of Default which may have occurred, perform such duties and obligations as are specially set forth in this Ordinance, and no implied covenants or obligations shall be read into this Ordinance against the Trustee, and (b) during the existence of any Event of Default (which has not been cured or waived) exercise the rights and powers vested in it by this Ordinance and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

No provisions of this Ordinance shall be construed to relieve the Trustee from liability for its own negligence, intentionally wrongful action or failure to act.

At all times, (1) the Trustee shall not be liable for any error of judgment made in good faith by an officer or employee of the Trustee unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts; (2) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority (or such lesser percentage as is specially required or permitted by this Ordinance) in the aggregate principal amount of the Bonds at the time Outstanding relating to the time, method and place of conducting a proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee under this Ordinance; and (3) in the administration of the trusts of this Ordinance, the Trustee may execute any of the trusts or powers hereof directly or through its agents or attorneys. The Trustee may consult with counsel and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel.

The Trustee may rely upon the authenticity, and the truth of the statements and the correctness, of the opinions expressed in, and shall be protected in acting upon any notice, resolution, request, consent order, certificate, report, opinion, note, or other paper or document furnished to it pursuant to any provision of this Ordinance, believed by it to be genuine and to have been signed and presented by the proper party.

The Trustee shall not be required to take notice or be deemed to have notice or actual knowledge of any Event of Default specified in Article XI hereof unless the Trustee shall receive from the Town or the Holder of any Bond written notice stating that an Event of Default hereunder has occurred and specifying the same, and, in the absence of such notice, the Trustee may conclusively assume that there is no such Event of Default.

The Trustee shall be entitled to payment of and reimbursement for reasonable fees in accordance with its then applicable fee schedule for its services rendered hereunder and all advances and counsel fees reasonably and necessarily made or incurred by the Trustee in connection with such services.

In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Ordinance.

No provision of this Ordinance shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it has reasonable grounds for believing that the repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

Any request, direction, order or demand of the Town under this Ordinance shall be sufficiently evidenced by a written certificate of an authorized Town representative (unless other evidence thereof is specifically prescribed) and any resolution of the Town Council may be sufficiently evidenced by a copy thereof certified by an authorized Town representative.

Whenever in the administration of this Ordinance the Trustee deems it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence thereof is specifically prescribed) may, in the absence of bad faith on its part, rely upon a written certificate of an authorized Town representative.

The Trustee is not required to make any inquiry or investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, approval, bond, debenture or other paper or document but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit and, if the Trustee determines to make such further inquiry or investigation, it is entitled to examine the books, records and premises of the Town, in person or by agent or attorney.

The Trustee is not required to give any bond or surety with respect to the performance of its duties or the exercise of its powers under this Ordinance.

In the event the Trustee receives inconsistent or conflicting requests and indemnity from two or more groups of holders of the Bonds, each representing less than a majority in aggregate principal amount of the Bonds Outstanding, pursuant to the provisions of this Ordinance, the Trustee, in its sole discretion, may determine what action, if any, shall be taken.

The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Ordinance shall extend to the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and right to indemnification, together with the Trustee's right to compensation, shall survive the Trustee's resignation or removal, the discharge of this Ordinance and final payment of the Bonds.

The permissive right of the Trustee to take the actions permitted by this Ordinance shall not be construed as an obligation or duty to do so.

Except for information provided by the Trustee concerning the Trustee, the Trustee shall have no responsibility for any information in any offering memorandum or other disclosure material distributed with respect to the Bonds, and the Trustee shall have no responsibility for compliance with any state or federal securities laws in connection with the Bonds.

The recitals contained in this Ordinance and in the Bonds (other than the certificate of authentication on the Bonds) are statements of the Town and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the value, condition or sufficiency of any assets pledged or assigned as security for the Bonds, the right, title or interest of the Town therein, the security provided thereby or by this Ordinance, the technical or financial feasibility of the Redevelopment Projects, the compliance of the Redevelopment Projects with the Act, or the tax-exempt status of the Bonds. The Trustee is not accountable for the use or application by the Town of any of the Bonds or the proceeds of the Bonds, or for the use or application of any moneys paid over by the Trustee in accordance with any provision of this Ordinance.

The Trustee, in its commercial banking or in any other capacity, may in good faith buy, sell, own, hold and deal in any of the Bonds and may join in any act which any Bondholder may be entitled to take with like effect as if it were not Trustee. The Trustee, in its commercial banking or in any other capacity, may also engage in or be interested in any financial or other transaction with the Town and may act as depository, trustee or agent for any committee of Bondholders secured hereby or other obligations of the Town as freely as if it were not Trustee. The provisions of this Section shall extend to affiliates of the Trustee.

The Trustee shall not, in any event, be required to take, defend, or appear in any legal action or proceeding hereunder or to exercise any of the trusts or power, hereof unless it shall first be adequately indemnified to its satisfaction against the costs, expenses, and liabilities which may be incurred thereby.

Every provision of this Ordinance relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions hereof.

Section 15.2. Resignation of Trustee. The Trustee may at any time resign, effective upon the taking of office of its successor, by giving thirty (30) days' written notice to the Town and by giving to the Holders of the Bonds notice by publication of such resignation. Such notice shall be published at least once in a financial journal of general circulation published on each business day in each calendar week in the City of New York, New York. No resignation will become effective until a successor Trustee has been appointed and accepts such appointment as provided below. Upon receiving such notice of resignation, the Town shall promptly appoint a successor Trustee by an instrument in writing executed by order of its Council. In the event a successor Trustee has not been appointed within sixty (60) days of the date notice of resignation is given, the Trustee, at the Town's expense, may apply to any court of competent jurisdiction for the appointment of a successor Trustee to act until such time as a successor is appointed as provided in this Section.

Section 15.3. Removal of Trustee. Upon thirty (30) days' written notice, the Town, at its sole discretion provided that an Event of Default shall not have occurred and be continuing, may remove the Trustee. The removal of the Trustee under this Section shall not be effective until a successor Trustee has been appointed and has accepted the duties of Trustee.

With or without cause, the Holders of a majority in aggregate principal amount of the Bonds at the time Outstanding may, upon thirty (30) days' written notice to the Trustee and the Town, remove the Trustee and appoint a successor Trustee by instrument or instruments in writing by such Holders of the Bonds. In the event a successor Trustee has not been appointed within sixty (60) days' of the date notice of removal is given, the Trustee, at the Town's expenses, may apply to any court of competent jurisdiction for the appointment of a successor Trustee to act until such time a successor is appointed as provided in this Section.

Section 15.4. Successor Trustee. Unless otherwise ordered by a court or regulatory body having competent jurisdiction, or unless required by law, any successor Trustee shall, if there is such an institution willing, qualified and able to accept the trust upon reasonable or customary terms, be (i) a bank, or a wholly owned subsidiary of a bank holding company, having a combined capital, surplus and undivided profits of at least \$50,000,000; or (ii) a trust company having at least \$100,000,000 of trust assets under management and a combined capital, surplus and undivided profits of at least \$50,000,000 and, in each case, being qualified to do, and doing, trust business in the State.

Any successor trustee appointed as provided in this Section 15.4 shall execute, acknowledge and deliver to the Town and its predecessor Trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts, duties and obligations of its predecessor of the trust hereunder. Upon the request of any such successor Trustee, the Town shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and duties. Upon acceptance of appointment by a successor Trustee, the Town shall notify the Holder of each Bond then Outstanding by first-class mail, postage prepaid.

The predecessor Trustee shall execute any and all documents necessary or appropriate to convey all interest it may have to the successor Trustee. The predecessor Trustee shall promptly transfer all funds to the successor Trustee and deliver all records relating to the trust or copies thereof and communicate all material information it may have obtained concerning the trust to the successor Trustee.



Any corporation or association into which the Trustee may be merged or with which it may be consolidated, or any corporation or association resulting from any merger, or any corporation or association succeeding to the business of the Trustee, shall be the successor of the Trustee hereunder without the execution or filing of any paper or any further act on the part of the Town or the former Trustee.

Each, every and all funds and accounts held by the Trustee shall be impressed with a trust for the benefit of the Holders of the Bonds, under the provisions of this Ordinance and of the Act.

Section 15.5. Liability of Trustee for Investments. The Trustee shall not be liable for the making of any investment authorized by this Ordinance in the manner provided in this Ordinance or for any loss resulting from any such investment so made, except for its own negligence, willful misconduct or breach of trust. All investments shall be made in accordance with Section 5.7 of this Ordinance.

## ARTICLE XVI

### ORDINANCE A CONTRACT

So long as the New Bonds are Outstanding, each of the obligations, duties, limitations and restraints imposed upon the Town by this Ordinance shall be deemed to be a covenant between the Town and each and every Holder of the New Bonds, and this Ordinance and each and every provision and covenant hereof shall constitute a contract of the Town with each and every Holder, from time to time, of the New Bonds.

## ARTICLE XVII

### INVALIDITY OF ARTICLES, SECTIONS, PARAGRAPHS, CLAUSES OR PROVISIONS

If any article, section, paragraph, clause or provision of this Ordinance is held invalid or unenforceable under any circumstances, such holding shall not affect the validity or enforceability thereof under other circumstances or the validity or enforceability of this Ordinance as a whole or of any other article, section, paragraph, clause or provision of this Ordinance.

## ARTICLE XVIII

### REPEAL OF CONFLICTING OR INCONSISTENT PROVISIONS OF ORDINANCE

All orders, resolutions, ordinances and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the issuance of the New Bonds are hereby repealed, to the extent of such conflict, and this Ordinance shall take effect and be in full force from and after its passage and approval.

## ARTICLE XIX

### GENERAL AUTHORIZATION

The Town Council hereby authorizes the Mayor, Town Manager, Clerk and Director of Finance of the Town and Town Attorney to execute such documents and instruments as necessary to effect the issuance of the New Bonds and to fulfill the requirements of this Ordinance.

A certified copy of this Ordinance shall be filed with the Clerk of the Town Council of the County, the Treasurer of the County and such filing shall constitute the authority for the extension and collection of the taxes to be deposited in the Special Tax Allocation Fund.

## ARTICLE XX

### NOTICES

All communications under this Ordinance shall be in writing and shall be deemed given when delivered and, if delivered by mail, shall be mailed by first-class mail, postage prepaid, and addressed as follows:

(a) To the Town:

Town of Hilton Head Island, South Carolina  
One Town Center Court  
Hilton Head Island, South Carolina 29928-2701  
Attn: Stephen G. Riley

(c) To the Bank:

At such name and address as designated in writing to the Town from time to time

## ARTICLE XXI

### AMENDMENT AND RESTATEMENT OF PRIOR BOND ORDINANCE AND CONFIRMATION OF AMENDMENTS TO ORDINANCE NO. 90-26

Section 21.1. Amendment and Restatement of Prior Bond Ordinance. By enactment of this Ordinance, the Prior Bond Ordinance is hereby amended and restated in its entirety.

Section 21.2. Confirmation of Amendment to Ordinance No. 90-26. The amendment to Ordinance No. 90-26 contained in Article XXIII of the Prior Bond Ordinance are hereby confirmed and continued, namely as follows:

Section 4-5-40. Purpose is amended to add the following paragraph (c).

(c) To facilitate appropriate redevelopment efforts within the Town by pledging defined amounts of the Fee as additional security for tax increment financing bonds issued by the Town.

## ARTICLE XXII

### EFFECTIVENESS OF ORDINANCE; CODIFICATION

This Ordinance shall be in full force and effect from and after its enactment as provided by law. This Ordinance shall be forthwith codified in the Code of Town Ordinances in the manner required by law.

[Remainder of page intentionally left blank]

PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON  
HEAD ISLAND, SOUTH CAROLINA ON THIS \_\_\_\_DAY OF \_\_\_\_\_, 2017.

---

David Bennett, Mayor

ATTEST:

---

Krista Wiedmeyer  
Town Clerk

APPROVED AS TO FORM:

---

Gregory M. Alford, Town Attorney

First Reading:  
Second Reading:

Introduced by Council Member:

---

EXHIBIT A

FORM OF NEW BOND

UNITED STATES OF AMERICA  
STATE OF SOUTH CAROLINA  
TOWN OF HILTON HEAD ISLAND  
TAX INCREMENT BOND  
SERIES (YEAR)

KNOW ALL MEN BY THESE PRESENTS, that the Town of Hilton Head Island, South Carolina (the "Town"), is justly indebted and, for value received, hereby promises to pay \_\_\_\_\_ in \_\_\_\_\_ (the "Bank"), its successors and assigns, the principal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). Interest shall accrue from \_\_\_\_\_, 2017 payable semiannually on June 1 and December 1 of each year, commencing December 1, 2017, at the rate of \_\_\_\_\_% per annum, and is payable in annual principal installments on June 1 in each of the years and in the principal amounts as follows:

<u>Year</u>	<u>Principal Amount</u>
2018	
2019	
2020	
2021	
2022	
2023	
2024	
2025	

[This Bond is subject to prepayment prior to maturity at any time in whole without penalty.]

The principal and interest on this Bond are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts and are payable at the principal office of \_\_\_\_\_ in \_\_\_\_\_.

This Bond is issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including Article X, Section 14, of the Constitution of the State of South Carolina, 1895, as amended; Title 31, Chapter 6, Code of Laws of South Carolina, 1976, as amended and as such may be further amended (the "Act"), Ordinance No. 99-35 duly enacted on December 7, 1999, as amended by Ordinance No. 2014-13 duly enacted on June 10, 2014 (as amended, the "TIF Plan Ordinance"); and Ordinance No. \_\_\_\_\_ duly enacted on \_\_\_\_\_, 2017 (collectively, the "Bond Ordinance"), by the Town Council of the Town.

