



The Town of Hilton Head Island Regular Town Council Meeting

Tuesday, April 23, 2013

4:00 P.M.

“REVISED” AGENDA

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

- 1) **Call to Order**
- 2) **Pledge to the Flag**
- 3) **Invocation**
- 4) **FOIA Compliance** – Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.
- 5) **Proclamations and Commendations**
 - a. **Sexual Assault/Child Abuse Awareness Month**
 - b. **Bike Month**
- 6) **Approval of Minutes**
 - a. Town Council Meeting – April 2, 2013
- 7) **Report of the Town Manager**
 - a. Presentation of Patriot Award, Captain Steve Palmer, United States Navy Reserve, Retired Recipient: Battalion Chief Jeff Hartberger
 - b. Town Managers Items of Interest
 - c. March, 2013 Policy Agenda, Management Targets and CIP Updates
 - d. Pathway Kiosk Project/Bike Month Events
 - e. Budget Briefing – Susan Simmons
- 8) **Reports from Members of Council**
 - a. General Reports from Council
 - b. Report of the Intergovernmental Relations Committee – George Williams, Chairman
 - c. Report of the Personnel Committee – Lee Edwards, Chairman
 - d. Report of the Planning & Development Standards Committee – John McCann, Chairman
 - e. Report of the Public Facilities Committee – Kim Likins, Chairman
 - f. Report of the Public Safety Committee – Marc Grant, Chairman
 - g. Report of the LMO Rewrite Committee – Kim Likins, Ex-Officio Member
- 9) **Appearance by Citizens**

10) Unfinished Business

a. Consideration of a Recommendation – Economic Development Corporation

Consideration of a Recommendation that the Town Council of the Town of Hilton Head Island approve the proposed bylaws for the Economic Development Corporation (“Exhibit A”).

11) New Business

a. First Reading of Proposed Ordinance 2013-02

First Reading of Proposed Ordinance 2013-02 authorizing the issuance and sale of not to exceed \$9,000,000 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; to adopt written procedures related to tax-exempt debt; other matters relating thereto; and providing for severability and an effective date.

b. Consideration of a Resolution – Metropolitan Planning Organization

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island re-adopting and amending a previously-adopted Resolution dated August 7, 2012, “To adopt geographical boundaries for a Beaufort County and Jasper County Metropolitan Planning Area and to create a Metropolitan Planning Organization.”

c. Consideration of the Purchase of Land within the Town of Hilton Head Island

12) Executive Session

- a. Land Acquisition
- b. Legal Matters

13) Adjournment

Proclamation

By

The Town of Hilton Head Island

WHEREAS, *Sexual Assault Awareness Prevention Month and Child Abuse Prevention Month are intended to draw attention to the fact that sexual violence and child abuse is widespread and has public health implications for every community member of the Town of Hilton Head Island; and*

WHEREAS, *Rape and sexual assault impacts our community as seen by statistics indicating that 1 in 5 women and 1 in 33 men will be a victim of sexual violence in their lifetime; and*

WHEREAS, *Hope Haven of the Lowcountry, our local Children's Advocacy and Rape Crisis Center, served 473 primary victims and 678 secondary victims of child abuse and sexual assault in 2012 and 77% of victims served through Hope Haven were under 17 years of age; and*

WHEREAS, *We must work together to educate our community about what can be done to prevent sexual violence and child abuse and how to support survivors; and*

WHEREAS, *Staff and volunteers of Hope Haven of the Lowcountry encourage every person to speak out when witnessing acts of violence however small; and*

WHEREAS, *the Town of Hilton Head Island has dedicated individuals and organizations who work daily to counter the problem of child maltreatment, sexual assault, and help victims obtain the assistance they need; and*

WHEREAS, *With leadership, dedication, and encouragement, there is compelling evidence that we can be successful in reducing sexual violence and child abuse in the Town of Hilton Head Island through prevention, education, increased awareness, and holding perpetrators who commit violence responsible for their actions; and*

NOW, THEREFORE, *I, Drew Laughlin, Mayor of the Town of Hilton Head Island, South Carolina, join advocates and support service programs in the belief that all community members must be part of the solution to end sexual violence and child abuse. Along with the United States Government and the State of South Carolina, I do hereby proclaim April as "Sexual Assault Awareness and Prevention Month" and "Child Abuse Prevention Month" on this twenty-third day of April 2013.*

IN TESTIMONY WHEREOF, *I have hereunto set my hand and caused this seal of the Town of Hilton Head Island to be affixed this twenty-third day of April, in the Year of our Lord, Two Thousand and Thirteen.*



Drew A. Laughlin, Mayor

Attest:



Esther Coulson, Town Clerk

Proclamation

BY

THE TOWN OF HILTON HEAD ISLAND

WHEREAS, for more than a century, the bicycle has been an important part of the lives of most Americans; and

WHEREAS, today millions of Americans engage in bicycling because it is a viable and environmentally-sound form of transportation, an excellent form of fitness, and provides quality family recreation; and

WHEREAS, the education of cyclists and motorists as to the proper and safe operation of bicycles is important to ensure safety and comfort of all users; and

WHEREAS, the League of American Cyclists, the Palmetto Cycling Coalition, cycling advocates, and riders throughout our area are promoting greater public awareness of bicycle operation and safety; and

WHEREAS, May 13-17, 2013 is Bike to Work Week and May 17, 2013 is Bike to Work Day.

NOW, THEREFORE, I, Drew Laughlin, Mayor of the Town of Hilton Head Island, hereby proclaim May 2013 as

BIKE MONTH

in Hilton Head Island, South Carolina.

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



Drew A. Laughlin, Mayor

Attest:



Esther Coulson, Town Clerk

THE TOWN OF HILTON HEAD ISLAND
REGULAR TOWN COUNCIL MEETING

Date: Tuesday, April 2, 2013

Time: 4:00 P.M.

Present from Town Council: Drew A. Laughlin, *Mayor*; Bill Harkins, *Mayor Pro Tem*; George Williams, Lee Edwards, Marc Grant, John McCann, *Council Members*

Absent from Town Council: Kim Likins, *Council Member*

Present from Town Staff: Steve Riley, *Town Manager*; Scott Liggett, *Director of Public Projects and Facilities/Chief Engineer*; Charles Cousins, *Director of Community Development*; Lavarn Lucas, *Fire Chief*; Bret Martin, *Deputy Director of Finance*; Jill Foster, *Deputy Director of Community Development*; Shawn Colin, *Deputy Director of Community Development*; Heather Colin, *Development Review Administrator*; Anne Cyran, *Senior Planner*; Vicki Pfannenschmidt, *Executive Assistant*

Present from Media: Brian Heffernan, *Island Packet*

1) CALL TO ORDER

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

Mayor Laughlin stated Council Member Likins had notified staff that she would not be able to attend today's meeting.

2) PLEDGE TO THE FLAG

3) INVOCATION

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

5) Proclamations and Commendations

a. St. Patrick's Day Parade 30th Anniversary

Committee members Kim Capin, Alan Perry, Frank Dunne, Michael Taylor, Erin Reilley Booth, Jim Laferriere, Bill Harper, Lynne Hummell, Tom Reilley and Laura Reilley were present to accept the commendation.

b. National Telecommunications Week

Tammye Brown, Communications Supervisor, Norma Moore, Communications Supervisor and Sheila Boyll, Communications Dispatcher were present to accept the Proclamation.

c. Women in Philanthropy

Margaret Sanders, Chairperson along with numerous members of Women in Philanthropy were present to accept the commendation.

6) Approval of Minutes

a. Town Council Meeting – March 19, 2013

Mr. Harkins moved to approve. Mr. Williams seconded. The minutes of the March 19, 2013 Town Council meeting were approved by a vote of 6-0.

7) Report of the Town Manager

a. Town Managers Items of Interest

Mr. Riley reported on some items of interest.

b. Economic Development Board Process

Mr. Riley referenced the memos included in the packet concerning accelerating the Economic Development Board process and Board issues. It was the consensus of Council to include discussion of the issues in Item 11.b. under New Business.

8) Reports from Members of Council

a. General Reports from Council

None.

b. Report of the Intergovernmental Relations Committee – George Williams, Chairman

No report.

c. Report of the Personnel Committee – Lee Edwards, Chairman

No report.

d. Report of the Planning & Development Standards Committee – John McCann, Chairman

No report.

e. Report of the Public Facilities Committee – Kim Likins, Chairman

No report.

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

No report.

g. Report of the LMO Rewrite Committee – Kim Likins, Ex-Officio Member

No report.

9) Appearance by Citizens

None.

10) Unfinished Business

a. Second Reading of Proposed Ordinance 2013-01

Second Reading of Proposed Ordinance 2013-01 to amend Title 16 of the Municipal Code of the Town of Hilton Head Island, South Carolina, the Land Management Ordinance, Chapter 4, Article XVII. This amendment, commonly referred to as the *LMO Amendment to Amend Maximum Structure Height*, as noticed in the Island Packet on December 30, 2012, includes a revision to Chapter 4, Article XVII, Section I, Maximum Structure Height; and providing for severability and an effective date.

Mr. Harkins moved to approve. Mr. Williams seconded. The motion was approved by a vote of 6-0.

11) New Business

a. Consideration of a Resolution – Fair Housing Month

Consideration of a Resolution of the Town Council of the Town of Hilton Head Island, SC to proclaim April, 2013 as Fair Housing Month.

Mr. Williams moved to approve. Mr. Harkins seconded. The motion was approved by a vote of 6-0.

b. Consideration of a Recommendation – Economic Development Corporation

Consideration of a Recommendation that Town Council approve the proposed screening process to select Board of Directors for the EDC (Economic Development Corporation) and proposed EDC bylaws (“Exhibit A”).

Mr. Harkins moved to approve. Mr. Edwards seconded. There was an extended discussion regarding the level of specificity of Board member qualities and qualifications that should be included in the bylaws and/or the solicitation for potential board members. Included within this discussion were various comments from Council members concerning their views on what qualities were being sought in the Board and their expectations of the Board’s role.

Staff noted that our standard Board and Committee Application Form was not used in the solicitation of interest posted on the website. An application specific to this Board had been created and posted on the Town website. The application became available on March 25 and will close on Friday April 19th.

Following a discussion of the proposed screening process, Council concurred with the outline as presented by Staff, but noted that while the full Town Council was expecting to participate in the process, it was unlikely that every Council member would in fact be able to participate in every meeting and interview.

There followed a discussion of the proposed bylaws. As drafted, Town Council would make the initial appointments as well as all future appointments and reappointments. Staff had suggested that an alternative would be to grant the Board a higher degree of independence by allowing them to make the future appointments and reappointments. Council members generally supported this concept.

There was a discussion of the role of the Town Manager on the Board as well as the concept of having a Council member representative on the Board. Following discussion there was a general consensus that a Council member would not serve on the Board, that the by-laws should be clarified to be clear that the Town Manager would be an ex officio member, and that the Town Manager would not be designated in the bylaws as the Treasurer for the Board.

A variety of other changes and clarifications to the bylaws were suggested by several members of Council, which Staff agreed to take under further consideration.

Mayor Laughlin asked for public comment. Mr. Terry Ennis approached the dais and defined his expectations and hopes concerning the creation of the Economic Development Corporation.

After discussion, the maker and the seconder of the motion agreed to amend the motion to approve the screening process as outlined and to ask staff to revise the by-laws based on Council's input. The amended motion was approved by a vote of 6-0.

12) Executive Session

Mr. Riley stated he needed an Executive Session for contractual matters pertaining to land acquisition, including a request to acquire or use town owned land; legal matters pertaining to threatened litigation; and legal matters pertaining to the Republic Waste hauling contract.