This Bond and the interest thereon are special obligations of the Town payable solely from, and secured equally and ratably by a pledge of the funds in and to be deposited in a Special Tax Allocation Fund created pursuant to the Act. THE FULL FAITH, CREDIT AND TAXING POWERS OF THE TOWN ARE NOT PLEDGED FOR THE PAYMENT OF THIS BOND AND THE INTEREST HEREON.

Additional Bonds (as defined in the Bond Ordinance) on a parity with the series of which this Bond is one may hereafter be issued under terms and conditions set forth in the Bond Ordinance. Such Additional

Bonds shall be equally and ratably secured with the pledge of the Tax Revenues (as defined in the Bond Ordinance).

The Bond Ordinance contains provisions defining terms; sets forth the moneys, funds and revenues pledged for the payment of the principal of and interest on this Bond and the Bonds of other series herewith which may hereafter be issued on a parity herewith under the Bond Ordinance; sets forth the nature, extent and manner of enforcement of the security of this Bond and of such pledge, and the rights and remedies of the holder hereof with respect thereto; sets forth the terms and conditions upon which this Bond is issued and upon which other bonds may be hereinafter issued payable as to principal, premium, if any, and interest on a parity with this Bond and equally and ratably secured herewith; sets forth the rights, duties and obligations of the Town thereunder; and sets forth the terms and conditions upon which the pledge made in the Bond Ordinance for the security of this Bond and upon which the covenants, agreements and other obligations of the Town made therein may be discharged at or prior to the maturity or redemption of this Bond with provision for the payment thereof in the manner set forth in the Bond Ordinance. Reference is hereby made to the Bond Ordinance, to all of the provisions of which any holder of this Bond by the acceptance hereof thereby assents. The provisions of the Act and the Bond Ordinance shall be a contract with the holder of this Bond.

Under the laws of the State of South Carolina (the "State"), this Bond and the interest hereon are exempt from all State, county, municipal, school district and other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State to exist, to happen and to be performed precedent to or in the issuance of this Bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the series of Bonds of which this Bond is a part does not exceed any constitutional or statutory limitation of indebtedness; and that provision has been made for the payment of the principal of and interest on this Bond and the series of which it is a part, as provided in the Bond Ordinance.

IN WITNESS WHEREOF, THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, has caused this Bond to be signed with the manual or facsimile signature of the Mayor of the Town, attested by the manual or facsimile signature of the Clerk of the Town, and the seal of the Town impressed, imprinted or reproduced hereon.

TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

By: \_\_\_\_\_  
Mayor

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Town Clerk

REGISTRATION

This Bond has been registered in the name of \_\_\_\_\_ in \_\_\_\_\_, on the registration books kept by the Clerk of the Town of Hilton Head Island, South Carolina.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Town Clerk, Town of Hilton Head Island, South Carolina

(FORM OF REGISTRAR'S CERTIFICATE OF AUTHENTICATION)

This Bond is one of the Bonds described in the within-mentioned Ordinance of the Town of Hilton Head Island, South Carolina.

\_\_\_\_\_,  
Registrar

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Authorized Officer

SECOND SUPPLEMENTAL ORDINANCE

PROVIDING FOR THE ISSUANCE AND SALE OF TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, SPECIAL OBLIGATION BONDS (BEACH PRESERVATION FEE PLEDGE), IN ONE OR MORE SERIES, IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING \$36,000,000; DELEGATING THE AUTHORITY TO THE TOWN MANAGER TO DETERMINE CERTAIN MATTERS WITH RESPECT TO THE BONDS; PRESCRIBING THE FORM AND DETAILS OF SUCH BONDS; OTHER MATTERS RELATING THERETO; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Town Council (the "Council") of the Town of Hilton Head Island, South Carolina (the "Town"), enacted an Ordinance (the "General Bond Ordinance") on September 6, 2011, to authorize generally the issuance of Bonds (as defined in the General Bond Ordinance); and

WHEREAS, pursuant to the General Bond Ordinance, the Bonds are payable from and secured by a pledge of Beach Preservation Fees (as defined in the General Bond Ordinance); and

WHEREAS, the Town is presently undertaking, and contemplating the future undertaking, of the New Projects (as defined herein); and

WHEREAS, the Town desires to issue not exceeding \$36,000,000 principal amount of its Special Obligation Bonds (Beach Preservation Fee Pledge), in one or more series (the "New Bonds") to finance, among other things, the Costs of Acquisition and Construction of the New Projects (or retiring at maturity or redeeming prior to maturity all or a portion of any bond anticipation notes issued by the Town therefor); and

WHEREAS, the Council has been advised that in order to finance the New Projects, the Council must enact an appropriate ordinance supplemental to the General Bond Ordinance authorizing the issuance of the New Bonds;

WHEREAS, the Council previously enacted Ordinance No. 2016-11 on June 7, 2016, authorizing the issuance of a portion of the New Bonds (the "Prior Ordinance"); the Council has been advised that this Second Supplemental Ordinance would amend and restate the Prior Ordinance in its entirety and authorize the issuance of all of the New Bonds.

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Definitions. The terms in this Section 1 and all words and terms defined in the General Bond Ordinance (such General Bond Ordinance as from time to time amended or supplemented by Supplemental Ordinances being defined in the Ordinance as the "Ordinance") (except as herein otherwise expressly provided or unless the context otherwise requires), shall for all purposes of this Second Supplemental Ordinance have the respective meanings given to them in the Ordinance and in Section 1 hereof.

“Beneficial Owner” shall mean any purchaser who acquires beneficial ownership interest in any Initial Bond held by the Depository. In determining any Beneficial Owner the Town, the Trustee, the Registrar and the Paying Agent may rely exclusively upon written representations made and information given to the Town, the Trustee, the Registrar and the Paying Agent, as the case may be, by the Depository or its Participants with respect to any New Bond held by the Depository or its Participants in which a beneficial ownership interest is claimed.

“Bond Purchase Agreement” shall mean one or more Bond Purchase Agreements relating to the sale of the New Bonds, to be dated the date of execution and delivery thereof between the Underwriter and the Town, as amended or supplemented thereto.

“Bonds of 2011” shall mean the Town’s \$11,000,000 principal amount Special Obligation Bonds (Beach Preservation Fee Pledge), Series 2011, dated November 18, 2011, and outstanding as of the date of this Second Supplemental Ordinance in the principal amount of \$4,985,000.

“Book-Entry Form” or “Book-Entry System” shall mean with respect to the New Bonds, a form or system, as applicable, under which (a) the ownership of beneficial interests in the New Bonds may be transferred only through a book-entry and (b) physical bond certificates in fully registered form are registered only in the name of a Depository or its nominee as Holder, with the physical bond certificates “immobilized” in the custody of the Depository. The book-entry maintained by the Depository is the record that identifies the owners of participatory interests in the New Bonds, when subject to the Book-Entry System.

“Business Day” shall mean, with respect to the New Bonds issued pursuant to this Second Supplemental Ordinance, any day other than a Saturday, a Sunday or a day which shall be in the State or the state in which the respective office of the Trustee, the Paying Agent and the Registrar is located a legal holiday or a day on which banking institutions are authorized by law or executive order to close.

“Code” shall mean the Internal Revenue Code of 1986, as amended.

“Continuing Disclosure Certificate” shall have the meaning given that term in Section 15 hereof.

“Custodian” shall mean one or more banks or financial institutions to hold the Series Construction Fund, if any, as selected by the Town Manager pursuant to Section 11 hereof.

“Depository” shall mean any securities depository that is a “clearing corporation” within the meaning of the New York Uniform Commercial Code and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended, operating and maintaining, with its participants or otherwise, a Book-Entry System to record ownership of beneficial interests in the New Bonds, and to effect transfers of the New Bonds, in Book-Entry Form, and includes and means initially The Depository Trust Company (a limited-purpose trust company), New York, New York.

“First Supplemental Ordinance” shall mean Ordinance No. 2011-21 enacted by the Town Council on September 20, 2011, authorizing the Bonds of 2011.

“General Bond Ordinance” shall mean Ordinance No. 2011-18 enacted by the Town Council on September 6, 2011, authorizing the issuance from time to time of Bonds.

“Initial Bonds” shall mean the New Bonds initially issued in Book-Entry Form as provided in Section 4 hereof.



“Insurer” shall mean each insurance company providing a Surety Bond, or any successor thereto or assignee thereof.

“Insurer Default” shall mean there shall exist a default in the payment by the Insurer of principal of or any interest on any New Bond when required to be made by the applicable Surety Bond.

“Interest Payment Date” shall mean any February 1 and August 1 of each year, commencing August 1, 2017, or such other date as the Town Manager may determine pursuant to Section 11 hereof.

“Letter of Credit” shall mean, subject to Section 8 hereof, a letter of credit (if any) issued by a bank or other financial institution satisfactory to the Town, to satisfy all or a portion of the Series Reserve Fund Requirement.

“New Bonds” shall mean the Town of Hilton Head Island, South Carolina, Special Obligation Bonds (Beach Preservation Fee Pledge), issuable in one or more series, in the aggregate principal amount of not exceeding \$36,000,000 authorized to be issued hereunder.

“New Projects” shall mean, collectively, the Projects to be financed with the proceeds of the New Bonds and such other projects as may be approved by the Town Manager and permitted by the Beach Preservation Fee Ordinance.

“Paying Agent” shall mean Wells Fargo Bank, N.A., as Paying Agent for the New Bonds.

“Principal Payment Date” shall have the meaning given to such term in Section 3(a).

“Registrar” shall mean Wells Fargo Bank, N.A., as Registrar for the New Bonds.

“Second Supplemental Ordinance” shall mean shall mean this Second Supplemental Ordinance enacted by the Town Council authorizing the New Bonds, which amends and restates the Prior Ordinance in its entirety.

“Series Construction Fund” shall mean one or more Funds established pursuant to Section 9 hereof into which a portion of the proceeds of a Series of the New Bonds will be deposited and from which such proceeds will be disbursed to pay the Costs of Acquisition and Construction of the New Projects (including the Costs of Issuance). Pursuant to Section 9, each Series Construction Fund shall be further identified or designated to relate to the specific Series of the New Bonds issued hereunder.

“Series Debt Service Fund” shall mean one or more Funds established pursuant to Section 7 hereof to provide for the payment of the principal of and interest on the Series of the New Bonds related thereto. Pursuant to Section 7, each Series Debt Service Fund shall be further identified or designated to relate to the specific Series of the New Bonds issued hereunder.

“Series Debt Service Reserve Fund” shall mean one or more Funds, if any, established pursuant to Section 8 hereof (a) to insure the timely payment of the principal and interest on the New Bonds related thereto; and (b) to provide for the redemption of the Series of the New Bonds related thereto. Pursuant to Section 8, each Series Debt Service Reserve Fund shall be further identified or designated to relate to the specific Series of the New Bonds issued hereunder.

“Series Reserve Fund Requirement” shall mean the amount, if any, established pursuant to Section 8 hereof.

“Surety Bond” shall mean, subject to Section 8, the reserve policy or surety bond, if any, issued by the Insurer in connection with the New Bonds and payable to the Paying Agent.

“Trustee” shall mean Wells Fargo Bank, N.A., as Trustee for the Bonds.

“Underwriter” shall mean such bank or financial institution selected by the Town Manager pursuant to Section 11 hereof.

“Value” or “Values” means, if a Surety Bonds is in effect for a Series of New Bonds, with respect to any Permitted Investments for the Series Debt Service Fund and Series Debt Service Reserve Fund established for such Series of New Bonds, the amount calculated under the Ordinance determined as of any date of calculation as follows:

- (a) the bid price published by a nationally recognized pricing service as selected by the Town in its sole discretion;
- (b) as to certificates of deposit and bankers acceptances: the face amount thereof, plus accrued interest; and
- (c) as to any investment not specified above: the value thereof established by prior agreement between the Town and the Insurer.

## Section 2. Certain Findings and Determinations.

The Town hereby finds and determines:

(a) The Ordinance, the Bond Act and the Accommodations Fee Act authorize the Town to issue Bonds in order to finance Projects (as defined in the General Bond Ordinance). This Second Supplemental Ordinance supplements the Ordinance, constitutes and is a "Supplemental Ordinance" within the meaning of such quoted term as defined and used in the Ordinance, and is enacted under and pursuant to the Ordinance.

(b) The New Bonds constitute and are "Bonds" within the meaning of the quoted word as defined and used in the Ordinance.

(c) The Beach Preservation Fees pledged under the Ordinance are or will not be encumbered by any lien and charge thereon or pledge thereof, other than: (i) the pledge thereof created under the General Bond Ordinance and the First Supplemental Ordinance for payment and security of the Bonds of 2011; and (ii) the pledge thereof created by the General Bond Ordinance and this Second Supplemental Ordinance for the payment and security of the New Bonds.

(d) There does not exist an Event of Default (as defined in the General Bond Ordinance), nor does there exist any condition which, after the passage of time or the giving of notice, or both, would constitute such Event of Default.

(e) The estimated Costs of Acquisition and Construction (as defined in the General Bond Ordinance) of the New Projects are \$32,700,000.

(f) The Town proposes to issue the New Bonds, in one or more Series (as defined in the General Bond Ordinance), for one or more of the principal purposes: (1) financing all or a portion of the Costs of Acquisition and Construction of the New Projects (or retiring at maturity or redeeming prior to maturity all or a portion of any bond anticipation notes issued by the Town therefor), (2) funding the Series

Debt Service Reserve Fund (if any) in an amount equal to the Series Reserve Fund Requirement through the deposit of cash, the purchase of a Surety Bond, the provision of a Letter of Credit or any combination thereof, and (3) paying the Costs of Issuance of the New Bonds.

(g) The period of usefulness of the New Projects will be in excess of seven (7) years from the date of the acquisition thereof.

(h) It is necessary and in the best interest of the Town to authorize the issuance of the New Bonds in the principal amount of not exceeding \$36,000,000 in accordance with the Bond Act, the Accommodations Fee Act, the Ordinance and this Second Supplemental Ordinance for the purposes set forth above.

### Section 3. Authorization of New Bonds.

(a) There is hereby authorized to be issued one or more Series of Bonds designated "Town of Hilton Head Island, South Carolina, Special Obligation Bonds (Beach Preservation Fee Pledge), Series (year)" (the "New Bonds"), including such further words, numbers or letters as may be necessary or desirable to identify individual series thereof, the purposes thereof, or the taxable status thereof, in the aggregate principal amount of not exceeding \$36,000,000. The proceeds of the New Bonds shall be used for the purposes set forth in Section 2(f) hereof.

Unless otherwise determined by the Town Manager pursuant to Section 11 hereof, the New Bonds shall mature on August 1 in each of the years (the "Principal Payment Dates") and in the principal amounts, and bear interest at the rates per annum (calculated on the basis of a 360-day year comprised of twelve 30-day months), as determined by the Town Manager, pursuant to Section 11 hereof.

(b) Such of the New Bonds as the Town Manager shall determine pursuant to Section 11 hereof shall be subject to mandatory redemption at a redemption price equal to the principal amount of the New Bonds to be redeemed, together with interest accrued from the date of redemption, in the years and in the amounts determined by the Town Manager, pursuant to Section 11 hereof.

At its option, to be exercised on or before the sixtieth (60th) day prior to any mandatory redemption date, the Town may (i) deliver to the Trustee for cancellation New Bonds which are subject to mandatory redemption in any aggregate principal amount desired or (ii) receive a credit in respect of its mandatory redemption obligation for any such New Bonds which, prior to such date, have been purchased or redeemed (otherwise than through the operation of the mandatory redemption requirement) by the Town and cancelled by the Trustee and not theretofore applied as a credit against any mandatory redemption obligation. Each New Bond so delivered or previously purchased or redeemed shall be credited by the Trustee, at one hundred percent (100%) of the principal amount thereof, to the obligation of the Town on those respective mandatory redemption obligations in chronological order or such other manner as directed in writing by the Town to the Trustee, and the principal amount of the New Bonds to be redeemed by operation of the mandatory redemption requirement shall be accordingly reduced.

(c) The Trustee, without further authorization or direction from the Town, shall give notice of all mandatory redemptions within the time periods and in the manner specified in Article V of the General Bond Ordinance.

(d) The New Bonds shall originally be dated the date of delivery of the New Bonds, or such other date as the Town Manager shall determine pursuant to Section 11 hereof, and shall be issued as fully registered Bonds in the denominations of \$5,000 and integral multiples of \$5,000. The New Bonds shall be numbered and lettered in such a fashion as to maintain a proper record thereof.

(e) Principal of and redemption premium, if any, on the New Bonds shall be payable at the designated corporate trust office of the Paying Agent. Interest on the New Bonds shall be payable on each Interest Payment Date, in each case to the Holders as of the immediately preceding Record Date, such interest to be paid by the Paying Agent by check or draft mailed to each Holder at the address as it appears on the Books of Registry maintained at the designated corporate trust office of the Paying Agent, and in the case of a Holder of \$1,000,000 or more in principal amount of New Bonds, by wire transfer to an account within the continental United States upon the timely receipt of a written request of such Holder. Payment of the principal of and interest on such New Bonds may be payable to the Holder thereof without presentation and surrender of such New Bonds.

(f) The New Bonds shall be in substantially the form set forth in Exhibit A hereto, with such necessary or appropriate variations, omissions and insertions as are incidental to the series, numbers, denominations, maturities, dates, interest rate or rates, redemption provisions, the purpose of issuance and other details thereof or as are otherwise permitted or required by law or by the Ordinance, including this Second Supplemental Ordinance. The New Bonds shall be executed in the name and on behalf of the Town by the manual or facsimile signatures of the Mayor and Town Clerk.

(g) A copy of the approving opinion to be rendered on the New Bonds shall be printed on the back of such New Bonds, preceding the same a certificate shall appear, which shall be signed on behalf of the Town by a facsimile signature of the Town Clerk. Such certificate shall be in the form substantially as follows:

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the approving opinion of McNair Law Firm, P.A., Columbia, South Carolina, the original of which was manually executed, dated and issued as of the date of the delivery of and payment for the bonds, and a copy of which is on file with the Town.

THE TOWN OF HILTON HEAD, SOUTH CAROLINA

By: \_\_\_\_\_  
Town Clerk

Section 4. Book-Entry System; Recording and Transfer of Ownership of the New Bonds.

The Initial Bonds will be eligible securities for the purposes of the Book-Entry System of transfer maintained by the Depository, and transfers of beneficial ownership of the Initial Bonds shall be made only through the Depository and its participants in accordance with rules specified by the Depository. Such beneficial ownership must be of \$5,000 principal amount of Initial Bonds of the same Series and maturity or any integral multiple of \$5,000.

The Initial Bonds will be issued in fully-registered form, as a single bond representing the entire principal amount of each Series of the New Bonds or one New Bond for each of the maturities of each Series of the New Bonds, in the name of Cede & Co., as the nominee of the Depository. When any principal of, premium, if any, or interest on the Initial Bonds becomes due, the Town shall transmit or cause the Paying Agent to transmit to the Depository an amount equal to such installment of principal, premium, if any, and interest. Such payments will be made to Cede & Co. or other nominee of the Depository as long as it is owner of record on the applicable Record Date. Cede & Co. or other nominee of the Depository shall be

considered to be the owner of the Initial Bonds so registered for all purposes of this Second Supplemental Ordinance, including, without limitation, payments as aforesaid and receipt of notices. The Depository shall remit such payments to the Beneficial Owners of the New Bonds or their nominees in accordance with its rules and regulations.

Notices of redemption of the Initial Bonds or any portion thereof shall be sent to the Depository in accordance with the provisions of the General Bond Ordinance.

The Depository is expected to maintain records of the positions of Participants in the Initial Bonds, and the Participants and persons acting through Participants are expected to maintain records of the Beneficial Owners in the Initial Bonds. The Town, the Trustee, the Registrar and the Paying Agent make no assurances that the Depository and its Participants will act in accordance with such rules or expectations on a timely basis, and the Town, the Trustee, the Registrar and the Paying Agent shall have no responsibility for any such maintenance of records or transfer of payments by the Depository to its Participants, or by the Participants or persons acting through Participants to the Beneficial Owners.

The Town, the Trustee, the Paying Agent and the Registrar may treat the Depository (or its nominee) as the sole and exclusive owner of the New Bonds registered in its name for the purpose of payment of the principal of, interest or premium, if any, on the New Bonds, giving any notice permitted or required to be given to Bondholders under the General Bond Ordinance or this Second Supplemental Ordinance, registering the transfer of the New Bonds, obtaining any consent or other action to be taken by Bondholders and for all other purposes whatsoever, and shall not be affected by any notice to the contrary. The Town, the Trustee, the Paying Agent and the Registrar shall not have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the New Bonds under or through the Depository or any Participant, or any other person which is not shown on the Books of Registry of the Town maintained by the Registrar as being a Bondholder, with respect to: the accuracy of any records maintained by the Depository or any Participant or the maintenance of any records; the payment by the Depository or any Participant of any amount in respect of the principal of, interest or premium, if any, on the New Bonds; the sending of any transaction statements; the delivery or timeliness of delivery by the Depository or any Participant of any notice which is permitted or required to be given to Bondholders thereunder; the selection of Bondholders to receive payments upon any partial redemption of the New Bonds; or any consent given or other actions taken by the Depository as a Bondholder.

If (a) the Depository determines not to continue to act as securities depository for the New Bonds, and gives reasonable notice to the Registrar or the Town, or (b) the Town has advised the Depository of the Town's determination that the Depository is incapable of discharging its duties, then the Town shall attempt to retain another qualified securities depository to replace the Depository. Upon receipt by the Town or the Registrar of the Initial Bonds together with an assignment duly executed by the Depository, the Town shall execute and deliver to the successor depository, the New Bonds of the same principal amount, interest rate and maturity. If the Town is unable to retain a qualified successor to the Depository, or the Town has determined that it is in its best interest not to continue the Book-Entry System of transfer or that interests of the Beneficial Owners of the New Bonds might be adversely affected if the Book-Entry System of transfer is continued (the Town undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify Beneficial Owners of the New Bonds by mailing an appropriate notice to the Depository, upon receipt by the Town of the Initial Bonds together with an assignment duly executed by the Depository, the Town shall execute, authenticate and deliver to the Depository Participants the New Bonds in fully-registered form, in authorized denomination; provided, however, that the discontinuation of the Book-Entry System of registration and transfer with respect to the New Bonds or the replacement of the Depository or any successor depository shall be subject to the applicable rules and procedures of the Depository or such successor depository on file or otherwise approved by the Securities and Exchange Commission.

Section 5. Optional Redemption of New Bonds. Such of the New Bonds as may be determined by the Town Manager pursuant to Section 11 hereof shall be subject to redemption prior to maturity, at the option of the Town, in whole or in part at any time in such order of their maturities as the Town shall determine and by lot within a maturity, at the respective redemption prices with respect to each New Bond, expressed as a percentage of principal amount of the New Bonds to be redeemed, as shall be determined by the Town Manager pursuant to Section 11 hereof, together, in each such case, with the interest accrued on such principal amount to the date fixed for redemption. The Trustee shall give notice of redemption of the New Bonds by first-class mail, postage prepaid, to the Holders thereof as shown on the Books of Registry of the Town not less than thirty (30) days prior to the date fixed for the redemption thereof.

Section 6. Payment of the New Bonds. The New Bonds, together with the interest thereon, shall be payable, in such coin or currency of the United States of America which at the time of such payment is legal tender for public and private debts, solely from the Beach Preservation Fees of the Town in accordance with the provisions of the Ordinance and this Second Supplemental Ordinance. The New Bonds shall be secured by a pledge of Beach Preservation Fees on a parity with the pledge of Beach Preservation Fees securing the payment of the Bonds of 2011 and any other Bonds hereafter issued in compliance with the provisions of the General Bond Ordinance.

The New Bonds do not constitute an indebtedness of the Town within any State constitutional provisions (other than Article X, Section 14, Paragraph 10 of the South Carolina Constitution authorizing obligations payable solely from special sources not involving revenues from any tax or license) or statutory limitation. The New Bonds shall not be a debt of the Town, nor a charge, lien or encumbrance, legal or equitable, upon any property of the Town or upon any income, receipts or revenues thereof, other than the aforesaid Beach Preservation Fees of the Town. No recourse shall be had for the payment of the New Bonds or the interest thereon against the general fund of the Town, nor shall the credit or taxing power of the Town be deemed to be pledged thereto. The full faith, credit and taxing powers of the Town are not pledged to the payment of the principal of or interest on the New Bonds.

Section 7. Establishment of Series Debt Service Fund. In accordance with Section 6.6 of the General Bond Ordinance, the Series Debt Service Fund is hereby directed to be established by the Trustee on the date of the original delivery of the New Bonds for the benefit of the Holders of the New Bonds; provided, however, that upon the issuance of one or more Series of New Bonds, separate funds or accounts may be established for the payment of debt service on such Series of New Bonds, with such additional numbers or letters to identify its relevance, but each such separate fund or account will be considered the "Series Debt Service Fund" with respect to the related Series of New Bonds.

Section 8. Establishment of the Series Reserve Fund Requirement and Series Debt Service Reserve Fund.

In accordance with Section 6.7 of the Ordinance, the Town Manager may determine whether it is necessary or desirable to establish a Series Debt Service Reserve Fund for the benefit of the Holders of one or more Series of New Bonds (if any) and the amount of the applicable Series Reserve Fund Requirement, and, if so, such Series Debt Service Reserve Fund shall be established on the date of the original delivery of such Series of New Bonds and held by the Trustee, all as provided in the Ordinance; provided, however, that (1) upon the issuance of one or more Series of New Bonds, separate funds or accounts may be established (if at all) for each Series of New Bonds, with such additional numbers or letters to identify its relevance, but each such separate fund or account will be considered the "Series Debt Service Reserve Fund" with respect to the related Series of New Bonds; and (2) in the event of any full or partial defeasance of a Series of New Bonds under Article X of the Ordinance, then the Series Reserve Fund Requirement established for such Series of New Bonds shall be recalculated based on the then Outstanding principal amount of such Series.

If the Series Debt Service Reserve Fund is established, the Series Reserve Fund Requirement initially will be satisfied by the Town by the deposit of cash into the Series Debt Service Reserve Fund, with the purchase of a Surety Bond, the provision of a Letter of Credit or any combination of the foregoing, in each case for the benefit of the Holders of the New Bonds.