At 6:02 p.m. Mr. Harkins moved to go into Executive Session for the reasons given by the Town Manager. Mr. Williams seconded. The motion was approved by a vote of 6-0.

Mayor Laughlin called the meeting back to order at 7:04 p.m. and stated there was no business as a result of the Executive Session.

13) Adjournment

Mr. Williams moved to adjourn. Mr. Edwards seconded. The motion was approved by a vote of 6-0. The meeting was adjourned at 7:04 p.m.

Vicki Pfannenschmidt
Executive Assistant

Approved:

Drew A. Laughlin, Mayor



Items of Interest

April 23, 2013

1. Town News

The Town of Hilton Head Island Financial Statements and Financial Dashboard for the period ending February 28, 2013 were posted on the Town's website on April 12, 2013. You can view them at www.hiltonheadislandsc.gov

(Contact: Susan Simmons, Director of Finance – 341-4645)

Battalion Chief Jeff Hartberger has been appointed to the State Emergency Medical Services (EMS) Advisory Committee's Data Subcommittee. The State EMS Advisory Committee oversees the operations of the South Carolina Department of Health and Environmental Control (SCDHEC) Division of EMS and Trauma. The Data Subcommittee serves to coordinate all statistical data being reported by all EMS agencies in SC. Chief Hartberger also serves on the National Fire Protection Association's (NFPA) 950 Data Development and Exchange for the Fire Service Committee.

(Contact: Lavarn Lucas, Fire Chief – 682-5153)

Deputy Chief Brad Tadlock has been selected by the National Fire Protection Association to serve as a Principal voting member of the NFPA Technical Committee on Emergency Service Organization Risk Management. The Committee is responsible for establishing national minimum risk management standards for fire and emergency service organizations.

(Contact: Lavarn Lucas, Fire Chief – 682-5153)

The Accommodations Tax Advisory Committee will hold a meeting on Thursday, April 25 at 1:00 pm. The purpose of the meeting is to review the Chamber of Commerce and Visitor & Convention Bureau's 2013-2014 proposed budget of expenditures of the 30% allocation of State Accommodations Tax Funds for the advertisement of tourism.

(Contact: Susan Simmons, Director of Finance – 341-4645)

During February 2013, Libby Crosby, April Akins, Kisha O'Donnell and Sonya Bethea successfully completed RescueNet User training. Bruce Seeley and Lori Schmidt also successfully completed both Administrator and User training. Following the training, the Town implemented the RescueNet billing module. With this implementation, Finance and Fire & Rescue now have an integrated patient care reporting and ambulance billing software in place.

(Contact: Susan Simmons, Director of Finance – 341-4645)

2. Noteworthy Events

a) Some of the upcoming meetings at Town Hall:

- LMO Rewrite Committee – April 25, 2013, 8:30 a.m.
- Accommodations Tax Advisory Committee – April 25, 2013 1:00 p.m.
- Planning and Development Standards Committee – April 25, 2013, 4:00 p.m.
- Planning Commission – May 1, 2013, 9:00 a.m.
- Public Safety Committee – May 6, 2013, 10:00 a.m.
- Public Projects and Facilities – May 7, 2013, 2:00 p.m.
- Town Council – May 7, 2013, 4:00 p.m.

(Meetings subject to change and/or cancellation. Please visit the Town of Hilton Head Island website at www.hiltonheadislandsc.gov for meeting agendas

**2013 Policy Agenda
Thru March, 2013**

Top Priority

Target	Chief Contact	Comments
<ul style="list-style-type: none"> Economic Development Organization: Creation and Operation 	Shawn Colin	Town Council Approved Board Screening Process on April 2 nd . Board Member Application period ends on April 19 th .
<ul style="list-style-type: none"> Coligny Area Development Projects: Direction and Funding 	Shawn Colin/ Jennifer Ray	Design Consultants have been interviewed. Town staff to negotiate contract with selected firm and target an early May contract execution.
<ul style="list-style-type: none"> Arts Collaboration: Framework and Strategy for Fostering Collaboration among Arts 	Jill Foster	RFP has been sent to various arts consultants; Pre-Proposal meeting to be held April 8 th . Responses are due April 24, 2013.
<ul style="list-style-type: none"> Chaplin Linear Park and Boardwalk: Development and Permitting 	Jennifer Ray	Staff is negotiating a professional services contract with top-ranked design firm.

High Priority

Target	Chief Contact	Comments
<ul style="list-style-type: none"> LMO Modifications 	Teri Lewis	The committee has been meeting bi-monthly to provide input to the consultants on issues such as specific use conditions, allowed activities in the Transition Area of the CSPDAA & TA Overlay District and edge conditions. The committee will begin reviewing the drafts of Chapters 3 and 4 (Zoning and Specific Conditions) this month.
<ul style="list-style-type: none"> Education Strategy: Identification of Needs and Direction 	Greg DeLoach/ Nancy Gasen	Attended Know2 Presentation at Chamber on 4-4-13.

**2013 Management Agenda
Thru March, 2013**

Target	Chief Contact	Comments
<ul style="list-style-type: none"> Reassessment and Tax Rate Limitations: Direction and Public Information 	Susan Simmons	TM and Finance Director met with County in March. Expect 1 st reassessment assessment figures from County in early April. Will incorporate information into FY14 budget and provide public information.
<ul style="list-style-type: none"> Shelter Cove Area Public Projects: Construction 	Heather Colin/ Scott Liggett	Park kick-off meeting has been scheduled for this month to start planning for the development and construction of the relocated Shelter Cove Community Park.

<ul style="list-style-type: none"> Posting of Quarterly Financial Reports Online: Purpose, Method, and Funding 	Greg DeLoach/ Susan Simmons	Quarterly financial statements for December are online for all funds. Monthly dashboards for General Fund began to be online starting with January 2013.
<ul style="list-style-type: none"> Beach Renourishment (2015): Scoping, Designing and Permitting 	Scott Liggett	Coastal Engineering Consultant Services Task Orders have been authorized for multi-beam hydrographic surveying of a portion of Calibogue Sound and surrounds, borrow site development including seismic survey, collection of vibracores and laboratory analysis. Contingency planning continues with respect to the Ocean Pointe erosional hot spot. Formulation of a permit application to pursue a truck haul project has been authorized.
<ul style="list-style-type: none"> Old Welcome Center Building: Direction 	Scott Liggett	Complete

**CIP Monthly Report
Thru March, 2103**

Project	Chief Contact	Comments
<ol style="list-style-type: none"> Leg O' Mutton Road Pathway Wm. Hilton Parkway – Wexford Drive to Fresh Market Shoppes Pathway Fire Station #6 Mathews Drive Side Street Improvements Marshland Road / Mathews Drive Roundabout Wm. Hilton Parkway / Leamington Intersection Improvements Rowing and Sailing Center Island Recreation Center Improvements – Phase 1 Hospital Center Blvd./ Main St. Intersection Improvements Pedestrian Crosswalks (3 locations) and WHP left turn lane at Circle K (Yacht Cove Drive area) Welcome Center demolition 	Scott Liggett	<ol style="list-style-type: none"> Substantially complete Under Construction – target completion date May 1, 2013 Solicitation for construction released. Bids due May 3, 2013 Final plans being developed; Target bid date June 1, 2013 Final plans being developed; target bid date June 1, 2013 Plans complete, permits in hand, land acquisition/legal tasks to be completed. Bid date expected in spring 2013 however construction is recommended to commence in fall 2013 In design; negotiating with stakeholders, construction planned to start in fall 2013 In design; target bid window spring 2013 Bids received April 9, 2013. Under staff review Bids received April 11, 2013. Under staff review Bids due April 18, 2013



MEMORANDUM

TO: Stephen G. Riley, *ICMA~CM, Town Manager*
FROM: Shawn Colin, *AICP, Deputy Director*
VIA: Charles F. Cousins, *AICP, Director*
DATE: April 9, 2013
SUBJECT: **Economic Development Corporation Bylaws**

Recommendation: Staff recommends Town Council approve the proposed bylaws for the Economic Development Corporation (“Exhibit A”).

Summary: A draft of the bylaws, aimed at providing a framework for the proposed Economic Development Corporation, was reviewed by Town Council during its April 2nd meeting, at which time Town Council recommended revisions. The revised draft of bylaws is included for review and approval (attached as “Exhibit A”). The main points are identified below:

- Town Council appoints initial members to the EDC Board of Directors.
- The EDC is self perpetuating and makes reappointments and/or fills vacancies on the Board.
- EDC Board of Directors comprised of 5-9 voting and 1 nonvoting member (Town Manager).
- Initial members serve staggered terms from 1-3 years.
- Preference is given to candidates that have experience in one or more of the following areas: business investment, development and management, marketing, real estate, finance, hospitality, utilities, and higher education.
- EDC Board of Directors may recommend employment of administrative staff.
- Once established the EDC will meet to review and adopt bylaws.
- EDC may recommend amendments to bylaws and provide to Town Council for review and approval.

Background: Town Council adopted a policy for “Economic Development Organization: Creation and Operation” on December 18, 2012. In pursuit of this “2013 Policy Agenda, Target for Action”, the Town should create an Economic Development Corporation in a manner consistent with the recommendations outlined in the Economic Development Advisory Committee report. On February 19, 2013, Town Council endorsed implementing a “Stage Gate” approach to move the process forward (“Exhibit B”). On April 2, 2013, Town Council approved the screening process for selecting initial board members and reviewed a draft of proposed bylaws for the Corporation. Town Council recommended revisions to the proposed bylaws and that they be brought back for additional review and consideration for approval on April 23, 2013.

EXHIBIT A

BYLAWS

OF

HILTON HEAD ISLAND ECONOMIC DEVELOPMENT CORPORATION

Incorporated under the laws of the State of South Carolina

Effective as of _____, 2013

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ARTICLE I
Name, Location, and Offices

1.1 Name. The name of this corporation shall be "Hilton Head Island Economic Development Corporation."

1.2 Registered Office and Agent. Hilton Head Island Economic Development Corporation (hereinafter "corporation") shall maintain a registered office in the State of South Carolina, and shall have a registered agent whose address is identical with the address of such registered office, in accordance with the requirements of South Carolina law.

1.3 Other Offices. The principal office of the corporation shall be located in Hilton Head Island, South Carolina (the "Town"). The corporation may have other offices at such place or places as the Board of Directors may determine from time to time.

ARTICLE II
Purposes and Governing Instruments

2.1 Nonprofit Corporation. The corporation shall be organized and operated as a nonprofit corporation under the applicable provisions of South Carolina law. The corporation shall operate with appointed directors as provided in Article III but shall have no members; as that term is defined under South Carolina law.

2.2 Charitable Purposes. The corporation is a nonprofit corporation, the purposes of which, as set forth in the articles of incorporation, are exclusively charitable within the meaning of Section 501(c)(3) of the Internal Revenue Code. The purpose of the Corporation is to (i) promote and assist in the development of business concerns in the Town of Hilton Head Island, (ii) otherwise provide administrative organization to the redevelopment effort directed towards the Town and (iii) to engage in those activities which are in furtherance of, or related to, the purposes herein. The principal objective of the Corporation shall be to benefit the Town and surrounding area economically by fostering increased employment opportunities and by expansion of business and industry, thereby lessening the burdens of government and combating community deterioration. Towards this end, the corporation shall combine technical assistance, financial assistance, and other incentives to leverage and facilitate private development.

2.3 Governing Instruments. The corporation shall be governed by its articles of incorporation and these bylaws.

ARTICLE III
Board of Directors

3.1 Authority and Responsibility of the Board of Directors.

(a) Except as otherwise provided in the articles of incorporation of the corporation or in these bylaws, authority of the corporation and the government and management of the affairs of the corporation shall be vested in the Board of Directors; and all the powers, duties, and functions of the corporation conferred by the articles of incorporation, these bylaws, state statutes, common law, court decisions, or otherwise, shall be vested in the Board of Directors; and all the powers, duties, and functions of the corporation conferred by the articles of incorporation, these bylaws, state statutes, common law, court decisions, or otherwise, shall be exercised, performed, or controlled by or under the authority of the Board of Directors.