#### Section 9. Series Construction Fund.

There is hereby created and established the Series Construction Fund, which fund shall be held by the Town or by a Custodian; provided, however, that upon the issuance of one or more Series of New Bonds, separate funds or accounts may be established for such Series of New Bonds, with such additional numbers or letters to identify its relevance, but each such separate fund or account will be considered the "Series Construction Fund" with respect to the related Series of New Bonds. If the Series Construction Fund is held by a Custodian, the Town Manager is authorized and directed to negotiate, execute and deliver such construction fund agreements or other agreements with such bank or other financial institution as may be necessary or desirable in connection therewith. The Series Construction Fund established for a particular Series of New Bonds shall be accounted for as a single fund, however the moneys on deposit therein may be held by one or more Custodians. The moneys on deposit in the Series Construction Fund shall be used and applied to pay all or a portion of the Costs of Acquisition and Construction of the New Projects (or retiring at maturity or redeeming prior to maturity all or a portion of any bond anticipation notes issued by the Town therefor), including all Costs of Issuance related to the New Bonds.

Moneys held for the credit of the Series Construction Fund shall be invested to the fullest extent practicable and reasonable, in Permitted Investments, maturing at such times and in such amounts as shall be required to provide moneys to make the payments required to be made from such Fund.

Withdrawals from the Series Construction Fund shall be made in the manner withdrawals from other funds of the Town are made.

If after the payment in full of all costs of the New Projects (or retiring at maturity or redeeming prior to maturity all or a portion of any bond anticipation notes issued by the Town therefor) and Costs of Issuance or after adequate provision has been made for such payment any moneys remain in the Series Construction Fund, such excess shall be paid into the related Series Debt Service Fund and shall be used only for the payment of the principal of and interest on the related Series of New Bonds or, in the alternative, to acquire Outstanding New Bonds at a price (exclusive of accrued interest) not exceeding the face amount thereof.

Section 10. Designation of Trustee, Registrar, and Paying Agent. Pursuant to the Ordinance, the Trustee is Wells Fargo Bank, N.A. The Town Council hereby designates Wells Fargo Bank, N.A. as Registrar and Paying Agent for the New Bonds. The Registrar and Paying Agent shall signify their acceptances of their respective duties upon delivery of the New Bonds.

## Section 11. Sale and Issuance of New Bonds.

(a) The Town Manager, upon the advice of the Town's bond counsel and financial advisor, is hereby authorized and empowered to undertake any one or more of the following actions: (a) determine the original issue dates of each Series of the New Bonds; (b) determine the aggregate principal amount of the New Bonds, if less than authorized by this Second Supplemental Ordinance, and each Series thereof (including the portions thereof to be issued on a taxable or tax-exempt basis); (c) determine the principal amount of each maturity of each Series of the New Bonds; (d) determine the Interest Payment Dates, including the initial Interest Payment Dates, and the Principal Payment Dates for each Series of the New Bonds; (e) determine the optional redemption dates and terms of redemption of each Series of the New Bonds; (f) determine the interest rates for each Series of the New Bonds; (g) determine the New Bonds to be subject to mandatory and optional redemption; (h) determine the redemption prices of the New Bonds subject to optional redemption; (i) determine the Custodian, if any, for the Series Construction Fund; (j) determine whether the Series Debt Service Reserve Fund will be established with regard to each Series of New Bonds and, if so, the amount of the applicable Series Reserve Fund Requirement and manner in which it will be satisfied; (k) determine whether each Series of the New Bonds will be sold publicly (and, if so, designate the Underwriter therefor) or directly to one or more purchasers in a private offering or private placement transaction; (l) determine any original issue discount or original issue premium at which each Series of the New Bonds will be sold, or whether any Underwriter's discount or other fee will be paid to the purchasers of the New Bonds; and (m) agree to any other terms, provisions and matters necessary or advisable to effect the issuance of each Series of the New Bonds.

(b) Each Series of the New Bonds shall either be sold publicly, following a private sale to the Underwriter, or directly to one or more purchasers in a private offering or private placement transaction. In connection with a public offering, the Town Manager is hereby authorized and directed to approve the form of Bond Purchase Agreement, together with such amendments and modifications to the form thereof as the Town Manager shall negotiate and approve, and to execute the Bond Purchase Agreement, as so modified and amended, and deliver the same to the Underwriter, the Town Manager's execution and delivery of the Bond Purchase Agreement constituting conclusive evidence of approval of the matters therein contained; that, if executed, the New Bonds contemplated by the Bond Purchase Agreement shall be sold to the Underwriter upon the terms and conditions set forth in the Bond Purchase Agreement and upon the basis of the representations therein set forth, and that all conditions precedent to or concurrent with the acceptance of the Bond Purchase Agreement by the Town will be met prior to the Town's execution thereof. Notwithstanding the foregoing, the Town Manager is hereby authorized to take all actions, including the preparation and dissemination of requests for proposals and the preparation, publication and/or distribution of information, offering documents or private placement memoranda (which may be in the respective forms of the Bond Purchase Agreement and/or hereinafter defined Preliminary Official Statement, as applicable, together with such amendments and modifications as may be approved by the Town Manager), all relating to the Town, each Series of the New Bonds and the Beach Preservation Fees, to solicit interest and receive offers from financial institutions to purchase one or more Series of the New Bonds in a private offering, and to accept such offer which is in the best interest of the Town and execute such documents as may be necessary in connection therewith.

(c) The Town Manager is hereby authorized and directed to prepare a Preliminary Official Statement, relating to a public offering of each Series of the New Bonds (the "Preliminary Official Statement"), and to take such actions necessary to "deem final" the Preliminary Official Statement for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended.



(d) The Town hereby authorizes the Final Official Statement of the Town to be dated on or about the date of the execution and delivery of the Bond Purchase Agreement, relating to each Series of the Bonds substantially in the form of the Preliminary Official Statement, with such modifications as the Town Manager approves; the Town Manager of the Town is hereby authorized and directed to execute copies of the Final Official Statement and deliver the same to the Underwriter, which execution and delivery shall be conclusive evidence of the approval of any such modifications; and the Town hereby authorizes the use of the Preliminary Official Statement and Final Official Statement and the information contained therein in connection with the public offering and sale of each Series of the New Bonds by the Underwriter.

(e) The Council hereby ratifies, confirms and approves the actions of the Town Manager heretofore undertaken with regard to applications for Surety Bonds, Letters of Credit, other credit enhancements, and liquidity arrangements relating to the New Bonds from municipal bond insurance companies or other financial institutions and to enter into, execute and deliver on behalf of the Town, such loan, insurance, reimbursement or guaranty agreements as shall be necessary and advisable, with advice of counsel, in connection with the transactions and other matters referred to herein; provided, however, that the representations and covenants contained in such agreements may be incorporated in this Second Supplemental Ordinance as if fully set forth herein.

(f) A copy of this Second Supplemental Ordinance shall be filed with the minutes of the meeting at which this Second Supplemental Ordinance was enacted.

(g) The Town Council hereby authorizes and directs all of the officers and employees of the Town to carry out or cause to be carried out all obligations of the Town hereunder and to perform such other actions as they shall consider necessary or advisable in connection with the issuance, sale and delivery of the New Bonds.

(h) The Council hereby authorizes the Town Manager or his designee to negotiate the terms of, and execute, in the name and on behalf of the Town, and deliver investment agreements, forward delivery agreements, repurchase agreements and other agreements in connection with the New Bonds, to prepare and solicit bids for providers of such agreements and to execute, in the name and on behalf of the Town, written confirmations of any such agreements and other documents as may be necessary in connection therewith. Further, the Town Manager or his designee is hereby authorized to take any and all actions and execute any and all documents, upon the advice of its Bond Counsel, necessary to cause the termination of any forward delivery, repurchase or other investment agreement related to the Bonds of 2011.

Section 12. Disposition of Proceeds of New Bonds and Certain Other Moneys. The proceeds derived from the sale of the New Bonds, net of any original issue discount or premium (or both), any Underwriter's discount or fees payable to the purchaser thereof and any premiums paid to providers of Surety Bonds or Letters of Credit (if any), shall be deposited with (or at the order of) the Town, the Trustee or the Custodian, as applicable, and used for the following purposes:

(a) If the Town Manager determines that a Series Debt Service Reserve Fund shall be established for a Series of New Bonds and the Series Reserve Fund Requirement shall be funded with a portion of the proceeds of a Series of the New Bonds, there shall be deposited with the Trustee for deposit into such Series Debt Service Reserve Fund an amount equal to the applicable Series Reserve Fund Requirement.

(b) The remainder of the proceeds of any Series of the New Bonds shall be deposited into the Series Construction Fund established in Section 9 hereof to pay all or a portion of the Costs of Acquisition and Construction for the New Projects (or retiring at maturity or redeeming prior to maturity all or a portion of any bond anticipation notes issued by the Town therefor), including Costs of Issuance, for such Series of New Bonds.

The respective amounts specified in this Section 12 shall be determined by the Town upon delivery of any Series of the New Bonds.

Section 13. Federal Tax Covenant. The Town hereby covenants and agrees with the Holders of the New Bonds issued as tax-exempt obligations (the "Tax-Exempt Bonds") that it will not take any action which will, or fail to take any action which failure will, cause interest on the Tax-Exempt Bonds to become includable in the gross income of the Bondholders thereof for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Tax-Exempt Bonds and that no use of the proceeds of the Tax-Exempt Bonds shall be made which, if such use had been reasonably expected on the date of issue of the Tax-Exempt Bonds would have caused the Tax-Exempt Bonds to be "arbitrage bonds," as defined in the Code; and to that end the Town hereby shall:

(a) comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder so long as the Tax-Exempt Bonds are Outstanding;

(b) establish such funds, make such calculations and pay such amounts, if necessary, in the manner and at the times required in order to comply with the requirements of the Code relating to required rebate of certain amounts to the United States; and

(c) make such reports of such information at the times and places required by the Code.

The Town Manager shall be authorized and directed to prepare and adopt written procedures with respect to tax-exempt debt, including but not limited to the New Bonds.

Section 14. Continuing Disclosure. So long as and to the extent required pursuant to Section 11-1-85 of the Code of Laws of South Carolina 1976, as amended ("Section 11-1-85"), the Town covenants that it will file with a central repository for availability in the secondary bond market when requested:

(i) An annual independent audit, within 30 days of the Town's receipt of the audit; and

(ii) Event-specific information within 30 days of an event adversely affecting more than 5% percent of Beach Preservation Fees or the Town's tax base.

The only remedy for failure by the Town to comply with the covenant of this Section 14 shall be an action for specific performance of this covenant; and failure to comply shall not constitute a default or an "Event of Default" under the Ordinance or this Second Supplemental Ordinance. The Trustee shall have no responsibility to monitor the Town's compliance with this covenant. The Town specifically reserves the right to amend or delete this covenant in order to reflect any change in Section 11-1-85, without the consent of the Trustee or any Holder of any New Bonds.

In addition, the Town Manager is hereby authorized and directed to approve the form of, and execute and deliver, a Continuing Disclosure Certificate of the Town, related to one or more Series of the New Bonds as required by applicable law, and the Town hereby covenants and agrees that it will comply with and carry out all of the provisions of such Continuing Disclosure Certificate. Notwithstanding any other provisions of this Second Supplemental Ordinance, failure of the Town to comply with the Continuing Disclosure Certificate shall not be considered an Event of Default, and no liability for damages shall attach therefor. The sole remedy for such failure to comply shall be that any New Bondholder may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Town to comply with their obligations under this paragraph.

Section 15. Further Actions. The Mayor, the Town Manager, the Finance Director of the Town, and the Town Clerk are hereby authorized and directed to take any and all such further actions as shall be deemed necessary or desirable in order to effectuate issuance of the New Bonds, to elect to purchase the Surety Bond and to carry out the intentions of this Second Supplemental Ordinance.

Section 16. Headings. The headings and titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this Second Supplemental Ordinance.

Section 17. Notices. All notices, certificates or other communications hereunder or under the Ordinance shall be sufficiently given and shall be deemed given when mailed by registered mail, postage prepaid, or given when dispatched by telegram addressed as follows:

If to the Town:

Hilton Head Island, South Carolina  
Attn: Town Manager  
One Town Center Court  
Hilton Head Island, South Carolina 29928

If to the Paying Agent, the Registrar or the Trustee:

Wells Fargo Bank, N.A.  
Attention: Corporate Trust Department  
9062 Old Annapolis Road  
R1204-010  
Columbia, Maryland 21045

The Town, the Paying Agent, the Registrar and the Trustee may, by notice given to the other parties, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 18. Amendment and Restatement of Prior Ordinance; Repeal of Inconsistent Ordinances and Resolutions. By enactment of this Second Supplemental Ordinance, the Prior Ordinance is hereby amended and restated in its entirety. All ordinances and resolutions of the Town, and any part of any ordinance or resolution, inconsistent with this Second Supplemental Ordinance are hereby repealed to the extent of such inconsistency.

Section 19. Severability. If any sections, phrase, sentence or portion of this Second Supplemental Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not attest the validity of the remaining portions thereof.

Section 20. Effective Date. This Second Supplemental Ordinance shall be effective upon its adoption by the Town Council for the Town of Hilton Head Island, South Carolina.

PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON  
HEAD ISLAND, SOUTH CAROLINA ON THIS \_\_\_\_DAY OF \_\_\_\_\_, 2017.