(b) The governing body of the corporation shall be the Board of Directors. The Board of Directors shall have supervision, control and direction of the management, affairs and property of the corporation; shall determine its policies or changes therein; and shall actively prosecute its purposes and objectives and supervise the disbursement of its funds. The Board of Directors may adopt, by majority vote, such rules and regulations for the conduct of its business and the business of the corporation as shall be deemed advisable. Under no circumstances, however, shall any actions be taken which are inconsistent with the articles of incorporation or these bylaws; and the fundamental and basic purposes of the corporation, as expressed in the articles of incorporation and these bylaws, shall not be amended or changed.

(c) The Board of Directors shall not permit any part of the net earnings or capital of the corporation to inure to the benefit of any member, trustee, officer, director, or other private person or individual.

(d) The Board of Directors may, from time to time, appoint, as advisors, persons whose advice, assistance and support may be deemed helpful in determining policies and formulating programs for carrying out the purposes and functions of the corporation.

(e) The Board of Directors is authorized to employ such person or persons, including an executive director or officer, attorneys, trustees, agents, and assistants, as in its judgment are necessary or desirable for the administration and management of the corporation, and to pay reasonable compensation for the services performed and expenses incurred by any such person or persons.

(f) The Board of Directors is hereby committed to exercise its authority hereunder solely in the best interests of the corporation.

3.2 Composition. The Board of Directors shall consist of not less than five (5) nor more than ten (10) members. One (1) non-voting director shall at all times be designated as the person holding the title of Town Manager for the Town of Hilton Head Island, or his designee ("Town Manager Designated Director"). The number of directors may only be increased to more than 10 (ten) members by amendment to these bylaws. Members of the Board of Directors shall serve without compensation, but may be reimbursed for reasonable expenses incurred for or on behalf of the corporation.

3.3 Terms of Office. The Town Manager Designated Director shall serve as a non-voting member of the Board for as long as he or she holds the position of Town Manager for the Town. All other Directors shall be designated Director 1 through Director 9. Directors 1, 6, and 7 shall serve an initial term upon incorporation of one (1) year. Directors 2, 5, and 8 shall serve an initial term upon incorporation of two (2) years. Directors 3, 4 and 9 shall serve an initial term upon incorporation of three (3) years. Each subsequent term for each director will be for a term of three (3) years. Except for the Town Manager Designated Director and officers, all directors may serve a maximum total of two (2) consecutive terms. Officers may serve a maximum total of three (3) consecutive terms, whether in a director or officer capacity. A director appointed to fill a vacancy shall be appointed for the unexpired portion of the departing director's term. Such unexpired portion of a term shall not be counted as a full term with regard to term limits. A director shall be eligible to be reappointed to the Board after one (1) full year of non-service.

3.4 Manner of Appointment and Election. Town Council of the Town of Hilton Head Island shall appoint the inaugural Board of Directors, after which time the Board of Directors shall be self-perpetuating. Directors shall be subsequently elected by a plurality vote of the Board of Directors; provided, however, that the Town Manager Designated Director shall at all times be the then current Town Manager of the Town of Hilton Head Island, or his designee. Except for the Town Manager Designated Director, directors shall be appointed with preference given to those candidates that have experience in one or more of the following areas: business investment, development and management, marketing, real estate, finance, hospitality, utilities, and higher education.

3.5 Attendance, Resignation and Removal. Members of the Board shall be required to attend meetings. Failure to attend three (3) regular meetings of the Board of Directors in a twelve (12) month period without excuse acceptable to the Board of Directors shall operate as a tender of resignation. A Board member who fails to meet this minimum standard shall be removed from membership on the Board, unless such failure to attend is excused for good cause by the Chairman.

3.6 Vacancies. Vacancies on the Board of Directors arising by reason of expiration of term, resignation, removal, death, disability, refusal to serve, or otherwise, shall be filled for the new term or the unexpired term, as the case may be, as provided in Section 3.4 of these bylaws. Any replacement director shall serve as a member of the Board of Directors until the expiration of his or her term, or the unexpired term of his or her predecessor, as the case may be, and until his or her successor is appointed.

3.7 Committees of the Board of Directors. By resolution adopted by a majority of directors present at a meeting at which a quorum is present, the Board of Directors may designate from among its members one or more committees, each consisting of three (3) or more directors. Except as prohibited by law, each committee shall have the authority as set forth in the resolution establishing said committee. See also Article VIII ("Committees of Directors").

ARTICLE IV

Meetings of the Board of Directors

4.1 Annual Meeting; Notice and Agenda. An annual meeting of the Board of Directors may be held at such place as the Board of Directors shall determine on such day and at such time as the Board of Directors shall designate. The secretary shall at a minimum provide notice of the date, time and place of each such annual meeting to members of the Board of Directors and to the public at the beginning of each calendar year.

An agenda, if any, for each such annual meeting shall be posted at the office or meeting place of the corporation at least twenty-four (24) hours prior to such meeting.

4.2 Regular Meetings; Notice and Agenda. Regular meetings of the Board of Directors may be held from time to time between annual meetings at such times and at such places as the Board of Directors may prescribe. The secretary shall at a minimum provide notice of the date, time and place of each such regular meeting to members of the Board of Directors and to the public at the beginning of each calendar year.

An agenda, if any, for each such regular meeting shall be posted at the office or meeting place of the corporation at least twenty-four (24) hours prior to such meeting.

4.3 Special or Rescheduled Meetings; Notice. Special meetings of the Board of Directors may be called by or at the request of the chairman or by any three (3) of the directors in office at that time. Regular meetings of the Board of Directors may be rescheduled by the Board of Directors when required by those circumstances determined in the sole discretion of the Board of Directors. The secretary shall provide notice of the agenda, date, time and place of such special or rescheduled meeting to members of the Board of Directors and to the public not later than twenty-four (24) hours before such meeting.

4.4 Waiver. Attendance by a director at a meeting shall constitute waiver of his or her right to notice of such meeting, except where a director attends a meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called. See also Article V ("Notice and Waiver").

4.5 Quorum. At meetings of the Board of Directors, fifty percent (50%) of the directors then in office shall be necessary to constitute a quorum for the transaction of business. In no case, however, shall less than three (3) directors constitute a quorum.

4.6 Vote Required for Action. Except as otherwise provided in these bylaws or by law, the act of a majority of directors present at a meeting at which a quorum is present at the time shall be the act of the Board of Directors. Adoption, amendment and repeal of a bylaw are provided for in Article XV of these bylaws. Vacancies in the Board of Directors may be filled as provided in Article III of these bylaws.

4.7 Adjournments. A meeting of the Board of Directors, whether or not a quorum is present, may be adjourned by a majority of the directors present to reconvene at a specific time and place. Notice of the agenda, date, time and place of such reconvened meeting shall be given by the secretary to members of the Board of Directors and to the public as early as is practicable but not later than twenty-four (24) hours before such meeting. At any such reconvened meeting at which a quorum is present, any business may be transacted which could have been transacted at the meeting that was adjourned.

4.8 Notice Requirements; Freedom of Information Act. The notice requirements of this Article IV are intended to comply with the requirements set forth in the Freedom of Information Act, Chapter 4, Title 30 of the Code of Law of South Carolina of 1976, as amended from time to time (the "Freedom of Information Act"). If the Freedom of Information Act should be amended so as to provide more stringent or additional notice requirements, the corporation shall act in full compliance with such amended notice requirements and shall amend these bylaws accordingly.

ARTICLE V

Notice and Waiver

5.1 Procedure. Whenever these bylaws require notice to be given to any director, committee member or the public, the notice shall be given in accordance with this Section 5.1. Notice to any director or committee member under these bylaws shall be in writing unless oral notice is reasonable under the circumstances. Notice to any director or committee member may be communicated in person, by telephone, telegraph, facsimile, or other form of wire or wireless communication, or by mail or private carrier. Written notice to a director or committee member, if in a comprehensible form, is effective at the earliest of the following:

- (a) When received or when delivered, properly addressed, to the addressee's last known principal place of business or residence;
- (b) Five days after its deposit in the mail, as evidenced by the postmark, if mailed with first-class postage prepaid and correctly addressed; or
- (c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.

Oral notice to a director or committee member is effective when communicated if communicated in a comprehensible manner.

Notice to the public under these bylaws shall be in writing and shall be provided pursuant to those methods required by the Freedom of Information Act.

In calculating time periods for notice, when a period of time measured in days, weeks, months, years or other measurement of time is prescribed for the exercise of any privilege or the discharge of any duty, the first day shall not be counted but the last day shall be counted.

5.2 Waiver. A director or committee member may waive any notice before or after the date and time stated in the notice. Except as provided herein, the waiver must be in writing, signed by the director or committee member entitled to the notice, and delivered to the corporation for inclusion in the minutes or filing with the corporate records. A director or committee member's attendance at or participation in a meeting waives any required notice to him or her of the meeting unless the director or committee member at the beginning of the meeting (or promptly upon his or her arrival) objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

ARTICLE VI

Officers

6.1 Number and Qualifications. The executive officers of the corporation shall consist of a chairman, who shall also act as the chairman of the Board of Directors, a vice chairman, a secretary and a treasurer. The Board of Directors may from time to time create and establish the duties of such other officers or assistant officers as it deems necessary for the efficient management of the corporation; but the corporation shall not be required to have at any time any officers other than a chairman, a vice chairman, a secretary and a treasurer. Any two (2) or more offices may be held by the same person, except the offices of chairman and secretary.

6.2 Election and Term of Office. The executive officers of the corporation, including the chairman, the vice chairman, the secretary and the treasurer, shall be appointed from the then serving members of the Board of Directors by the Board of Directors. Executive officers of the corporation shall serve for terms of one (1) year except in the case of their earlier death, resignation, removal, retirement, or disqualification. Any other officers or assistant officers appointed by the Board of Directors under Section 6.1 of these bylaws shall serve at the will of the Board of Directors and until their successors have been appointed and qualified, or until their earlier death, resignation, removal, retirement, or disqualification. No contract rights are created by the appointment of officers hereunder.

6.3 Removal. Any officer or agent elected or appointed by the Board of Directors may be removed from his or her capacity as such by a majority vote of the entire Board of Directors then in office whenever in its judgment the best interests of the corporation will be served thereby.

6.4 Vacancies. Except as otherwise provided in these bylaws, a vacancy in any office arising at any time and from any cause may be filled for the unexpired term at any meeting of the Board of Directors.

6.5 Chairman. The chairman shall preside at all meetings of the Board of Directors, except as any such duty may be imposed upon some other officer by resolution of the Board of Directors, the chairman shall perform all such duties as are customarily entrusted to and performed by the chairman of a South Carolina Corporation.

6.6 Vice Chairman.

(a) The vice chairman shall, in the absence or disability of the chairman, perform the duties and have the authority and exercise the powers of the chairman. The vice chairman shall perform such other duties and have such other authority and powers as the Board of Directors may from time to time prescribe or as the chairman may from time to time delegate.

(b) The vice chairman shall assist the chairman in carrying out the policies, programs, orders, and resolutions of the Board of Directors.

6.7 Secretary.

(a) The secretary shall attend all meetings of the Board of Directors and record, or cause to be recorded, all votes, actions and the minutes of all proceedings in a book to be kept for that purpose and shall perform, or cause to be performed, like duties for the executive and other committees when required.

(b) The secretary shall give, or cause to be given, notice of all meetings of the Board of Directors.

(c) The secretary shall keep in safe custody the seal of the corporation and, when authorized by the Board of Directors or the chairman, affix it to any instruments requiring it. When so affixed, it shall be attested by his or her signature or by the signature of the treasurer or an assistant secretary.

(d) The secretary shall perform such other duties and have such other authority and powers as the Board of Directors may from time to time prescribe or as the chairman may from time to time delegate.

6.8 Assistant Secretary. The assistant secretary, if any, shall, in the absence or disability of the secretary, perform the duties and have the authority and exercise the powers of the secretary. They shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe or as the chairman may from time to time delegate.

6.9 Treasurer.

(a) The treasurer shall have the custody of the corporate funds and securities and shall keep full and accurate accounts of receipts and disbursements of the corporation, or shall have such accounts maintained, and shall deposit, or have deposited, all monies and other valuables in the name and to the credit of the corporation into depositories designated by the Board of Directors. In this connection, the treasurer shall review all transactions occurring with respect to the corporation's accounts periodically, but in no event less than semiannually, to ensure that such transactions further the charitable purposes of the corporation. Unless otherwise determined by the Board of Directors, the treasurer shall have full check writing authority on behalf of the corporation, including check writing authority with respect to all expenditures exceeding the Executive Director Non-Budget Expenditure Limitations (as defined in Section 7.1 of these bylaws) and all expenditures for reimbursement or advancement of expenses incurred by the directors, executive officers, Executive Director or employees, regardless of amount.

(b) The treasurer shall disburse the funds of the corporation, or have such funds disbursed, as provided for in any capital or operating budget or as ordered by the Board of Directors or the Executive Director subject to, if applicable, those limitations set forth in Sections 7.2 and 12.5 of these bylaws, and shall prepare financial statements, or have financial statements prepared, at such intervals as the Board of Directors or the Financial Oversight Committee shall direct.

(c) If required by the Board of Directors, the treasurer shall give the corporation a bond (in such form, in such sum, and with such surety or sureties as shall be satisfactory to the board) for the faithful performance of the duties of his or her office and for the restoration to the corporation, in case of his or her death, resignation, retirement, or removal from office of all books, papers, vouchers, money and other property of whatever kind in his or her possession or under his or her control belonging to the corporation.

(d) The treasurer shall perform such other duties and have such other authority and powers as the Board of Directors may from time to time prescribe or as the chairman may from time to time delegate.

6.10 Assistant Treasurer. The assistant treasurer, if any, shall, in the absence or disability of the treasurer, perform the duties and have the authority and exercise the powers of the treasurer. They shall perform such other duties and have such other powers as the Board of Directors may from time to time prescribe or as the chairman may from time to time delegate.

ARTICLE VII Administrative Staff

7.1 Authority and Responsibility. The Board of Directors may recommend employment of administrative staff, including an executive director, to assist in the day-to-day management of the affairs of the corporation consistent with the direction of the Board of Directors. These duties include, but are not limited to, the following administrative functions:

- (a) Policies and Procedures.
- (b) Fiscal Matters not specifically designated to others.
- (c) Submitting and implementing annually approved work programs and projects.
- (d) Performance of such functions as may be required from time to time by the Bylaws as assigned by the Chairperson.

Administrative staff shall serve at the pleasure of the Board of Directors.

7.2 Limitations on Authority. If so appointed, the authority of the Executive Director shall be subject to the following limitations:

(a) The Executive Director shall not have the authority to cause the Treasurer to disburse funds for (1) any single capital or operating expenditure exceeding two thousand dollars (\$2,000.00) which is not provided for in any capital or operating budget or (2) any series of capital or operating expenditures exceeding fifty thousand dollars (\$50,000.00) in a calendar year which are not provided for in any capital or operating budget.

(b) The Executive Director shall provide to the Financial Oversight Committee a monthly report (in such form as shall be satisfactory to the Financial Oversight Committee) of the corporation's receipts and expenditures and the specific expenses incurred by the Executive Director, and those employees under the Executive Director's direction, if any, in carrying out the duties of the Executive Director on behalf of the corporation.

(c) Administrative staff may be removed either with or without cause at the discretion of the Board of Directors.

ARTICLE VIII Committees of Directors

8.1 Committees of Directors. Standing or ad hoc committees of Directors, each consisting of three (3) or more directors, not having and exercising the authority of the Board of Directors in the management of the corporation (except as provided in Section 8.2(b) of these bylaws) may be designated by a resolution adopted by a majority of directors present at a meeting at which a quorum is present. Members of each committee shall be appointed by the chairman of the corporation's Board of Directors. Any member of any committee may be removed by the person or persons authorized to appoint such member whenever in their judgment the best interests of the corporation shall be served by such removal.

8.2 Financial Oversight Committee. The Financial Oversight Committee shall be established as a standing committee by the Board of Directors. The Financial Oversight Committee shall be responsible for reviewing the corporation's receipts and expenditures and shall review any monthly reports of the corporation's receipts and expenditures. The Financial Oversight Committee may require that the treasurer prepare financial statements, or have financial statements prepared, at such intervals as the Financial Oversight Committee determines appropriate.

8.3 Advisory and Other Committees. The Board of Directors may provide for such other committees, including committees, advisory groups, boards of governors, etc., consisting in whole or in part of persons who are not directors of the corporation, as it deems necessary or desirable, and discontinue any such committee at its pleasure. It shall be the function and purpose of each such committee to advise the Board of Directors on matters relating to the business and affairs of the corporation; and each such committee shall have such powers and perform such specific duties or functions, not inconsistent with the articles of incorporation of the corporation or these bylaws, as may be prescribed for it by the Board of Directors. Appointments to and the filling of vacancies on any such other committees shall be made by the chairman of the corporation, unless the Board of Directors otherwise provides. Any action by each such committee shall be reported to the Board of Directors at its meeting next succeeding such action and shall be subject to control, revision, and alteration by the Board of Directors, provided that no rights of third persons shall be prejudicially affected thereby.

8.4 Term of Appointment. Each member of a committee shall continue as such until the next annual meeting of the Board of Directors and until his or her successor is appointed, unless the committee shall be sooner terminated, or unless such member shall be removed from such committee, or unless such member shall cease to qualify as a member thereof.

8.5 Chairman. One member of each committee shall be appointed chairman thereof.

8.6 Vacancies. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

8.7 Quorum. Unless otherwise provided in the resolution of the Board of Directors designating a committee, a majority of the whole committee shall constitute a quorum; and the act of a majority of members present at a meeting at which a quorum is present shall be the act of the committee.

8.8 Regular Meetings; Notice and Agenda. Regular meetings of any committee may be held from time to time at such times and at such places as the committee may prescribe. The chairman shall at a minimum provide, or cause to be provided, notice of the date, time and place of each such regular meeting to members of the committee and to the public at the beginning of each calendar year. An agenda, if any, for each such regular meeting shall be posted at the office or meeting place of the corporation at least twenty-four (24) hours prior to such meeting.

8.9 Special Meetings or Rescheduled Meetings; Notice. Special meetings of a committee may be called by or at the request of the chairman of the committee or by any two (2) committee members in office at that time. Regular meetings of a committee may be rescheduled by the committee when required by those circumstances determined in the sole discretion of the committee. The chairman shall at a minimum provide notice of the agenda, date, time and place of each such special or rescheduled meeting to members of the committee and to the public not later than twenty-four (24) hours before such meeting. An agenda, if any, for each such special meeting shall be posted at the office or meeting place of the corporation at least twenty-four (24) hours prior to such meeting.

8.10 Waiver. Attendance by a committee member at a meeting shall constitute waiver of his or her right to notice of such meeting, except where a committee member attends a meeting for the express purpose of objecting to the transaction of business because the meeting is not lawfully called. See also Article V ("Notice and Waiver").

ARTICLE IX Conflicts of Interest

9.1 Purpose. The purpose of this conflicts of interest policy is to protect the corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer, director, Executive Director, committee member or employee of the corporation. This policy is intended to supplement but not replace Sections 33-31-831 and 33-31-832 of the South Carolina Code or other applicable state laws governing conflicts of interest applicable to nonprofit and charitable corporations.

9.2 Definitions.

(a) **Interested Person.** Any director, executive officer, Executive Director, member of a committee or employee of the corporation who has a direct or indirect Financial Interest, as defined below, is an Interested Person.

(b) **Financial Interest.** A person has a Financial Interest if the person has, directly or indirectly, through business, investment, or family:

- (1) an ownership or investment interest in excess of one thousand (\$1,000.00) dollars in any entity with which the corporation has a transaction or arrangement;
- (2) a compensation arrangement in excess of one thousand (\$1,000.00) dollars in any calendar year with the corporation or with any entity or individual with which the corporation has a transaction or arrangement; or
- (3) a potential ownership or investment interest in excess of one thousand (\$1,000.00) dollars in, or compensation arrangement in excess of one thousand (\$1,000.00) dollars in any calendar year with, any entity or individual with which the corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors.

9.3 Procedures.

(a) Duty to Disclose. In connection with any actual or possible conflicts of interest, an Interested Person must disclose the existence of his or her Financial Interest at the next following meeting of the Board of Directors after such Financial Interest arises and must be given the opportunity disclose all material facts to the Board of Directors.

(b) Determining Whether a Conflict of Interest Exists. After disclosure of the Financial Interest and all material facts, and after any discussion with the Interested Person, he or she shall leave the Board of Directors meeting while the determination of a conflict of interest is discussed and voted upon. The Board of Directors shall decide if a conflict of interest exists by majority vote of the disinterested directors.

(c) Procedures for Addressing the Conflict of Interest.

- (1) An Interested Person may make a presentation at a meeting of the Board of Directors, but after such presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement that results in the conflict of interest.
- (2) The chairman of the Board of Directors shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- (3) After exercising due diligence, the Board of Directors shall determine whether the corporation can obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.
- (4) If a more advantageous transaction or arrangement is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board of Directors shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the corporation's best interest and for its own benefit and whether the transaction is fair and reasonable to the corporation and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

(d) Violations of the Conflicts of Interest Policy.

- (1) If the Board of Directors has reasonable cause to believe that an Interested Person has failed to disclose actual or possible conflicts of interest, it shall inform the Interested Person of the basis for such belief and afford the Interested Person an opportunity to explain the alleged failure to disclose.

- (2) If, after hearing the response of the Interested Person and making such further investigation as may be warranted in the circumstances, the Board of Directors determines that the Interested Person has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

9.4. Records of Proceedings. The minutes of the Board of Directors shall contain:

- (a) the names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible conflict of interest, the nature of the Financial Interest, any action taken to determine whether a conflict of interest was present, and the committee's decision as to whether a conflict of interest in fact existed; and
- (b) the names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

9.5 Restrictions on Compensation Matters. A voting member of the Board of Directors or of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the corporation for services is precluded from voting on matters pertaining to that member's compensation.

9.6 Annual Statements. Each Director, officer, Executive Director and member of a committee of the corporation shall annually sign a statement which affirms that such person:

- (a) has received a copy of the Conflicts of Interest Policy;
- (b) has read and understands the policy;
- (c) has agreed to comply with the policy; and
- (d) understands that the corporation is a charitable organization and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

9.7 Periodic Reviews. To ensure that the corporation operates in a manner consistent with its charitable purposes and that it does not engage in activities that could jeopardize its status as an organization exempt from federal income tax, the Board of Directors shall conduct, or cause to be conducted, periodic reviews. The periodic reviews shall, at a minimum, include the following subjects:

- (a) Whether compensation arrangements and benefits are reasonable and are the result of arm's-length bargaining;

- (b) Whether partnership and joint venture arrangements and arrangements with other organizations conform to written policies, are properly recorded, reflect reasonable payments for goods and services, further the corporation's charitable purposes, and do not result in inurement or impermissible private benefit.