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David Bennett, Mayor

ATTEST:

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Krista M. Wiedmeyer  
Town Clerk

APPROVED AS TO FORM:

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Gregory M. Alford, Town Attorney

First Reading:  
Second Reading:

Introduced by Council Member:

**EXHIBIT A**

**FORM OF NEW BOND**

[DTC Legend]

THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA  
SPECIAL OBLIGATION BONDS (BEACH PRESERVATION FEE PLEDGE),  
SERIES \_\_\_\_\_

No. R-\_\_\_\_

Interest Rate

Maturity Date

Issue Date

CUSIP

Registered Holder:

Principal Amount:

THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA (the "Town") a public body corporate and politic and a political subdivision of the State of South Carolina (the "State"), created and existing by virtue of the laws of the State, acknowledges itself indebted and for value received hereby promises to pay, solely as hereinafter provided, to the Registered Owner named above or registered assigns, the Principal Amount set forth above on the Maturity Date stated above, unless this Bond be subject to redemption and shall have been redeemed prior thereto as hereinafter provided, upon presentation and surrender hereof at the corporate trust office of Wells Fargo Bank, N.A. in Columbia, Maryland, as trustee (the "Trustee"), and to pay interest on such Principal Amount at the annual Interest Rate stated above (calculated on the basis of a 360-day year of twelve (12) 30-day months), until the obligation of the Town with respect to the payment of such Principal Amount shall be discharged. Interest on this Bond shall be payable in semiannual installments on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year beginning \_\_\_\_\_, 2017 (each, an "Interest Payment Date"), until maturity or earlier redemption. All payments shall be paid to the person in whose name this Bond is registered at the close of business on the fifteenth day of the calendar month (each, a "Record Date") preceding each Interest Payment Date or Principal Payment Date (as defined in the hereinafter defined Ordinances). The payments shall be payable by check or draft mailed at the times provided herein to the person in whose name this Bond is registered at the address shown on the registration books of the Town held by Wells Fargo Bank, N.A., as registrar (the "Registrar"), or, in the case of a Registered Holder of \$1,000,000 or more in principal amount of this Bond, by wire transfer to on account within the continental United States upon the timely receipt of a written request of such Registered Holder. The payments are payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

THIS BOND HAS BEEN ISSUED UNDER THE PROVISIONS OF TITLE 6, CHAPTER 21 AND CHAPTER 1, ARTICLE 5, AND SECTION 6-1-760, CODE OF LAWS OF SOUTH CAROLINA, 1976, AS AMENDED (COLLECTIVELY, THE "ACT"); THE BONDS DO NOT CONSTITUTE AN INDEBTEDNESS OF THE TOWN WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION (EXCEPT ARTICLE X, SECTION 14(10) OF THE STATE CONSTITUTION AUTHORIZING INDEBTEDNESS PAYABLE SOLELY FROM A SOURCE OF REVENUE DERIVED OTHER THAN A TAX OR LICENSE) OR STATUTORY LIMITATION. THE TOWN IS NOT OBLIGATED TO PAY ANY OF THE BONDS OR THE INTEREST THEREON EXCEPT FROM BEACH PRESERVATION FEES (AS DEFINED IN THE ORDINANCES). THE BONDS ARE NOT GENERAL OBLIGATIONS OF THE TOWN, THE STATE, OR ANY POLITICAL SUBDIVISION THEREOF AND NEITHER THE FULL FAITH AND CREDIT NOR THE GENERAL CREDIT NOR TAXING POWERS OF THE TOWN, THE STATE OR ANY POLITICAL SUBDIVISION THEREOF.

This Bond shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been duly executed by the Trustee.

This Bond is one of an issue of bonds of the Town in the aggregate principal amount of \_\_\_\_\_ Million Dollars (\$\_\_\_\_\_) (the "Bonds") of like tenor, except as to number, rate of interest, date of maturity and redemption provides, issued pursuant to and in accordance with the Constitution and statutes of the State, including particularly the Act, Ordinance No. 2011-18 duly enacted by the Town Council of the Town (the "Council") on September 6, 2011 (the "General Bond Ordinance"), and Ordinance No. \_\_\_\_\_ duly enacted by the Council on \_\_\_\_\_, 2017 (the "Second Supplemental Ordinance") (the General Bond Ordinance and the Second Supplemental Ordinance are herein collectively referred to as the "Ordinances") for the purpose of providing moneys, to (i) finance a portion of all or a portion of the New Projects (or retiring at maturity or redeeming prior to maturity all or a portion of any bond anticipation notes issued by the Town therefor), (ii) satisfy the Series Reserve Fund Requirement (if any) with respect to the Bonds, and (iii) pay all costs of issuing the Bonds.

Certain capitalized terms used herein and not otherwise defined shall have the meanings ascribed thereto in the Ordinances. Certified copies of the Ordinances are on file in the office of the Trustee and in the office of the Clerk of Court for Beaufort County, South Carolina.

The Ordinances contain provisions defining terms, set forth the revenues pledged for the payment of the principal of and interest on this Bond and the Bonds of other series herewith which may hereafter be issued on a parity herewith under the Ordinances; set forth the nature, extent and manner of enforcement of the security of this Bond and of such pledge, and the rights and remedies of the Holder hereof with respect thereto; set forth the terms and conditions upon which and the extent to which the Ordinances may be altered, modified and amended; set forth the terms and conditions upon which this Bond is issued upon which other bonds may be hereinafter issued payable as to principal, premium, if any, and interest on a parity with this Bond and equally and ratably secured herewith; sets forth the rights, duties and obligations of the Town thereunder; and set forth the terms and conditions upon which the pledge made in the Ordinances for the security of this Bond and upon which the covenants, agreements and other obligations of the Town made therein may be discharged at or prior to the maturity or redemption of this Bond with provisions for the payment thereof in the manner set forth in the Ordinances. Reference is hereby made to the Ordinances to all of the provisions of which any holder of this Bond by the acceptance hereof thereby assents. The provisions of the Act and the Ordinances shall be a contract with the holder of this Bond.

This Bond and the series of Bonds of which it is one and the interest thereon are special obligations of the Town and are secured by and payable solely from, and secured equally and ratably by a pledge of and lien upon, the Beach Preservation Fees imposed and collected by the Town, which pledge is on a parity with the pledge thereof securing the Bonds of 2011 (as defined in the Second Supplemental Ordinance) and any other Bonds (as defined in the General Bond Ordinance) issued from time to time.

**The General Bond Ordinance authorizes the issuance of additional bonds on a parity with the Bonds of this issue which, when issued in accordance with the provisions of the General Bond Ordinance, will rank equally and be on a parity herewith.**

This Bond and the interest hereon are exempt from all State, county, municipal, school district, and all other taxes or assessments imposed within the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except inheritance, estate, transfer and certain franchise taxes.

This Bond is transferable, as provided in the Ordinances, only upon the registration books of the Town kept for that purpose and maintained by the Registrar, by the Holder hereof in person or by his duly authorized attorney, upon (a) surrender of this Bond and an assignment with a written instrument of transfer satisfactory to the Registrar, duly executed by the Holder hereof or his duly authorized attorney and (b) payment of the charges, if any, prescribed in the Ordinances. Thereupon a new Bond of the same aggregate principal amount, maturity and interest rate shall be issued to the transferee in exchange therefor as provided in the Ordinances. The Town, the Trustee and the Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal or redemption price hereof and interest due hereon and for all other purposes.

For every exchange or transfer of this Bond, the Town or the Trustee or Registrar, as the case may be, may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer.

[Redemption Provisions]

If less than all the Bonds of any maturity are called for redemption, the Bonds of such maturity to be redeemed shall be selected at random by the Trustee. In the event any of the Bonds or portions thereof are called for redemption, the Trustee shall give notice, in the name of the Town, of redemption of Bonds by first-class mail, postage prepaid, to the Holder thereof as shown on the Books of Registry of the Town not less than thirty (30) days and not more than sixty (60) days prior to the date fixed for the redemption thereof. If this Bond be redeemable and shall have been duly called for redemption and notice of the redemption hereof mailed as aforesaid, and if on or before the date fixed for such redemption, payment thereof shall be duly made or provided for, interest hereon shall cease or accrue from and after the redemption date hereof.

It is hereby certified and recited that all conditions, acts and things required by the Constitution and statutes of the State to exist, be performed or happen precedent to or in the issuance of this Bond, exist, have been performed and have happened, that the amount of this Bond, together with all other indebtedness of the Town, does not exceed any limit prescribed by such Constitution or statutes.

This Bond shall not be valid or obligatory for any purpose until the Certificate of Authentication hereon shall have been duly executed by the Trustee.

IN WITNESS WHEREOF, THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA has caused this Bond to be signed by the manual or facsimile signature of its Mayor, its corporate seal to be reproduced hereon and the same to be attested by the manual or facsimile signature of its Town Clerk.

THE TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

By: \_\_\_\_\_  
Mayor

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Town Clerk

#### FORM OF CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in the within mentioned Ordinance.

Wells Fargo Bank, N.A., as Trustee

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Date: \_\_\_\_\_

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the approving opinion of McNair Law Firm, P.A., Columbia, South Carolina, the original of which was manually executed, dated and issued as of the date of the delivery of and payment for the bonds, and a copy of which is on file with the Town.

THE TOWN OF HILTON HEAD, SOUTH CAROLINA

By: \_\_\_\_\_  
Town Clerk



## FORM OF ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
(please print or type name and address of Transferee and Social Security or other identifying number of Transferee)

the within Bond and all rights and title thereunder, and hereby irrevocably constitutes and appoints attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Date: \_\_\_\_\_

STAMP Language

Signature Guaranteed: \_\_\_\_\_

NOTICE: Signature(s) must be guaranteed  
By an institution which is a participant in the  
Securities Transfer Agent Medallion Program  
(STAMP) or similar program.

NOTICE: The signature to this assignment  
must correspond with name as it appears  
upon the face of the within bond in every  
particular, without alteration or enlargement  
or any change whatever.

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$18,000,000 GENERAL OBLIGATION BONDS, TAXABLE SERIES 2017A, OR SUCH OTHER APPROPRIATE SERIES DESIGNATION, OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; FIXING THE FORM AND CERTAIN DETAILS OF THE BONDS; AUTHORIZING THE TOWN MANAGER OR HIS LAWFULLY AUTHORIZED DESIGNEE TO DETERMINE CERTAIN MATTERS RELATING TO THE BONDS; PROVIDING FOR THE PAYMENT OF THE BONDS AND THE DISPOSITION OF THE PROCEEDS THEREOF; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Town experienced a natural disaster as a result of Hurricane Matthew in October 2016 which caused substantial damage throughout the Town which included but is not limited to damage to the beach, roads, and trees; and

WHEREAS, Town Council has been advised that a portion of the cost of the recovery will be paid by funds received from the Federal Emergency Management Agency ("FEMA"); however, a portion of the cost of recovery will not be reimbursed; and

WHEREAS, Town Council has been advised that the Town has advanced funds to pay a portion of the cost of recovery from the Town's General Fund reserve; and

WHEREAS, Town Council has been advised that it is appropriate and in the best interest of the Town to issue general obligation bonds for the purpose of replenishing the Town's General Fund for the costs incurred for recovery; and

WHEREAS, Town Council has been advised that because the financing will be used to replenish the Town's General Fund reserve which is not a capital project, it will be necessary for the bonds to be issued as taxable debt.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, AS FOLLOWS:

**SECTION 1. Findings and Determinations.** The Town Council (the "Town Council") of the Town of Hilton Head Island, South Carolina (the "Town"), hereby finds and determines:

(a) The Town is an incorporated municipality located in Beaufort County, South Carolina, and as such possesses all powers granted to municipalities by the Constitution of the State of South Carolina, 1895, as amended (the "Constitution"), and laws of the State of South Carolina (the "State").

(b) Article X, Section 14 of the Constitution provides that general obligation debt may be incurred by the governing body of each municipality of the State for any public and corporate purpose in an amount not exceeding eight (8%) percent of the assessed value of all taxable property of such municipality and upon such terms and conditions as the General Assembly may prescribe. Such Article further provides that if general obligation debt is authorized by a majority vote of the qualified electors of the municipality voting in a referendum authorized by law, there shall be no conditions or restrictions limiting the incurring of such indebtedness except as specified in such Article.

(c) Title 5, Chapter 21, Article 5, Code of Laws of South Carolina, 1976, as amended (the “Municipal Bond Act”), provides that the municipal council of any municipality may issue general obligation bonds of such municipality for any corporate purpose of such municipality to any amount not exceeding the constitutional debt limitation applicable to such municipality.

(d) The Municipal Bond Act provides that as a condition precedent to the issuance of bonds an election be held and the result be favorable thereto. Title 11, Chapter 27, Code of Laws of South Carolina 1976, as amended (the “S.C. Code”), provides that if an election be prescribed by the provisions of the Municipal Bond Act, but not be required by the provisions of Article X of the Constitution, then in every such instance, no election need be held (notwithstanding the requirement therefor) and the remaining provisions of the Municipal Bond Act shall constitute a full and complete authorization to issue bonds in accordance with such remaining provisions.

(e) The assessed value of all the taxable property in the Town as of June 30, 2016, for purposes of computation of the Town’s constitutional debt limit, is \$918,731,530. Eight percent of such sum is \$73,498,522. As of the date hereof, the outstanding general obligation debt of the Town subject to the limitation imposed by Article X, Section 14(7) of the Constitution is \$51,767,220. Thus, the Town may incur \$22,731,302 of additional general obligation debt within its applicable debt limitation. The Town will ensure that at the time of issuance the final par amount of the Bonds issued will be within its 8% constitutional debt limit.

The Town also intends to issue not to exceed \$24,000,000 General Obligation Bonds, with an appropriate series designation, the final par amount of which will count against the Town’s 8% constitutional debt limit.

(f) Pursuant to Ordinance No. 2013-03 duly enacted by the Town Council on May 7, 2013, the Town has adopted Written Procedures Related to Tax-Exempt Debt.

(g) It is now in the best interest of the Town for the Town Council to provide for the issuance and sale of not to exceed \$18,000,000 aggregate principal amount taxable general obligation bonds of the Town to provide funds for the purposes of (i) replenishing the Town’s General Fund reserve for moneys spent on Hurricane Matthew recovery; (ii) paying costs of issuance of the Bonds (hereinafter defined); and (iii) such other purposes as shall be determined by Town Council.

SECTION 2. Authorization and Details of the Bonds. Pursuant to the aforesaid provisions of the Constitution and laws of the State, there is hereby authorized to be issued not to exceed \$18,000,000 general obligation bonds of the Town (the “Bonds”) for the purposes listed in Section 1(g) above.

The Bonds shall be issued as fully-registered Bonds; shall be dated their date of delivery; shall be in denominations of \$5,000 or any integral multiple thereof not exceeding the principal amount of the Bonds maturing in each year; shall be numbered from R-1 upward; shall bear interest at such times as hereafter designated by the Town Manager or his lawfully authorized designee at such rate or rates as may be determined at the time of the sale thereof; and shall mature serially in successive annual installments as determined by the Town Manager or his lawfully authorized designee.

SECTION 3. Delegation of Authority to Determine Certain Matters Relating to the Bonds. The Town Council hereby expressly delegates to the Town Manager the authority, with respect to the Bonds, to determine (a) the maturity dates and the respective principal amounts maturing on such dates; (b) the interest payment dates; (c) the redemption provisions, if any; (d) the Registrar/Paying agent; (e) the date and

time of the sale, including whether or not the Bonds should be sold with other authorized series of bonds; and (g) such other matters as are necessary or appropriate. The Town Manager is further directed to consult with the Town's financial advisor and bond counsel in making any such decisions.

The Town Council hereby further delegates to the Town Manager or his lawfully authorized designee the authority to receive bids on behalf of the Town Council and the authority to award the sale of the Bonds to the lowest bidder therefor, in accordance with the terms of the Notice of Sale for the Bonds, provided the true interest cost does not exceed 5.00%. After the sale of the Bonds, the Town Manager or his lawfully authorized designee shall submit a written report to the Town Council setting forth the results of the sale of the Bonds.

**SECTION 4. Registration, Transfer and Exchange of Bonds.** The Town shall cause books (herein referred to as the "registry books") to be kept at the offices of the Registrar/Paying Agent, for the registration and transfer of the Bonds. Upon presentation at its office for such purpose the Registrar/Paying Agent shall register or transfer, or cause to be registered or transferred, on such registry books, the Bonds under such reasonable regulations as the Registrar/Paying Agent may prescribe.

Each Bond shall be transferable only upon the registry books of the Town, which shall be kept for such purpose at the principal office of the Registrar/Paying Agent, by the registered owner thereof in person or by his duly authorized attorney upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar/Paying Agent duly executed by the registered owner or his duly authorized attorney. Upon the transfer of any such Bond the Registrar/Paying Agent on behalf of the Town shall issue in the name of the transferee a new fully-registered Bond or Bonds, of the same aggregate principal amount, interest rate and maturity as the surrendered Bond. Any Bond surrendered in exchange for a new registered Bond pursuant to this Section shall be canceled by the Registrar/Paying Agent.

The Town and the Registrar/Paying Agent may deem or treat the person in whose name any fully-registered Bond shall be registered upon the registry books as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of the principal of and interest on such Bond and for all other purposes and all such payments so made to any such registered owner or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid, and neither the Town nor the Registrar/Paying Agent shall be affected by any notice to the contrary. In all cases in which the privilege of transferring Bonds is exercised, the Town shall execute and the Registrar/Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. Neither the Town nor the Registrar/Paying Agent shall be obliged to make any such transfer of Bonds during the fifteenth (15th) day of the calendar month preceding an interest payment date on such Bonds.

**SECTION 5. Record Date.** The Town establishes a record date for the payment of interest or for the giving of notice of any proposed redemption of Bonds, and such record date shall be the fifteenth (15th) day (whether or not a business day) preceding an interest payment date on such Bond or, in the case of any proposed redemption of Bonds, such record date shall be the fifteenth (15th) day (whether or not a business day) prior to the mailing of notice of redemption of Bonds.

**SECTION 6. Mutilation, Loss, Theft or Destruction of Bonds.** In case any Bond shall at any time become mutilated in whole or in part, or be lost, stolen or destroyed, or be so defaced as to impair the value thereof to the owner, the Town shall execute and the Registrar shall authenticate and deliver at the principal office of the Registrar, or send by registered mail to the owner thereof at his request, risk and expense a new Bond of the same series, interest rate and maturity and of like tenor and effect in exchange or substitution for and upon the surrender for cancellation of such defaced, mutilated or partly destroyed Bond, or in lieu of

or in substitution for such lost, stolen or destroyed Bond. In any such event the applicant for the issuance of a substitute Bond shall furnish the Town and the Registrar evidence or proof satisfactory to the Town and the Registrar of the loss, destruction, mutilation, defacement or theft of the original Bond, and of the ownership thereof, and also such security and indemnity as may be required by the laws of the State or such greater amount as may be required by the Town and the Registrar. Any duplicate Bond issued under the provisions of this Section in exchange and substitution for any defaced, mutilated or partly destroyed Bond or in substitution for any allegedly lost, stolen or wholly destroyed Bond shall be entitled to the identical benefits under this Ordinance as was the original Bond in lieu of which such duplicate Bond is issued, and shall be entitled to equal and proportionate benefits with all the other Bonds of the same series issued hereunder.

All expenses necessary for the providing of any duplicate Bond shall be borne by the applicant therefor.

SECTION 7. Form of Bonds. The Bonds shall be in substantially the form attached hereto as Exhibit A and incorporated herein by reference.

SECTION 8. Execution of Bonds. The Bonds shall be executed in the name of the Town with the manual or facsimile signature of the Mayor of the Town attested by the manual or facsimile signature of the Town Clerk under the seal of the Town which shall be impressed, imprinted or reproduced thereon. The Bonds shall not be valid or become obligatory for any purpose unless there shall have been endorsed thereon a certificate of authentication. Each Bond shall bear a certificate of authentication manually executed by the Registrar/Paying Agent in substantially the form set forth herein.

SECTION 9. Security for the Bonds. The full faith, credit, taxing power and resources of the Town are hereby irrevocably pledged for the payment of the principal and interest of the Bonds as they respectively mature and for the creation of such sinking fund as may be necessary to provide for the prompt payment thereof. There shall be levied and collected annually upon all taxable property of the Town an ad valorem tax, without limitation as to rate or amount, sufficient for such purposes. The Town at its option may also utilize any other funds available therefor for the payment of the principal of and interest on the Bonds.

SECTION 10. Defeasance. The obligations of the Town herein made or provided for, shall be fully discharged and satisfied as to any portion of the Bonds, and such Bond or Bonds shall no longer be deemed to be outstanding hereunder when:

(a) such Bond or Bonds shall have been purchased by the Town and surrendered to the Town for cancellation or otherwise surrendered to the Town or the Paying Agent and is canceled or subject to cancellation by the Town or the Paying Agent; or

(b) payment of the principal of and interest on such Bonds either (i) shall have been made or caused to be made in accordance with the terms thereof, or (ii) shall have been provided for by irrevocably depositing with the Paying Agent in trust and irrevocably set aside exclusively for such payment (1) moneys sufficient to make such payment or (2) Government Obligations (hereinafter defined) maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make such payment and all necessary and proper fees, compensation and expenses of the Paying Agent. At such time as the Bonds shall no longer be deemed to be outstanding hereunder, such Bonds shall cease to draw interest from the due date thereof and, except for the purposes of any such payment from such moneys or Government Obligations, shall no longer be secured by or entitled to the benefits of this Ordinance.

“Government Obligations” shall mean any of the following:

- (i) direct obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which, in the opinion of the Attorney General of the United States, is fully and unconditionally guaranteed by the United States of America;
  - (ii) non-callable, U. S. Treasury Securities - State and Local Government Series (“SLGS”);
  - (iii) general obligation bonds of the State, its institutions, agencies, Towns and political subdivisions which, at the time of purchase, carry a AAA rating from Standard & Poor’s or a Aaa rating from Moody’s Investors Service; and
  - (iv) a defeasance obligation as defined in Section 6-5-10 of the S.C. Code as such may be amended from time to time.
- (c) Such Bond of Bonds shall be defeased as provided in Section 11-14-110 of the S.C. Code as such may be amended from time to time.

The Town has reserved the right to modify this definition to conform to amendments in State law regarding legal investments of public funds.

SECTION 11. Exemption from State Taxes. Both the principal of and interest on the Bonds shall be exempt, in accordance with the provisions of Section 12-2-50 of the S.C. Code from all State, county, municipal, town and all other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

SECTION 12. Eligible Securities. The Bonds initially issued (the “Initial Bonds”) will be eligible securities for the purposes of the book-entry system of transfer maintained by The Depository Trust Company, New York, New York (“DTC”), and transfers of beneficial ownership of the Initial Bonds shall be made only through DTC and its participants in accordance with rules specified by DTC. Such beneficial ownership must be of \$5,000 principal amount of bonds of the same maturity or any integral multiple of \$5,000.

The Initial Bonds shall be issued in fully-registered form, one Bond for each of the maturities of the Bonds, in the name of Cede & Co., as the nominee of DTC. When any principal of or interest on the Initial Bonds becomes due, the Paying Agent, on behalf of the Town, shall transmit to DTC an amount equal to such installment of principal and interest. DTC shall remit such payments to the beneficial owners of the Bonds or their nominees in accordance with its rules and regulations.

Notices of redemption of the Initial Bonds or any portion thereof shall be sent to DTC in accordance with the provisions of the Ordinance.

If (a) DTC determines not to continue to act as securities depository for the Bonds, or (b) the Town has advised DTC of its determination that DTC is incapable of discharging its duties, the Town shall attempt to retain another qualified securities depository to replace DTC. Upon receipt by the Town of the Initial Bonds together with an assignment duly executed by DTC, the Town shall execute and deliver to the successor securities depository bonds of the same principal amount, interest rate and maturity registered in the name of such successor.

If the Town is unable to retain a qualified successor to DTC or the Town has determined that it is in its best interest not to continue the book-entry system of transfer or that interests of the beneficial owners of the Bonds might be adversely affected if the book-entry system of transfer is continued (the Town undertakes no obligation to make any investigation to determine the occurrence of any events that would permit it to make any such determination), and has made provision to so notify beneficial owners of the Bonds by mailing an appropriate notice to DTC, upon receipt by the Town of the Initial Bonds together with an assignment duly executed by DTC, the Town shall execute, authenticate and deliver to the DTC participants bonds in fully-registered form in the denomination of \$5,000 or any integral multiple thereof.

SECTION 13. Sale of Bonds, Form of Notice of Sale. The Bonds shall be sold at public sale. A Notice of Sale shall be distributed to prospective bidders and a summary of such Notice shall be published in a newspaper having general circulation in the State or in a financial publication published in the City of New York, State of New York, or both, not less than seven (7) days prior to the date set for such sale in substantially the form attached hereto as Exhibit B and incorporated herein by reference.

SECTION 14. Preliminary and Final Official Statement. The Town Council hereby authorizes and directs the Town Manager or his lawfully authorized designee to prepare, or cause to be prepared, a Preliminary Official Statement to be distributed to prospective purchasers of the Bonds together with the Notice of Sale. The Town Council authorizes the Town Manager or his lawfully authorized designee to designate the Preliminary Official Statement as “near final” for purposes of Rule 15c2-12 of the Securities Exchange Commission (the “Rule”). The Town Manager or his lawfully authorized designee is further authorized to see to the completion of the final form of the Official Statement upon the sale of the Bonds so that it may be provided to the purchasers of the Bonds.

SECTION 15. Filings with Central Repository. In compliance with Section 11-1-85 of the S.C. Code, the Town covenants that it will file or cause to be filed with a central repository for availability in the secondary bond market when requested: (a) a copy of an annual independent audit of the Town within thirty (30) days of the Town's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, event specific information of an event which adversely affects more than five (5%) percent of the tax revenues of the Town or the Town's tax base.

SECTION 16. Continuing Disclosure. In compliance with the Rule, the Town covenants and agrees for the benefit of the holders from time to time of the Bonds to execute and deliver prior to closing, and to thereafter comply with the terms of a Continuing Disclosure Certificate in substantially the form attached hereto and incorporated herein by reference as Exhibit C. In the event of a failure of the Town to comply with any of the provisions of the Continuing Disclosure Certificate, an event of default under this Ordinance shall not be deemed to have occurred. In such event, the sole remedy of any bondholder or beneficial owner shall be an action to compel performance by the Town.

SECTION 17. Deposit and Use of Proceeds. The proceeds derived from the sale of the Bonds shall be deposited with the Town in a special fund and shall be applied solely to the purposes for which the Bonds have been issued, including payment of costs of issuance of the Bonds, except that the premium, if any, shall be placed in a sinking fund for the Bonds.

SECTION 18. Miscellaneous. The Town Council hereby authorizes the Mayor and the Town Clerk, the Town Manager, the Director of Finance and any lawfully authorized designee to execute such documents and instruments as may be necessary to effect the issuance of the Bonds or make modifications in any documents including but not limited to the form of the Bond or Notice of Sale, if necessary. The Town Council hereby retains the law firm of McNair Law Firm, P.A. as bond counsel and Stifel, as financial advisor in connection with the issuance of the Bonds. The Town Manager is authorized to execute such contracts, documents or engagement letters as may be necessary and appropriate to effectuate these engagements.