9.8 Use of Outside Experts. In conducting the periodic reviews provided for in Section 9.7, the corporation may, but need not, use outside advisors to be chosen by, and in the sole discretion of, the Board of Directors. If outside experts are used, their use shall not relieve the Board of Directors of its responsibility for ensuring that periodic reviews are conducted.

ARTICLE X

Gifts to the Corporation

10.1 Gifts. Donors may make gifts to the corporation by naming or otherwise identifying the corporation, whether or not a trustee, custodian, or agent is designated to receive or have custody of the property contributed. Gifts shall vest in the corporation upon receipt and acceptance by it (whether signified by an officer, employee, or agent of the corporation).

10.2 Donor's Restriction. Any donor may, with respect to a gift made by such donor to the corporation, give directions in the instrument of gift or transfer.

10.3 Presumption of Charitable Intent. The funds of the corporation shall be presumed to be intended (a) to be used only for charitable purposes, and (b) to be used only for such of those purposes and in such manner as not to disqualify the gift from deduction as a charitable contribution, gift, or bequest in computing any federal income, gift, or estate tax of the donor or his or her estate and not to disqualify the corporation from exemption from federal income tax as a qualified charitable organization described in sections 501(c)(3) and 509(a)(1) of the Internal Revenue Code, and shall not be otherwise applied. If a direction by the donor, however expressed, would, if followed, result in use contrary to the intent so presumed, or if the Board of Directors is advised by counsel that there is substantial risk of such result, the directions shall not be followed, but shall be varied by the Board of Directors so far as necessary to avoid such result. However, if the donor has clearly stated that compliance with the direction is a condition of the gift, then the gift shall not be accepted unless an appropriate judicial or administrative body first determines that the condition and direction need not be followed. Reasonable charges and expenses of counsel for such advice and proceedings shall be proper expenses.

10.4 Power of Modification. Notwithstanding any provision in these bylaws or in any instrument of transfer creating or adding to a fund of this corporation, and in accordance with the articles of incorporation of this corporation, the Board of Directors shall have the power to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specific organizations, if in the sole judgment of the Board of Directors (without the necessity of the approval of any participating trustee, custodian, or agent), such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment, or inconsistent with the charitable purposes of the corporation. The Board of Directors shall exercise this power by the affirmative vote of a majority of all the directors then in office.

ARTICLE XI Distributions and Disbursements

11.1 Distributions and Disbursements. In furtherance of the charitable purposes and functions of the corporation, when needs therefor have been determined and with appropriate provisions to assure use solely for such purposes, the Board of Directors may direct distributions to such persons, organizations, governments, or governmental agencies as in the opinion of the Board of Directors can best carry out such purposes and functions or help create new qualified charitable organizations to carry out such purposes and functions.

ARTICLE XII Contracts, Checks, Deposits, Gifts, and Reimbursements and Advances

12.1 Contracts. The Board of Directors may authorize any officer or officers, agent or agents of the corporation, in addition to the officers so authorized by these bylaws, to enter into any contracts or execute and deliver any instrument in the name and on behalf of the corporation. Such authority must be in writing and may be general or confined to specific instances.

12.2 Checks, Drafts, Notes, Etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation shall be signed by such officer or officers, agent or agents, of the corporation and in such other manner as stated in Article VI or Section 7.1 of these bylaws.

12.3 Deposits. All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board of Directors may select.

12.4 Gifts. The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest, or subscription for the general purposes or for any special purpose of the corporation.

12.5 Reimbursements and Advances. Directors, executive officers, employees, and agents of the corporation may obtain reimbursement or advancements from the corporation for reasonable expenses incurred in the course of carrying out their duties to the corporation consistent with the corporation's policies and procedures as amended from time to time by the Board of Directors.

ARTICLE XIII
Indemnification and Insurance

13.1 Indemnification. In the event that any person who was or is a party to or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, seeks indemnification from the corporation against expenses, including attorneys' fees (and in the case of actions other than those by or in the right of the corporation, judgments, fines and amounts paid in settlement), actually and reasonably incurred by him or her in connection with such action, suit, or proceeding by reason of the fact that such person is or was a trustee, officer, employee, director, or agent of the corporation, or is or was serving at the request of the corporation as a trustee, officer, employee, director, or agent of another corporation domestic or foreign, nonprofit or for profit, partnership, joint venture, trust, or other enterprise, then, unless such indemnification is ordered by a court, the corporation shall determine, or cause to be determined, in the manner provided under South Carolina law whether or not indemnification is proper under the circumstances because the person claiming such indemnification has met the applicable standards of conduct set forth in South Carolina law, and, to the extent it is so determined that such indemnification is proper, the person claiming such indemnification shall be indemnified to the fullest extent now or hereafter permitted by South Carolina law.

13.2 Indemnification Not Exclusive of Other Rights. The indemnification provided in Section 13.1 above shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under the articles of incorporation or bylaws, or any agreement, vote of members or disinterested directors, or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a trustee, officer, employee, director, or agent, and shall inure to the benefit of the heirs, executors, and administrators of such a person.

13.3 Insurance. To the extent permitted by South Carolina law, the corporation may purchase and maintain insurance on behalf of any person who is or was a trustee, officer, employee, director, or agent of the corporation, or is or was serving at the request of the corporation as a trustee, officer, employee, director, or agent of another corporation, domestic or foreign, nonprofit or for profit, partnership, joint venture, trust or other enterprise.

ARTICLE XIV
Miscellaneous

14.1 Books and Records. The corporation shall keep correct and complete books, financial records and records of account and shall also keep minutes of the proceedings of its Board of Directors and committees. The corporation shall keep at its registered or principal office a record giving the names and addresses of the directors and any other information required under South Carolina law.

14.2 Corporate Seal. The corporate seal (of which there may be one or more exemplars) shall be in such form as the Board of Directors, may from time to time determine.

14.3 Fiscal Year. The Board of Directors is authorized to fix the fiscal year of the corporation and to change the same from time to time as it deems appropriate.

14.4 Internal Revenue Code. All references in these bylaws to sections of the Internal Revenue Code shall be considered references to the Internal Revenue Code of 1986, as from time to time amended, to the corresponding provisions of any applicable future United States Internal Revenue Law, and to all regulations issued under such sections and provisions.

14.5 Construction. Whenever the context so requires, the masculine shall include the feminine and neuter, and the singular shall include the plural, and conversely. If any portion of these bylaws shall be invalid or inoperative, then, so far as is reasonable and possible:

- (a) The remainder of these bylaws shall be considered valid and operative; and
- (b) Effect shall be given to the intent manifested by the portion held invalid or inoperative.

14.6 Table of Contents; Headings. The table of contents and headings are for organization, convenience and clarity. In interpreting these bylaws, they shall be subordinated in importance to the other written material.

14.7 Relation to Articles of Incorporation. These bylaws are subject to, and governed by, the articles of incorporation.

ARTICLE XV Amendments

15.1 Power to Amend Bylaws. The Board of Directors shall have the power to alter, amend, or repeal these bylaws or adopt new bylaws. All changes will take effect only upon review and approval from Town Council.

15.2 Conditions. Action by the Board of Directors with respect to altering, amending or repealing these bylaws shall be taken by the affirmative vote of at least two-thirds of all directors then holding office.

ARTICLE XVI Tax-Exempt Status

16.1 Tax-Exempt Status. The affairs of the corporation at all times shall be conducted in such a manner as to assure its status as a "publicly supported" organization as defined in section 509(a)(1) or section 509(a)(2) or section 509(a)(3) of the Internal Revenue Code, and so in other ways to qualify for exemption from tax pursuant to section 501(c)(3) of the Internal Revenue Code.

HILTON HEAD ISLAND
ECONOMIC DEVELOPMENT CORPORATION

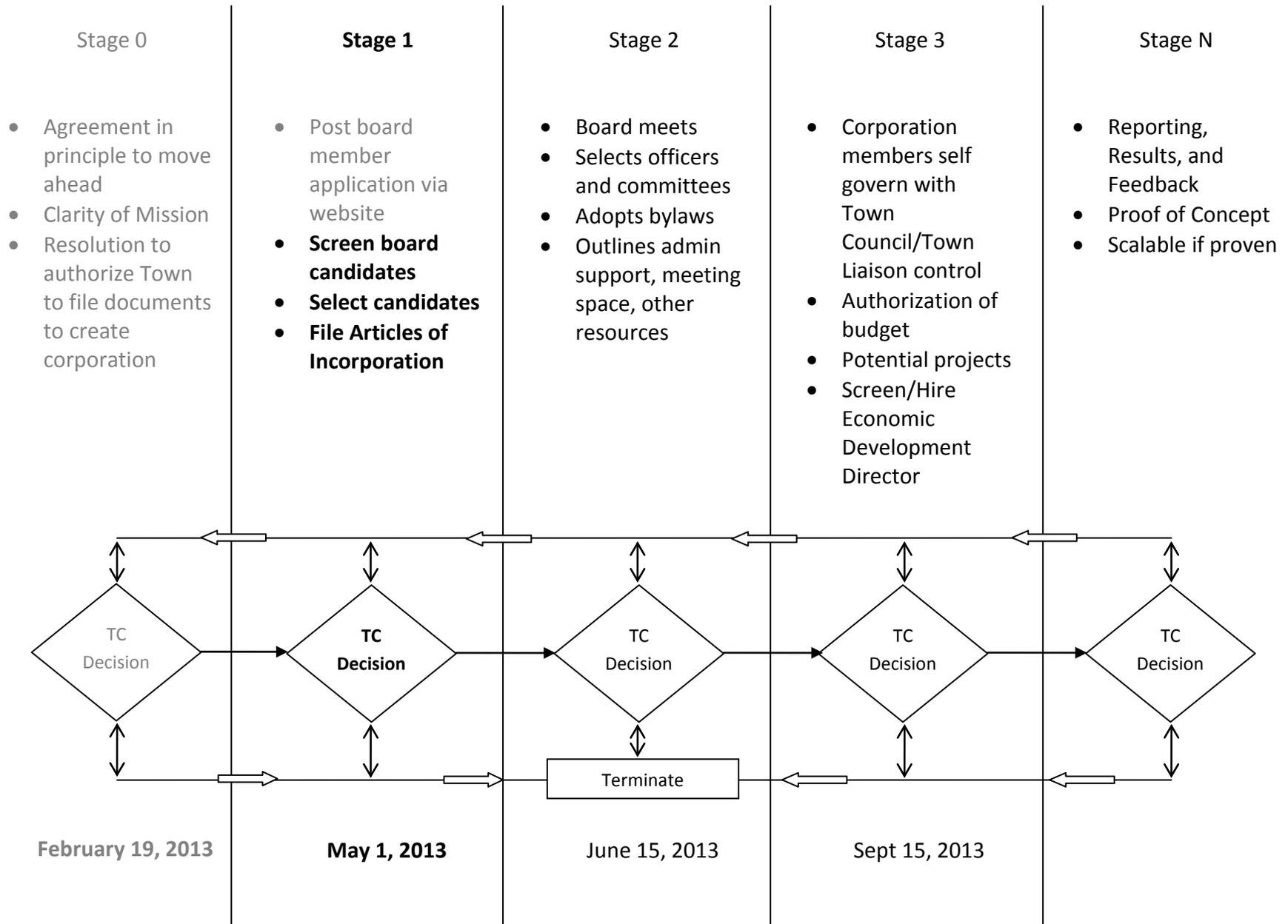
ATTEST:

By: _____
Chairman

Secretary

[CORPORATE SEAL]

Exhibit B: Stage Gate Process for Economic Development Corporation Implementation



Town Council maintains control over each stage of the process. Town Council may authorize to proceed to the next stage, return to a previous stage or terminate completely.