SECTION 19. Severability. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 20. Codification. This Ordinance shall be forthwith codified in the Code of Town Ordinances in the manner required by law.

SECTION 21. Effective Date. This Ordinance shall be effective upon its enactment by the Town Council of the Town of Hilton Head Island, South Carolina.

[Signature Page follows]



**PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL FOR THE TOWN OF  
HILTON HEAD ISLAND, SOUTH CAROLINA ON THIS \_\_\_\_DAY OF \_\_\_\_\_, 2017.**

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

ATTEST:

\_\_\_\_\_  
Krista Wiedmeyer  
Town Clerk

APPROVED AS TO FORM:

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

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

Introduced by Council Member:

\_\_\_\_\_

**FORM OF BOND**

UNITED STATES OF AMERICA  
 STATE OF SOUTH CAROLINA  
 THE TOWN OF HILTON HEAD ISLAND  
 \$ \_\_\_\_\_ GENERAL OBLIGATION BOND  
 TAXABLE SERIES \_\_\_\_\_

No. R-

<u>INTEREST</u> <u>RATE</u>	<u>MATURITY</u> <u>DATE</u>	<u>ORIGINAL</u> <u>ISSUE DATE</u>	<u>CUSIP</u>
%			

REGISTERED HOLDER:

PRINCIPAL AMOUNT: DOLLARS

KNOW ALL MEN BY THESE PRESENTS, that the Town of Hilton Head Island, South Carolina (the "Town"), is justly indebted and, for value received, hereby promises to pay to the registered holder named above, or registered assigns, the principal amount shown above on the maturity date shown above, upon presentation and surrender of this Bond at the principal office of \_\_\_\_\_ in \_\_\_\_\_ (the "Paying Agent"), and to pay interest on such principal sum from the date hereof at the interest rate per annum shown above until this Bond matures. Interest on this Bond is payable semiannually on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year commencing \_\_\_\_\_ 1, \_\_\_\_\_, until this Bond matures, and shall be payable by check or draft mailed to the person in whose name this Bond is registered on the registration books of the Town maintained by the registrar, presently \_\_\_\_\_ in \_\_\_\_\_ (the "Registrar"), at the close of business on the fifteenth (15th) day of the calendar month next preceding each semiannual interest payment date. The principal and interest on this Bond are payable in any coin or currency of the United States of America which is, at the time of payment, legal tender for public and private debts; provided, however, that interest on this fully-registered Bond shall be paid by check or draft as set forth above.

This Bond shall not be entitled to any benefit under the Ordinance of the Town authorizing the Bonds, nor become valid or obligatory for any purpose, until the Certificate of Authentication hereon shall have been duly executed by the Registrar.

For the payment of the principal and interest of this Bond as they respectively mature and for the creation of such sinking fund as may be necessary to provide for the prompt payment hereof, the full faith, credit, taxing power and resources of the Town are hereby irrevocably pledged, and there shall be levied and collected annually upon all taxable property of the Town an ad valorem tax, without limitation as to rate or amount, sufficient for such purposes.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Ordinance. One bond certificate with respect to each date on which the Bonds are stated to mature, registered in the name of the securities depository

nominee, is being issued and required to be deposited with the securities depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the securities depository's participants, beneficial ownership of the Bonds in the principal amount of \$5,000 or any multiple thereof being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the securities depository and its participants pursuant to rules and procedures established by the securities depository and its participants. The Town and the Registrar/Paying Agent will recognize the securities depository nominee, while the registered owner of this bond, as the owner of this bond for all purposes, including payments of principal of and redemption premium, if any, and interest on this bond, notices and voting. Transfer of principal and interest payments to participants of the securities depository will be the responsibility of the securities depository, and transfer of principal, redemption premium, if any, and interest payments to beneficial owners of the Bonds by participants of the securities depository will be the responsibility of such participants and other nominees of such beneficial owners. The Town will not be responsible or liable for such transfers of payments or for maintaining, supervision or reviewing the records maintained by the securities depository, the securities depository nominee, its participants or persons acting through such participants. While the securities depository nominee is the owner of this bond, notwithstanding, the provision hereinabove contained, payments of principal of, redemption premium, if any, and interest on this Bond shall be made in accordance with existing arrangements between the Registrar/Paying Agent or its successors under the Ordinance and the securities depository.

This Bond is one of a series of Bonds of like date of original issue, tenor and effect, except as to number, date of maturity, denomination, [redemption provisions] and rate of interest, aggregating \_\_\_\_\_ Dollars issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended; Title 11, Chapter 27, Code of Laws of South Carolina 1976, as amended, and Ordinance No. \_\_\_\_\_ duly enacted by the Town Council of the Town.

[Redemption Provisions]

This Bond is transferable as provided in the Ordinance, only upon the books of the Town kept for that purpose at the principal office of the Registrar by the registered holder in person or by his duly authorized attorney upon surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered holder or his duly authorized attorney. Thereupon a new fully-registered Bond or Bonds of the same aggregate principal amount, interest rate, and maturity shall be issued to the transferee in exchange therefor as provided in the Ordinance. The Town, the Registrar and the Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of or on account of the principal hereof and interest due hereon and for all other purposes.

Under the laws of the State of South Carolina (the "State"), this Bond and the interest hereon are exempt from all State, county, municipal, Town and other taxes or assessments, except estate or other transfer taxes, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and laws of the State to exist, to happen and to be performed precedent to or in the issuance of this Bond exist, have happened and have been performed in regular and due time, form and manner as required by law; that the amount of this Bond, together with all other indebtedness of the Town does not exceed the applicable limitation of indebtedness under the laws of the State; and, that provision has been made for the levy and collection of a tax, without limit, on all taxable property in the Town sufficient to pay

the principal and interest of this Bond as they respectively mature and to create such sinking fund as may be necessary therefor.

IN WITNESS WHEREOF, THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, has caused this Bond to be signed with the manual or facsimile signature of the Mayor of the Town, attested by the manual or facsimile signature of the Town Clerk and the seal of the Town impressed, imprinted or reproduced hereon.

TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
Town Clerk

[FORM OF REGISTRAR'S CERTIFICATE OF AUTHENTICATION]

Date of Authentication:

This Bond is one of the bonds described in the within mentioned Ordinance of the Town of Hilton Head Island, South Carolina.

\_\_\_\_\_,  
as Registrar

By: \_\_\_\_\_  
Authorized Officer

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - as tenants in common

UNIF GIFT MIN ACT -

TEN ENT - as tenants by the  
entireties

\_\_\_\_\_ Custodian \_\_\_\_\_  
(Cust) (Minor)

JT TEN - as joint tenants with  
right of survivorship  
and not as tenants in  
common

under Uniform Gifts to  
Minors Act \_\_\_\_\_  
(state)

Additional abbreviations may also be used though not in above list.

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns  
and transfers unto \_\_\_\_\_  
(Name and Address of Transferee)

\_\_\_\_\_ the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_  
\_\_\_\_\_ attorney to transfer the within Bond on the books kept  
for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature Guaranteed

\_\_\_\_\_  
Notice: Signature(s) must be  
guaranteed by an institution which is a  
a participant in the  
registered Securities Transfer Agents  
Medallion Program ("STAMP")  
or similar program.

\_\_\_\_\_  
(Authorized Officer)

\_\_\_\_\_  
Notice: The signature to  
the assignment must correspond  
with the name of the  
holder as it appears upon the  
face of the within Bond in every  
particular, without alteration  
or enlargement or any change  
whatever.

A copy of the final approving legal opinion to be rendered shall accompany each Bond and preceding the same a certificate shall appear, which shall be signed on behalf of the Town with a manual or facsimile signature of the Town Clerk in the following form:

IT IS HEREBY CERTIFIED that the following is a true and correct copy of the final legal opinion (except for date and letterhead) of McNair Law Firm, P.A., Columbia, South Carolina, approving the issue of Bonds of which the within Bond is one, the original of which opinion was manually executed, dated and issued as of the date of delivery of and payment for the Bonds, and a copy of which is on file with the Town of Hilton Head Island, South Carolina.

TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

By \_\_\_\_\_  
Town Clerk

## FORM OF NOTICE OF SALE

\$\_\_\_\_\_ GENERAL OBLIGATION BONDS, TAXABLE SERIES \_\_\_\_\_  
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

Time and Place of Sale: NOTICE IS HEREBY GIVEN that proposals addressed to the undersigned will be received on behalf of the Town Council of the Town of Hilton Head Island, South Carolina (the "Town"), in Council Chambers, One Town Center Court, Hilton Head Island, South Carolina, until 11:00 a.m., South Carolina time, on \_\_\_\_\_, \_\_\_\_\_, at which time said proposals will be publicly opened for the purchase of \_\_\_\_\_ (\$\_\_\_\_\_) General Obligation Bonds, Taxable Series \_\_\_\_\_ of the Town (the "Bonds").

Sealed Bids: Each hand delivered proposal shall be enclosed in a sealed envelope marked "Proposal for \$\_\_\_\_\_ General Obligation Bonds, Taxable Series \_\_\_\_\_, Town of Hilton Head Island, South Carolina" and should be directed to the Director of Finance at the address in the first paragraph hereof.

Electronic Bids: Electronic proposals must be submitted through i-Deal's Parity Electronic Bid Submission System ("Parity"). No electronic bids from any other providers of electronic bidding services will be accepted. Information about the electronic bidding services of Parity may be obtained from i-Deal, 40 W. 23rd Street, 5th floor, New York, New York 10010, Customer Support, telephone (212) 404-8102.

**PROPOSALS MAY BE DELIVERED BY HAND OR BY ELECTRONIC BID, BUT NO PROPOSAL SHALL BE CONSIDERED WHICH IS NOT ACTUALLY RECEIVED BY THE TOWN AT THE PLACE, DATE AND TIME APPOINTED, AND THE TOWN SHALL NOT BE RESPONSIBLE FOR ANY FAILURE, MISDIRECTION, DELAY OR ERROR RESULTING FROM THE SELECTION BY ANY BIDDER OF ANY PARTICULAR MEANS OF DELIVERY OF BIDS.**

Book-Entry-Only Bonds: The Bonds will be issued in fully-registered form. One Bond representing each maturity will be issued to and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"), as registered owner of the Bonds and each such Bond will be immobilized in the custody of DTC. DTC will act as securities depository for the Bonds. Individual purchases will be made in book-entry-only form in the principal amount of \$5,000 or any integral multiple thereof not exceeding the principal amount of Bonds maturing each year; Purchasers will not receive physical delivery of certificates representing their interest in the Bonds purchased. The winning bidder, as a condition to delivery of the Bonds, will be required to deposit the Bond certificates representing each maturity with DTC. The Bonds will be dated \_\_\_\_\_ 1, \_\_\_\_\_ and will mature serially in successive annual installments on \_\_\_\_\_ 1 in each of the years and in the principal amounts as follows:

_____1	Principal Amount*	_____1	Principal Amount*
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\*Preliminary, subject to adjustment.

Adjustment of Maturity Schedule. If, after final computation of the proposals, the Town determines in its sole discretion that the funds necessary to accomplish the purposes for which the Bonds are being issued are either more or less than the proceeds of the sale of the amount of the Bonds as shown in this Notice of Sale, it reserves the right either to decrease or increase the principal amount of the Bonds (all calculations to be rounded to the near \$5,000), provided that any such decrease or increase shall not exceed 10% of the par amount. Such adjustment(s), if any, shall be made within twenty-four (24) hours of the award of the Bonds. In order to calculate the yield on the Bonds for federal tax law purposes and as a condition precedent to the award of the Bonds, bidders must disclose to the Town in connection with their respective bids the price (or yield to maturity) at which each maturity of the Bonds will be reoffered to the public.

In the event of any adjustment of the maturity schedule for the Bonds as described herein, no rebidding or recalculation of the proposals submitted will be required or permitted. Nevertheless, the award of the Bonds will be made to the bidder whose proposal produces the lowest true interest cost solely on the basis of the Bonds offered, without taking into account any adjustment in the amount of the Bonds pursuant to this paragraph.

The Bonds will bear interest from the date thereof payable semiannually on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, commencing \_\_\_\_\_ 1, \_\_\_\_\_.

[Redemption Provisions]

Registrar/Paying Agent: Within twenty-four (24) hours of the sale of the Bonds, the Town will designate a registrar and paying agent ("Registrar/Paying Agent") for the Bonds. The Registrar/Paying Agent shall be a bank, trust company, depository or transfer agent located either within or without the State of South Carolina.

Bid Requirements: Bidders shall specify the rate or rates of interest per annum which the Bonds are to bear, to be expressed in multiples of 1/20 or 1/8 of 1% with no greater difference than two percent (2%) between the highest and lowest rates of interest named by a bidder. Bidders are not limited as to the number of rates of interest named, but the rate of interest on each separate maturity must be the same single rate for all Bonds of that maturity from their date to such maturity date. A bid for less than all the Bonds, a bid at a price less than par or a bid which includes a premium of more than 1% will not be considered. In addition to the bid price, the successful bidder must pay accrued interest from the date of the Bonds to the date of full payment of the purchase price.

Good Faith Deposit: A good faith deposit is not required.

**Bid Form:** It is requested but not required that you submit your bid on the Proposal for Purchase of Bonds supplied with the Official Statement.