MEMORANDUM

TO: Town Council

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

VIA: Susan M. Simmons, CPA, Director of Finance

DATE: April 11, 2013

RE: **First Reading of Proposed Ordinance No. 2013-02
General Obligation Bond Ordinance for \$9,000,000**

Recommendation:

Town Council approves first reading of Proposed Ordinance No. 2013-02 which establishes authority for issuing not to exceed \$9,000,000 in general obligation (GO) debt which will be repaid and pledged from ad valorem taxes. This ordinance also declares a reimbursement resolution for the \$5,000,000 portion which represents the balance of the November 4, 2008 referendum bonds. Finally, it adopts post-issuance tax compliance written procedures related to tax-exempt debt as required by the Internal Revenue Code.

Summary:

The Town's tentative plans are to competitively sell the bonds on May 29, 2013 and close them on June 12, 2013.

With the \$9,000,000 bond issue, the Town plans the following uses.

- **\$5,000,000** – Planter's Row Golf Course (GO Referendum Bonds)
- **\$2,500,000** – 58 Shelter Cove purchase of land/building and related upfits for Sheriff's Office and SHARE
- **\$1,200,000** – Sewer projects included in FY2013 budget from new GO Bond issue
- **\$300,000** – Costs of issuance and other eligible costs

Background:

GO Bonds Subject to the 8% Legal Debt Margin. In 2012, the Town purchased land and building at 58 Shelter Cove for the primary purposes of the Beaufort County Sheriff's Office and SHARE (the senior center for the Island Recreation Association). The Town also budgeted funds to upfit the buildings for these uses. Additionally, the Town budgeted \$1.2 million for sewer projects to be funded from a new GO bond.

In previous actions, Town Council adopted a reimbursement resolution for 58 Shelter Cove and amended it for the sewer projects for a total reimbursement resolution of

\$3,750,000. Costs incurred to date will be reimbursed from the bond proceeds when they are received in June.

Therefore, the Town plans to issue \$4,000,000 of GO bonds applicable to the 8% legal debt margin for the Capital Projects.

GO Referendum Bonds. In a referendum on November 4, 2008, the Town's voters approved up to \$17 million for the public purpose of purchasing developed and undeveloped land, development rights and conservation easements in order to manage growth and development, mitigate traffic congestion, protect water quality and other aspects of the environment, establish active and passive parks, construct public facilities, and preserve historic sites.

The Town issued \$12,000,000 bonds from this referendum on February 3, 2010. Council has been advised that the remaining \$5,000,000 in approved referendum bonds have to be issued prior to November 4, 2013. The balance of the 2010 referendum bond proceeds is not sufficient to pay for the upcoming land acquisition projects including the Planter's Row Golf Course.

Therefore, the Town plans to issue the remaining \$5,000,000 from the 2008 referendum for the Referendum Projects.

Reimbursement Resolution on GO Referendum Bonds. The proposed ordinance includes SECTION 20. Declaration of Intent to Reimburse Certain Expenditures which consolidates the authority for the bond issue with the reimbursement resolution for the \$5,000,000 of Referendum Projects. A separate reimbursement resolution is not required.

Post-issuance tax compliance written procedures related to tax-exempt debt. The Internal Revenue Code and related regulations impose certain requirements on tax-exempt bonds, including but not limited to, restrictions on use of bond proceeds and bond-financed property, arbitrage yield restrictions, and arbitrage rebate requirements. These requirements are generally applicable throughout the life of the bonds.

Form 8038-G, Information Return for Tax Exempt Governmental Obligations requires the issuer to represent whether it established written procedures to monitor the requirements of Code Section 148, including, but not limited to, arbitrage rebate and arbitrage yield restriction requirements; and ensure any nonqualified bonds are remediated.

The Town has been advised by bond counsel that additional procedures are recommended in order for the Town to document compliance with the applicable federal tax requirements.

With adoption of this ordinance, Council approves these written procedures collectively referred to as post-issuance tax compliance. Procedures are labeled Exhibit D in the ordinance.

Conclusion. The combined issue from both referendum and 8% legal debt margin is \$9,000,000. The Town will not change its Debt Service Fund millage rate. The current millage is adequate to support the new bonds because some of the Town's prior GO bond issues have or will reach final maturity in the next couple of years and the Town increased its rate by 1 mil when it passed the \$17 million referendum in 2008.

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$9,000,000 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; TO ADOPT WRITTEN PROCEDURES RELATED TO TAX-EXEMPT DEBT; OTHER MATTERS RELATING THERETO; AND PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE .

WHEREAS, the Town Council has been advised that the remaining \$5,000,000 in approved referendum bonds, the proceeds of which must be used for the land acquisition projects approved in the November 4, 2008, referendum, have to be issued prior to November 4, 2013; and

WHEREAS, the Town Council has identified land acquisition projects including but not limited to the Planter’s Row Golf Course (the “Referendum Projects”) to be funded with the November 4, 2008 referendum bond proceeds; and

WHEREAS, the Town Council has been advised that due to the current market rates, it would be in the Town’s best interest to issue general obligation bonds for other capital improvements including but not limited to purchasing and equipping a new Sheriff’s Office and SHARE Center and making upgrades to the sewer systems in the Town (the “Capital Projects”); and

WHEREAS, the Town Council has previously adopted a Reimbursement Resolution for the Capital Projects and has expended funds which will be reimbursed with a portion of the proceeds of the Bonds.

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

SECTION 1. Findings and Determinations. The Town Council (the “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 and laws of the State of South Carolina (the “State”).

(b) Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (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, 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) In a successful referendum (the “Referendum”) held in the Town on November 4, 2008, the following question was submitted to the qualified electors of the Town:

Shall the Town of Hilton Head Island, South Carolina, be authorized to issue general obligation bonds in an amount not to exceed the sum of Seventeen Million and 00/100 Dollars (\$17,000,000) for the public purpose of purchasing developed and undeveloped land, development rights and conservation easements in order to manage growth and development, mitigate traffic congestion, protect water quality and other aspects of the environment, establish active and passive parks, construct public facilities, and preserve historic sites?

(f) The assessed value of all the taxable property in the Town as of December 31, 2011, for purposes of computation of the Town’s constitutional debt limit, is \$927,151,628. Eight percent of such sum is \$74,172,130. 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 \$4,870,000. Thus, the Town may incur not exceeding \$69,302,130 of additional general obligation debt within its applicable debt limitation.

(g) Town Council has been advised by Bond Counsel that a best practice related to the issuance of tax-exempt debt is for each issuer to have 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 exceeding \$9,000,000 aggregate principal amount general obligation bonds of the Town to provide funds for the purposes of (i) funding the remaining projects approved in the 2008 Referendum (the “Referendum Projects”); (ii) funding other capital improvements including but not limited to purchasing and equipping a new Sheriff’s Office and SHARE Center and making upgrades to the sewer systems in the Town (the “Capital Projects”), together with the Referendum Projects, 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 of South Carolina and the successful results of the Referendum, there is hereby authorized to be issued not exceeding \$9,000,000 general obligation bonds of the Town (the “Bonds”) for the purposes listed in Section 1(h) 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.

Wells Fargo Bank, N.A. shall serve as Registrar/Paying Agent for the Bonds.

SECTION 3. Delegation of Authority to Determine Certain Matters Relating to the Bonds. The Council hereby delegates to the Town Manager or his lawfully-authorized designee the authority to determine (a) the maturity dates of the Bonds and the respective principal amounts maturing on such dates; (b) the interest payment dates of the Bonds; (c) redemption provisions, if any, for the Bonds; (d) the date and time of sale of the Bonds, including whether or not the Bonds will be sold on the same date as one or two series or on separate dates as separate series, and such other details of the transaction which will provide for an orderly process of sale and closing of the bond issue.

The Council hereby delegates to the Town Manager or his lawfully authorized designee the authority to receive bids on behalf of the 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 4.25%. After the sale of the Bonds, the Town Manager or his lawfully authorized designee shall submit a written report to the 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 Clerk of the Town under a 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. 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.

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, 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.

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.

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 Code of Laws of South Carolina, 1976, as amended, 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 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 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 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, South Carolina Code of Laws 1976, 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 Securities and Exchange Commission Rule 15c2-12 (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 and the accrued interest, if any, shall be used to discharge in part the first interest to become due on 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 Code and regulations promulgated thereunder 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. Written Procedures Related to Tax-Exempt Debt. The Town Council hereby approves the Written Procedures Related to Tax-Exempt Debt attached hereto as Exhibit D.

SECTION 20. 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 IRC) 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 IRC. 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 21. Written Procedures Related to Tax-Exempt Debt. The Board hereby approves the Written Procedures Related to Tax-Exempt Debt attached hereto as Exhibit D.

SECTION 22. Miscellaneous. The Council hereby authorizes the Mayor and Clerk of the Town, 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 Council hereby retains the law firm of McNair Law Firm, P.A. as bond counsel and Merchant Capital, LLC, 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 23. 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 24. Codification. This Ordinance shall be forthwith codified in the Code of Town Ordinances in the manner required by law.

SECTION 25. Effective Date. This Ordinance shall be effective upon its enactment by the Council of the Town of Hilton Head Island, South Carolina.

**PASSED, APPROVED, AND ADOPTED BY THE COUNCIL FOR THE TOWN OF HILTON
HEAD ISLAND, SOUTH CAROLINA ON THIS ____ DAY OF _____, 2013.**

Drew A. Laughlin, Mayor

ATTEST:

Esther Coulson, Town Clerk

APPROVED AS TO FORM:

Mitchell J. Thoreson, Alford Law Firm, LLC, 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 Wells Fargo Bank, N.A., in Atlanta, Georgia (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, 2013, 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 Wells Fargo Bank, N.A., in Atlanta, Georgia (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, the favorable results of a referendum held in the Town on November 4, 2008, and Ordinance No. _____ duly enacted by the 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, 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 of South Carolina 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 of South Carolina; 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 Clerk of the Town and the seal of the Town impressed, imprinted or reproduced hereon.

This bond is dated as of ____ day of _____, 2013.

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

(Authorized Officer)

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

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 Clerk of the Town 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.

OF HILTON HEAD ISLAND, THE TOWN
CAROLINA SOUTH

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 (the "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 _____, 2013, 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.

Facsimile Bids: The Town will accept the facsimile transmission of a manually signed Official Bid Form at the risk of the Bidder. The Town shall not be responsible for the confidentiality of bids submitted by facsimile transmission. Any delay in receipt of a facsimile bid, and any incompleteness or illegible portions of such bid are the responsibility of the bidder. Bids by facsimile should be transmitted to the attention of Steve Riley, Town Manager, fax number (843) 842-7728.

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, BY MAIL, BY FACSIMILE TRANSMISSION 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, 2013 and will mature serially in successive annual installments on _____ 1 in each of the years and in the principal amounts as follows:

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 to provide for the prompt payment thereof. 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 _____, 20____, 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.

For the purpose of calculating the yield on the Bonds for federal tax purposes as a condition precedent to the award of the Bonds, the successful bidder will, within 30 minutes after being notified of its winning bid, advise the Town by telephone confirmed by facsimile transmission of the initial offering prices of the Bonds to the public (expressed as a price, exclusive of accrued interest, or yield per maturity).

Additional Information: Persons seeking information should communicate with the Town's Bond Counsel, Francenia B. Heizer, Esquire, McNair Law Firm, P.A., Post Office Box 11390, Columbia, South Carolina, 29211 (803) 799-9800, fheizer@mcnair.net; the Town's Financial Advisor, Brenton J. Robertson, Esquire, Merchant Capital, L.L.C., One Buckhead Plaza Suite 1700, 3060 Peachtree Road, NW Atlanta, Georgia 30305 (404) 202-1415 brent.robertson@merchantcapital.com; or the Town's Director of Finance, Susan M. Simmons, CPA, Town of Hilton Head Island, South Carolina 29928 (843) 341-4645, susans@hiltonheadislandsc.gov.

/s/Mayor, 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 2014, 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:

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

(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: _____

Mayor

Dated: _____, 2013

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

TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

WRITTEN PROCEDURES
Related to Tax-Exempt Debt

The Internal Revenue Code of 1986, as amended (the “Code”) and the regulations promulgated thereunder (the “Regulations”) impose certain requirements on tax-exempt bonds, including but not limited to, restrictions on the use of bond proceeds and bond-financed property, arbitrage yield restrictions, and the arbitrage rebate requirement. These requirements are generally applicable throughout the period that the bonds remain outstanding.

The September 2011 revision to the Form 8038-G, Information Return for Tax Exempt Governmental Obligations (“Form 8038-G”) requires the issuer to represent whether it has established written procedures to (a) monitor the requirements of Section 148 of the Code, including, but not limited to, the arbitrage rebate and arbitrage yield restriction requirements; and (b) ensure that any nonqualified bonds (within the meaning of Section 1.148-12(j) of the Regulations) are remediated in accordance with the Code and the Regulations.

In addition to the above-described Form 8038-G representations, the Town of Hilton Head Island, South Carolina (the “Town”) has been advised that additional procedures are recommended in order for the Town to document compliance with the applicable federal tax requirements. Actions pursuant to these procedures (collectively referred to as post-issuance tax compliance) are intended to assist the Town in documenting compliance with the applicable federal tax requirements. Post-issuance tax compliance begins with the debt issuance process itself and includes a continuing focus on investments of bond proceeds and use of bond-financed property. Post issuance tax compliance requires identifying the responsible people and the applicable procedures.

References herein to a “bond” or to “bonds” shall apply to all forms of tax-exempt obligations including, but not limited to, lease/purchase agreements, bond anticipation notes, and tax anticipation notes.

Procedures

The Town’s Director of Finance (“CFO”) is designated as being responsible for post-issuance tax compliance. The CFO may delegate to other Finance staff or contract with independent contractors (such as an arbitrage/rebate consultant or a consulting engineer) responsibility for different aspects of post-issuance tax compliance. For example, coordinating and documenting the expenditure of bond proceeds on projects may be delegated to the consulting engineer. However, the CFO will be ultimately responsible for implementing the procedures described herein.

The Town recognizes that that the Town has issued tax-exempt debt prior to the adoption of these procedures. With respect to this prior issued debt, the CFO will take reasonable steps to collect and maintain appropriate documentation of compliance with these procedures. However, the Town recognizes that such documentation may not exist with respect to some of the items enumerated in these procedures.

Issuance – The CFO will:

- (a) Confirm the filing of the Form 8038 or Form 8038-G (or applicable successor form) with Internal Revenue Service (“IRS”). Filing of the applicable Form 8038 is usually overseen by bond counsel at or soon after the closing of a bond issue.
- (b) Obtain and store the Transcript of Proceedings prepared by bond counsel (which typically includes the applicable Form 8038 and the Federal Tax Certificate containing the Town’s expectations as of the date of issuance of the bond issue).

Recordkeeping – The CFO will:

- (a) Establish a plan for keeping relevant books and records as to the investment and the expenditure of bond proceeds.
- (b) Keep accurate records including:
 - Basic records relating to the bond transactions (including the trust indenture, loan agreements, and bond counsel opinion; see Transcript of Proceeding, above);
 - Documentation evidencing the expenditure of bond proceeds;
 - Documentation evidencing use of bond-financed property by public and private users (i.e., copies of management contracts, material power purchase contracts);
 - Documentation evidencing all sources of payment or security for the bonds; and
 - Documentation pertaining to any investment of bond proceeds (including the purchase and sale of securities, SLGS subscriptions, yield calculations for each class of investments, actual investment income received from the investment of proceeds, guaranteed investment contracts, and rebate calculations).
- (c) Keep all records in a manner that ensures their complete access to the IRS so long as they are material. While this is typically accomplished through the maintenance of hard copies, records may be kept in an electronic format if certain requirements are satisfied, in accordance with the guidelines in Revenue Procedure 97-22, 1997-1 C.B. 652.
- (d) Keep the relevant records for each issue of bonds for as long as such issue of bonds is outstanding (including any bonds issued to refund such issue of bonds) plus three years after the final redemption date of the bonds.

Arbitrage Rebate and Arbitrage Yield Restriction – The CFO will:

- (a) Engage the services of an arbitrage/rebate consultant for assistance in compliance with arbitrage related issues. As of the date of the adoption of these procedures, the Town has retained AMTEC Compliance as its arbitrage/rebate consultant.
- (b) Work with the Town’s bond counsel, financial advisor and/or arbitrage/rebate consultant to monitor compliance with “temporary period exceptions” for expenditure of bond proceeds, typically three years for new money bonds, and provide for yield restriction of investments or “yield reduction payments” if exceptions are not satisfied.
- (c) Work with the Town’s bond counsel and financial advisor to ensure investments acquired with bond proceeds are purchased at fair market value. This may include use of bidding procedures under the regulatory safe harbor (Section 1.148-5(d) of the Regulations).

- (d) Consult with the Town's bond counsel prior to the creation of funds which would reasonably be expected to be used to pay debt service on tax-exempt bonds to determine in advance whether such funds must be invested at a restricted yield (i.e., yield restricted).
- (e) Consult with the Town's bond counsel and financial advisor before engaging in post-issuance credit enhancement transactions (e.g., bond insurance, letter of credit) or hedging transactions (e.g., interest rate swap, cap).
- (f) Consult with the Town's bond counsel, financial advisor, and/or arbitrage/rebate consultant to identify situations in which compliance with applicable yield restrictions depends upon subsequent investments (e.g., purchase of 0% SLGS from U.S. Treasury) and monitor implementation.
- (g) Work with the Town's arbitrage/rebate consultant to arrange for timely computation of rebate/yield reduction payment liability and, if an amount is payable, for timely filing of Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate (or applicable successor form), and payment of such liability. Rebate/Yield Reduction payments are ordinarily due at 5-year intervals.

Private Use of Bond-Financed Facilities - The CFO will:

- (a) Create and maintain records of which proceeds of bond issues were used to finance which facilities. These records shall incorporate the refunding or partial refunding of any bond issues.
- (b) Record the allocation of bond proceeds to expenditures, including reimbursements. These records will be consistent with the expenditures used for arbitrage purposes.
- (c) Record the allocation of bond proceeds and funds from other sources in connection with any bond funded project. Review expenditure of bond proceeds with bond counsel and/or consulting engineer to ensure bond proceeds are used for qualifying costs.
- (d) Review with bond counsel prior to the sale or lease of a bond-financed facility, or the granting of a license or management contract, or any other arrangement allowing private use of a bond financed facility, the terms of such arrangement.
- (e) Keep records of private use, if any, of bond-financed facilities to monitor the amount of private use of bond-financed facilities. Relevant to the Town, private use generally includes: use of the proceeds of bonds or bond-financed facilities in any activity by a person or organization that is not (a) a state or local government; or (b) a natural person. Notwithstanding the preceding sentence, private business use generally does not include: (a) use as a member of the general public pursuant to arrangements with a term of less than 200 days; and (b) use by a nongovernmental person pursuant to an arrangement with a term of less than 50 days that is a result of arms-length negotiations and compensation payable under the arrangement is not less than fair market value.
- (f) Private use of bond-financed facilities shall be reviewed once a year (in connection with the preparation of the annual financial statements). If private use occurs, bond counsel will be consulted to determine if remedial action is necessary (including but not included to, the remediation of all non-qualified bonds in accordance with Section 1.14-12 of the Regulations).

Reissuance – The CFO will:

- (a) Consult with bond counsel to identify any post-issuance modification to the terms of bonds which could be treated as a current refunding of “old” bonds by “new” bonds, often referred to as a “reissuance.”
- (b) Consult with bond counsel to determine whether any “remedial action” (see item (f) under “Private Use of Bond-Financed Facilities” above) in connection with private use must be treated as a “reissuance.”

TOWN OF HILTON HEAD ISLAND

Community Development Department

TO:	Town Council, Town Manager Steve Riley
FROM:	Jill Foster, Deputy Director
CC:	Charles Cousins, Director
DATE	April 9, 2013
SUBJECT:	Revised Resolution Creating Metropolitan Planning Organization Policy Board

Recommendation: Approve this Resolution which replaces the LRTA Executive Director with its Chairman as a voting member of the LATS Policy Board.

Summary: At their April 5, 2013 meeting, the LATS Policy Board approved their By-Laws which indicated the LRTA Board Chairman is a voting member of their Policy Board and the LRTA Executive Director is a voting member of their Technical Committee. Previous Resolution 2012-20 (see Exhibit A), approved by Town Council on August 7, 2012, indicated the LRTA Executive Director should be an ex-officio, non-voting member of the Policy Board. This change to the Policy Board membership requires Town Council to revise and re-adopt their Resolution.

Background: With the 2010 census results, the Bureau of the Census designated the Town of Hilton Head Island, the Town of Bluffton, and portions of southern Beaufort County to be in an 'Urbanized Area' because their combined population (68,998) is now over 50,000. This required the creation of a Metropolitan Planning Organization (MPO) to carry out a transportation planning process on a regional basis. The municipalities of Beaufort, Port Royal, Hardeeville, Bluffton, and Hilton Head Island, and both Jasper and Beaufort County were asked to join the new MPO. All governmental agencies approved a resolution defining the MPO boundaries, identifying Policy Board membership, designating a portion of local matching funds, delegating the lead agency to LCOG, and naming the organization as the Lowcountry Area Transportation Study (LATS).

In February 2013, the Governor officially created LATS as the newest of 11 MPOs in South Carolina. Meetings with the Policy Board have occurred in the past few months to review and approve By-Laws, establish the Technical Committee, and begin the process of hiring a consulting firm to draft the transportation plans and programs required by Federal law.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND RE-ADOPTING AND AMENDING A PREVIOUSLY-ADOPTED RESOLUTION DATED AUGUST 7, 2012, "TO ADOPT GEOGRAPHICAL BOUNDARIES FOR A BEAUFORT COUNTY AND JASPER COUNTY METROPOLITAN PLANNING AREA AND TO CREATE A METROPOLITAN PLANNING ORGANIZATION."

WHEREAS, the Town Council of the Town of Hilton Head Island previously adopted on August 7, 2012, a Resolution (attached as Exhibit "A") providing for the approval of a Metropolitan Planning Organization Geographical Boundaries and membership of a LATS Policy Board; and

WHEREAS, Town Council now desires to re-adopt Exhibit "A" and to amend Exhibit "A" by changing the Policy Board to consist of the following voting members:

- Town of Hilton Head Island Mayor or designee (1)
- Town of Bluffton Mayor or designee (1)
- Town of Port Royal Mayor or designee (1)
- City of Beaufort Mayor or designee (1)
- City of Hardeeville Mayor or designee (1)
- Beaufort County Council Chairman or designee (1)
- Jasper County Council Chairman or designee (1)
- Beaufort County Legislative Delegation Representative (1)
- Jasper County Legislative Delegation Representative (1)
- SC Transportation Commissioners within MPA (3)
- LRTA Board Chairman or designee (1)

and the following ex-officio, non-voting member:
SCDOT staff (1)

NOW, THEREFORE BE IT, AND IT HEREBY IS RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, THAT Town Council hereby amends the membership of the LATS Policy Board to include the LRTA Board Chairman or designee as a voting member.

MOVED, APPROVED, AND ADOPTED ON THIS _____ DAY OF _____, 2013.