**Official Statement:** Upon the award of the Bonds, the Town will prepare an official statement (the “Official Statement”) in substantially the same form as the preliminary official statement subject to minor additions, deletions and revisions as required to complete the Official Statement. Within seven (7) business days after the award of the Bonds, the Town will deliver the Official Statement to the successful bidder in sufficient quantity to comply with Rule G-32 of the Municipal Securities Rulemaking Board. The successful bidder agrees to supply to the Town within 24 hours after the award of the Bonds all necessary pricing information and any Underwriter identification necessary to complete the Official Statement.

**Security:** The Bonds shall constitute binding general obligations of the Town, and the full faith, credit, resources and taxing power of the Town are irrevocably pledged for the payment of the principal and interest on the Bonds as they respectively mature and to create such sinking fund as may be necessary therefor. There shall be levied and collected annually upon all taxable property of the Town a tax, without limitation as to rate or amount, sufficient for such purposes.

**Continuing Disclosure:** In order to assist the bidders in complying with S.E.C. Rule 15c2-12(b)(5), the Town will undertake, pursuant to an ordinance and a Continuing Disclosure Certificate, to provide certain annual financial information and notices of the occurrence of certain events, if material. A description of this undertaking is set forth in the Preliminary Official Statement and will also be set forth in the final Official Statement.

**Legal Opinion:** The Town shall furnish upon delivery of the Bonds the final approving opinion of McNair Law Firm, P.A., Columbia, South Carolina, which opinion shall accompany each Bond, together with the usual closing documents, including a certificate that no litigation is pending affecting the Bonds.

**Certificate as to Issue Price:** The successful bidder must provide a certificate to the Town by the date of delivery of the Bonds, stating the initial reoffering price of the Bonds to the public (excluding bond houses and brokers) and the price at which a substantial amount of the Bonds were sold to the public, in form satisfactory to Bond Counsel. A sample copy of such a certificate may be obtained from Bond Counsel.

**Delivery:** The Bonds will be delivered on or about \_\_\_\_\_, \_\_\_\_\_, in New York, New York, at the expense of the Town or at such other place as may be agreed upon with the purchaser at the expense of the purchaser. The balance of the purchase price then due (including the amount of accrued interest) must be paid in federal funds or other immediately available funds.

**CUSIP Numbers:** It is anticipated that CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bond nor any error with respect thereto shall constitute cause for failure or refusal by the purchaser thereof to accept delivery of and pay for the Bonds in accordance with the terms of its proposal. All expenses in relation to the printing of CUSIP identification numbers on the Bonds shall be paid for by the Town; provided, however, that the CUSIP Service Bureau charge for the assignment of said numbers shall be the responsibility of and shall be paid for by the successful bidder.



Award of Bid. The Bonds will be awarded to the bidder or bidders offering to purchase the Bonds at the lowest true interest cost (TIC) to the Town. The TIC will be the nominal interest rate which, when compounded semiannually and used to discount all debt service payments on the Bonds (computed at the interest rates specified in the bid and on the basis of a 360-day year of twelve 30-day months) to the dated date of the Bonds, results in an amount equal to the price bid for the Bonds. In the case of a tie bid, the winning bid will be awarded by lot. The Town reserves the right to reject any and all bids or to waive irregularities in any bid. Bids will be accepted or rejected no later than 3:00 p.m., South Carolina time, on the date of the sale.

Additional Information: The Preliminary Official Statement and the Official Notice of Sale of the Town with respect to the Bonds are available via the internet at <http://www.idealprospectus.com> and will be furnished to any person interested in bidding on the Bonds upon request to McNair Law Firm, P. A., Post Office Box 11390, Columbia, South Carolina 29211, attention: Francenia B. Heizer, Esquire, telephone (803) 799-9800, e-mail: [fheizer@mcnair.net](mailto:fheizer@mcnair.net). The Preliminary Official Statement shall be reviewed by bidders prior to submitting a bid. Bidders may not rely on this Official Notice of Sale as to the complete information concerning the Bonds. For additional information, please contact the Town's Bond Counsel, Francenia B. Heizer, Esquire, McNair Law Firm, P. A., Post Office Box 11390, Columbia, South Carolina 29211, telephone (803) 799-9800, e-mail: [fheizer@mcnair.net](mailto:fheizer@mcnair.net) or the Town's Financial Advisor, Brenton J. Robertson, Managing Director, Stifel, 515 Gervais Street, Columbia, South Carolina 29201, telephone (803) 331-3848, e-mail: [robertsonb@stifel.com](mailto:robertsonb@stifel.com).

Town of Hilton Head Island, South Carolina

## FORM OF CONTINUING DISCLOSURE CERTIFICATE

This Continuing Disclosure Certificate (the “Disclosure Certificate”) is executed and delivered by the Town of Hilton Head Island, South Carolina (the “Town”) in connection with the issuance of \$\_\_\_\_\_ General Obligation Bonds, Taxable Series \_\_\_\_\_ (the “Bonds”). The Bonds are being issued pursuant to an Ordinance adopted by the Town Council of the Town (the “Council”). The Town covenants and agrees as follows:

**SECTION 1. Purpose of the Disclosure Certificate.** This Disclosure Certificate is being executed and delivered by the Town for the benefit of the beneficial owners and in order to assist the Participating Underwriters (defined below) in complying with the Rule (defined below).

**SECTION 2. Definitions.** The following capitalized terms shall have the following meanings:

“**Annual Report**” shall mean any Annual Report provided by the Town pursuant to, and as described in, Sections 3 and 4 of this Disclosure Certificate.

“**Bonds**” shall mean the \$\_\_\_\_\_ General Obligation Bonds, Taxable Series \_\_\_\_\_, of the Town of Hilton Head Island, South Carolina, dated \_\_\_\_\_.

“**Dissemination Agent**” shall mean the Town or any successor Dissemination Agent designated in writing by the Town and which has filed with the Town a written acceptance of such designation.

“**Listed Events**” shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

“**National Repository**” shall mean for purposes of the Rule, the Electronic Municipal Market Access (EMMA) system created by the Municipal Securities Rulemaking Board.

“**Participating Underwriter**” shall mean \_\_\_\_\_ and any other original underwriter of the Bonds required to comply with the Rule in connection with offering of the Bonds.

“**Repository**” shall mean each National Repository and each State Depository, if any.

“**Rule**” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“**State Depository**” shall mean any public or private repository or entity designated by the State of South Carolina as a state depository for the purpose of the Rule. As of the date of this Disclosure Certificate, there is no State Depository.

**SECTION 3. Provision of Annual Reports.**

(a) The Town shall, or shall cause the Dissemination Agent to provide, not later than February 1 of each year, commencing in 2018, to the Repository an Annual Report which is consistent with the requirements of Section 4 of this Disclosure Certificate. Not later than fifteen (15) business days prior to such date the Town shall provide the Annual Report to the Dissemination Agent, if other than the Town; provided, that if the audited financial statements required pursuant to Section 4 hereof to be included in the Annual Report are not available for inclusion in the Annual Report as of such date,

unaudited financial statements of the Town may be included in such Annual Report in lieu thereof, and the Town shall replace such unaudited financial statements with audited financial statements within fifteen (15) days after such audited financial statements become available for distribution. The Annual Report may be submitted as a single document or as separate documents comprising a package, and may cross-reference other information as provided in Section 4 of this Disclosure Certificate; provided that the audited financial statements of the Town may be submitted separately from the balance of the Annual Report.

(b) If the Town is unable to provide to the Repository an Annual Report by the date required in subsection (a), the Town shall send a notice to the Municipal Securities Rulemaking Board and State Depository, if any, in substantially the form attached hereto as Exhibit A.

(c) The Dissemination Agent shall:

(1) determine each year prior to the date for providing the Annual Report the name and address of each National Repository and each State Depository, if any; and

(2) if the Dissemination Agent is other than the Town, file a report with the Town and (if the Dissemination Agent is not the Registrar) the Registrar certifying whether the Annual Report has been provided pursuant to this Disclosure Certificate, and, if provided, stating the date it was provided, and listing the Repository to which it was provided.

#### SECTION 4. Content of Annual Reports.

(a) The Town's Annual Report shall contain or incorporate by reference the most recent audited financial statements, which shall be prepared in conformity with generally accepted accounting principles (or, if not in such conformity, to be accompanied by a qualitative discussion of the differences in the accounting principles and the impact of the change in the accounting principles on the presentation of the financial information) applicable to governmental entities such as the Town, and shall, in addition, contain or incorporate by reference the following, for the immediately preceding fiscal year:

- (1) Town population;
- (2) Total anticipated state appropriations subject to withholding under Article X, Sec. 14, South Carolina Constitution;
- (3) Outstanding indebtedness of the Town;
- (4) Market value/assessment summary of taxable property in Town;
- (5) Tax Rates for Town;
- (6) Tax collections for Town; and
- (7) Five largest taxpayers (including fee-in-lieu-of-tax) for Town.

(b) Audited Financial Statements prepared in accordance with GAAP as described in the Official Statement will be included in the Annual Report.

Any or all of the items listed above may be included by specific reference from other documents, including official statements of debt issues with respect to which the Town is an "obligated person" (as defined by the Rule), which have been previously filed with the National Repository or the Securities and Exchange Commission. If the document incorporated by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board. The Town will clearly identify each such document so incorporated by reference.

## SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the Town shall give, or cause to be given, notice of the occurrence of any of the following events (the “Listed Events”):

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the security, or other material events affecting the tax status of the security;
- (7) Modifications to rights of security holders;
- (8) Bond calls;
- (9) Tender offers;
- (10) Defeasances;
- (11) Release, substitution, or sale of property securing repayment of the securities;
- (12) Rating changes;
- (13) Bankruptcy, insolvency, receivership or similar event of the Town;
- (14) The consummation of a merger, consolidation, or acquisition involving the Town or the sale of all or substantially all of the assets of the Town other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;
- (15) Appointment of a successor or additional trustee or the change of name of a trustee.

(b) Whenever the Town obtains knowledge of the occurrence of a Listed Event described in subsections (a)(2), (7), (8), (11), (14), or (15) above, the Town shall as soon as possible determine if such event would be material under applicable federal securities laws. If the Town determines that knowledge of the occurrence of such event would be material under applicable federal securities laws, the Town shall promptly, and no later than 10 days after the occurrence of the event, file a notice of such occurrence with the Repository.

(c) Whenever the Town obtains knowledge of the occurrence of a Listed Event described in subsections (a)(1), (3), (4), (5), (6), (9), (10), (12), or (13) above, the Town shall promptly, and no later than 10 days after the occurrence of the event, file a notice of such occurrence with the Repository.

(d) Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(8), (9), and (10) above need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to owners of affected Bonds. For the purposes of the event identified in (a)(13) above, the event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the Town in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the Town, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of

reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the Town.

SECTION 6. Termination of Reporting Obligation. The Town's obligations under this Disclosure Certificate shall terminate upon the defeasance, prior redemption or payment in full of all of the Bonds.

SECTION 7. Dissemination Agent. The Town may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such Agent, with or without appointing a successor Dissemination Agent. The initial Dissemination Agent shall be the Town.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Certificate, the Town may amend this Disclosure Certificate and any provision of this Disclosure Certificate may be waived, if such amendment or waiver is supported by an opinion of counsel expert in federal securities laws acceptable to the Town, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

SECTION 9. Additional Information. Nothing in this Disclosure Certificate shall be deemed to prevent the Town from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Certificate. If the Town chooses to include any information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is specifically required by this Disclosure Certificate, the Town shall have no obligation under this Disclosure Certificate to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the Town, or the Dissemination Agent to comply with any provision of this Disclosure Certificate, any beneficial owner may take such actions as may be necessary and appropriate, including seeking injunctive relief or specific performance by court order, to cause the Town, or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Certificate. A default under this Disclosure Certificate shall not be deemed an event of default under the Ordinance, and the sole remedy under this Disclosure Certificate in the event of any failure of the Town, or the Dissemination Agent to comply with this Disclosure Certificate shall be an action to compel performance.

SECTION 11. Duties, Immunities and Liabilities of the Dissemination Agent. The provisions of this Section 11 shall apply if the Issuer is not the Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Certificate, and to the extent permitted by applicable law and other public policy considerations, the Issuer agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which they may incur arising out of or in the exercise or performance of their powers and duties hereunder, including the costs and expenses (including attorneys' fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The obligations of the Issuer under this Section shall survive resignation or removal of the Dissemination Agent and payment of the Bonds.

SECTION 12. Beneficiaries. This Disclosure Certificate shall inure solely to the benefit of the Town, the Dissemination Agent, the Participating Underwriters, and Holders from time to time of the Bonds and shall create no rights in any other person or entity.

TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA

By: \_\_\_\_\_  
Town Manager

Dated: \_\_\_\_\_, \_\_\_\_\_

NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT

Name of Town: Town of Hilton Head Island, South Carolina

Name of Bond Issue: \$\_\_\_\_\_ General Obligation Bonds, Taxable Series \_\_\_\_\_,  
Town of Hilton Head Island, South Carolina

Date of Issuance: \_\_\_\_\_

NOTICE IS HEREBY GIVEN that The Town of Hilton Head Island, South Carolina (the “Town”) has not provided an Annual Report with respect to the above-named Bonds as required by Sections 3 and 4 of the Continuing Disclosure Certificate executed and delivered by the Town as Dissemination Agent. The Town has notified us in writing that the Annual Report will be filed by \_\_\_\_\_.

Dated: \_\_\_\_\_

TOWN OF HILTON HEAD ISLAND,  
SOUTH CAROLINA