Drew A. Laughlin, Mayor

ATTEST:

Esther Coulson, Town Clerk

APPROVED AS TO FORM:

Mitchell J. Thoreson, Alford Law Firm, LLC, Town Attorney

Introduced by Council Member: _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF HILTON HEAD ISLAND TO ADOPT GEOGRAPHICAL BOUNDARIES FOR A BEAUFORT COUNTY AND JASPER COUNTY METROPOLITAN PLANNING AREA AND TO CREATE A METROPOLITAN PLANNING ORGANIZATION

WHEREAS, in March 2012, the Bureau of the Census defined a new Urbanized Area, based on the 2010 Census, when the combined population of the Town of Hilton Head Island, the Town of Bluffton, and parts of unincorporated Beaufort County reached over 50,000; and

WHEREAS, 23 CFR Section 450.310(a) requires that a Metropolitan Planning Organization (MPO) be designated for each Urbanized Area with a population of more than 50,000 individuals as determined by the Bureau of the Census; and

WHEREAS, the purpose of the MPO is to carry out a continuing, cooperative, and comprehensive multimodal transportation planning process, including the development of a metropolitan transportation plan and a transportation improvement program that encourages and promotes the safe and efficient development, management, and operation of surface transportation systems to serve the mobility needs of people and freight (including accessible pedestrian walkways and bicycle transportation facilities) and foster economic growth and development, while minimizing transportation-related fuel consumption and air pollution; and

WHEREAS, the MPO is a policy board of the organization created and designated to carry out the metropolitan transportation planning process and act as the forum for cooperative decision making by the principal elected officials of the units of general purpose local government; and

WHEREAS, this Policy Board shall be governed by its own bylaws and shall consist of the following voting members:

Town of Hilton Head Island Mayor or designee	(1)
Town of Bluffton Mayor or designee	(1)
Town of Port Royal Mayor or designee	(1)
City of Beaufort Mayor or designee	(1)
City of Hardeeville Mayor or designee	(1)
Beaufort County Council Chairman or designee	(1)
Jasper County Council Chairman or designee	(1)
Beaufort County Legislative Delegation Representative	(1)
Jasper County Legislative Delegation Representative	(1)
SC Transportation Commissioners within MPA	(3)

and the following ex-officio, non-voting members:

LRTA Executive Director or designee	(1)
SCDOT staff	(1)

WHEREAS, funds are provided by the Federal government through the State to accomplish required activities of the MPO; and

WHEREAS, the MPO designation shall be made by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population; and

WHEREAS, the Metropolitan Planning Area (MPA) boundaries in which the metropolitan transportation planning process is carried out by the MPO shall encompass the entire existing Urbanized Area plus the contiguous area expected to become urbanized within a 20 year forecast period for the metropolitan transportation plan. This area will include all or some portion of the above-referenced governmental entities; and

WHEREAS, the MPA boundaries may be established to coincide with the geography of regional economic development and growth forecasting areas; and

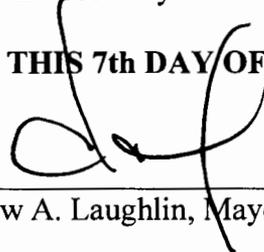
WHEREAS, Lowcountry Council of Governments (LCOG) has traditionally coordinated transportation planning and federal transportation fund distribution in a multi-county area; and

WHEREAS, LCOG should retain the role of coordinating transportation planning and federal fund distribution to the designated multi-county area by becoming the fiscal agent and lead agency for coordination of the MPO, with assistance from the participating governments and public transit organization.

NOW, THEREFORE BE IT, AND IT HEREBY IS RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, THAT Council approves and agrees as follows:

1. The MPA boundaries as designated on the Attachment, subject to final "smoothing" of the area perimeter; and
2. The creation of the MPO, with Policy Board as constituted above; and
3. To be a member of and participate in the activities of the MPO; and
4. To contribute a portion of the local matching funds required to establish and operate the MPO, equal to its per capita share of the MPA's current population; and
5. The designation of Lowcountry Council of Governments as fiscal agent and entity leading and coordinating the MPO; and
6. The name of the MPO shall be the Lowcountry Area Transportation Study.

MOVED, APPROVED, AND ADOPTED ON THIS 7th DAY OF August, 2012.



Drew A. Laughlin, Mayor

ATTEST:



Victoria L. Pfannenschmidt, Acting Town Clerk

APPROVED AS TO FORM:



Gregory M. Alford, Town Attorney

Introduced by Council Member: KENNETH S. HEITZKE

MEMORANDUM

TO: Town Council

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

FROM: Jill Foster, Deputy Director of Community Development

RE: Proposed Metropolitan Planning Area Boundaries and creation of a Metropolitan Planning Organization

CC: Charles Cousins, Scott Liggett, Darrin Shoemaker

DATE: July 20, 2012

Recommendation: That the Council adopt Metropolitan Planning Area (MPA) boundaries; create a Metropolitan Planning Organization (MPO) and policy board; and designate the Lowcountry Council of Governments (LCOG) as the lead agency to coordinate the MPO.

- *MPA Boundaries:* See attached Map.
- *Lead Agency:* It is recommended that the Lowcountry Council of Governments take the lead in operating the MPO. This agency currently oversees transportation planning on a regional basis and also receives federal funding for the rural part of the region. Staffing for this organization would be headed by LCOG, with assistance from various other governmental staff, as per a written agreement.
- *MPO Policy Board:* See attached Resolution. 23 USC 134 requires the following membership:
 - *Local elected officials.*
 - *Officials of public agencies that operate major modes of transportation in the metropolitan area.*
 - *Appropriate state officials.*

Summary: A Metropolitan Planning Organization is a transportation policy-making organization made up of representatives from local government and transportation authorities. MPOs were created in order to ensure that existing and future expenditures for transportation projects and programs were based on a comprehensive, cooperative, and continuing (3-C) planning process. The role of the MPO includes: establishing a local forum for transportation decision making; evaluating transportation alternatives; developing and updating a long-range transportation plan; developing a Transportation Improvement Program (TIP); and getting the public involved. Each MPO long range plan and TIP is encompassed into the State's plans and programs. Funds from the Federal Highway Administration are distributed to the State and then to MPOs for these transportation projects.

MPA Boundary Justification:

- Boundaries are outlined on the attached map and include the required Urbanized Area (UZA) of Hilton Head Island, Bluffton, and portions of southern Beaufort County.
- The area also includes those areas expected to urbanize within the next 20 years which coincide with the geography of regional economic development and growth forecasting areas (Hardeeville, portions of Jasper County, Beaufort, Port Royal, and portions of northern Beaufort County).
- Cooperative transportation planning would be provided comprehensively and regionally instead of by political jurisdictions.
- These boundaries allow for inclusion of entire US 278 corridor to I-95 within the planning boundary of the MPO as well as the proposed port area in Jasper County.
- Significant portions of land along US 278 corridor have been permitted for residential & commercial growth in Hardeeville which would allow joint & cooperative planning of the US 278 corridor.
- These boundaries facilitate existing cooperative planning currently underway between Hardeeville and Beaufort County on Bluffton Parkway Phases 6 & 7.
- These boundaries support interest in continuous planning of the US 278 corridor that serves as primary access route for southern Beaufort County.
- SC 170 corridor is a potential high growth area and can be better served with comprehensive planning from both sides of Broad River.
- These boundaries limit duplicate staff efforts for planning in separate areas.

Funding:

There are various monies available for start-up funds, operating funds, and project funds, based on the population of the Urbanized Area:

- 'Start-up' money is available from the state for operating costs. We would apply for this start-up money through the SCDOT Secretary this summer.
- Annual operating money is available from the Federal Government (called PL funds). We would receive these on a federal fiscal year cycle. Conversations with the two smallest existing MPOs indicate they get \$135,000-155,000 per year in PL funds for operating expenses, and our MPO would be required to have a 20% match to these funds. We will be notified of our funding amount before March 2013.
- Other federal monies are given to MPOs for the actual transportation projects. We anticipate an estimated \$2.4 million might be given to our MPO, based on data from the other two small MPOs in the state. We will be notified of our funding amount before March 2013. Only enhancement-type funds require a 20% local match.
- An agreement between the participating jurisdictions would determine the percentage of matching funds from each governmental jurisdiction for operating and capital costs.

Schedule:

By August 30, 2012:

- Boundaries for the MPA must be submitted to the Governor (via SCDOT) for approval. Boundaries shall be determined by agreement between the MPO and the Governor.
- Apply for start up money from state through State Planning and Research (SPR), National Highway System (NHS), Surface Transportation Program (STP) and Minimum Guarantee (MG) funds.

By October 2012: State will revise intra-state formulas for PL fund allocations to MPOs.

By March 2013:

- Coordinate any FTA funding issues.
- Update Functional Highway Classifications.
- Develop a signed jurisdictional agreement. The MPO, State, and the public transportation operator shall cooperatively determine their mutual responsibilities. To the extent possible, a single agreement between all parties should be developed. The written agreement shall include responsibilities of all parties, specific provisions for cooperatively developing and sharing information related to the development of financial plans that support the metropolitan transportation plan and the TIP and development of the annual listing of obligated projects.
- New MPO must be designated by Governor.
- Following MPA boundary approval by the MPO and the Governor, the boundary descriptions shall be provided for informational purposes to the FHWA and the FTA.

October 2013: Start receiving annual PL funding from federal government for operating costs.

By March 2014:

- Develop simplified statement of work or a Unified Planning Work Program (UPWP), which is a document that explains the disposition of transportation planning funds in the MPO area. The document must contain a description of the planning work and resulting products, who will perform the work, time frames for completing the work, the cost of the work, and the source(s) of funds.

By March 2016:

- Develop and adopt Long Range Transportation Plan (LRTP): 20-30 year implementation plan that guides the region's vision over at least the next twenty years and must contain projects that are "cost feasible," meaning projects that can be built with funds that are reasonably expected to be obligated over the plan's timeframe.
- Draft and adopt a Transportation Improvement Program (TIP), a 4-5 year fiscally constrained prioritized project list and required for project to be eligible for funding under title 23 U.S.C. and title 49 U.S.C. Chapter 53.
- Develop and adopt public participation program.
- Develop Title VI Complaint Process.
- SCDOT must approve these plans for inclusion into their state plans and STIP. Plans are to be accepted by the state before funding can commence.

October 2016: Start receiving capital improvement guideshare funding on annual basis from federal government.

Background:

With the 2010 census results, the Bureau of the Census designated the Town of Hilton Head Island, the Town of Bluffton, and portions of southern Beaufort County to be in an ‘Urbanized Area’ (UZA) because their combined population (68,998) is now over 50,000.

Creation of the boundaries and organization are governed by CFR 450.310 and 450.312:

- *“To carry out the metropolitan transportation planning process ..., a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals (as determined by the Bureau of the Census).”*
- *“MPO designation shall be made by agreement between the governor and units of general purpose local government that together represent at least 75% of the affected population (including the largest incorporated city, based on population, as named by the Bureau of the Census).”*
- *“The boundaries of a metropolitan planning area shall be determined by agreement between the MPO and the Governor. At a minimum, the MPA boundaries shall encompass the entire existing urbanized area plus the contiguous area expected to become urbanized within a 20-year forecast period for the metropolitan transportation plan.”*
- *“MPA boundaries may be established to coincide with the geography of regional economic development and growth forecasting areas.”*

The State has given a deadline of March 2013 for the formation of our MPO. There are currently 10 MPOs in the State of South Carolina, ranging in population from 73,107-549,777. This new MPO would be the smallest at 68,998.

The municipalities of Beaufort, Port Royal, Hardeeville, Bluffton, Hilton Head Island and both Jasper and Beaufort County are in the process of approving a similar resolution prior to the August 30, 2012 state deadline.

Enclosures:

- Map showing UZA boundaries, expanded area, & MPA boundaries
- Resolution