
AN ORDINANCE

TO PROVIDE FOR THE ISSUANCE AND SALE OF NOT EXCEEDING FOUR MILLION DOLLARS AGGREGATE PRINCIPAL AMOUNT (\$4,000,000) OF GENERAL OBLIGATION BONDS OF THE TOWN OF SURFSIDE BEACH, SOUTH CAROLINA; TO PROVIDE FOR THE ISSUANCE AND SALE OF GENERAL OBLIGATION BOND ANTICIPATION NOTES IN ANTICIPATION OF THE ISSUANCE OF SAID BONDS; TO PRESCRIBE THE PURPOSES TO WHICH THE PROCEEDS OF SUCH BORROWING SHALL BE APPLIED; TO PROVIDE FOR THE PAYMENT THEREOF; AND OTHER OTHER MATTERS RELATING THERETO.

Enacted June 25, 2018

TABLE OF CONTENTS

ARTICLE I

FINDINGS OF FACT

SECTION 1.01 FINDINGS AND RECITALS..... 1

ARTICLE II

DEFINITIONS AND AUTHORITY

SECTION 2.01 DEFINITIONS..... 3
SECTION 2.02 CONSTRUCTION..... 5

ARTICLE III

ISSUANCE OF BOND

SECTION 3.01 ORDERING THE ISSUANCE OF THE BOND..... 6
SECTION 3.02 MATURITY SCHEDULE OF THE BOND..... 6
SECTION 3.03 MEDIUM OF PAYMENT; FORM AND DENOMINATION OF THE BOND; PLACE
OF PAYMENT..... 6
SECTION 3.04 EXECUTION..... 7
SECTION 3.05 EXCHANGE OF THE BOND..... 7
SECTION 3.06 TRANSFERABILITY AND REGISTRY..... 7
SECTION 3.07 TRANSFER OF THE BOND..... 7
SECTION 3.08 REGULATIONS WITH RESPECT TO EXCHANGES AND TRANSFERS..... 7
SECTION 3.09 MUTILATED, DESTROYED, LOST AND STOLEN BOND..... 8
SECTION 3.10 HOLDER AS OWNER OF THE BOND..... 8
SECTION 3.11 CANCELLATION OF THE BOND..... 8
SECTION 3.12 PAYMENTS DUE SATURDAYS, SUNDAYS AND HOLIDAYS..... 9
SECTION 3.13 TAX EXEMPTION IN SOUTH CAROLINA..... 9
SECTION 3.14 ORDER TO LEVY AD VALOREM TAXES TO PAY PRINCIPAL AND INTEREST
OF THE BOND..... 9
SECTION 3.15 FORM OF THE BOND..... 9

ARTICLE IV

REDEMPTION OF BOND

SECTION 4.01 REDEMPTION OF THE BOND..... 10
SECTION 4.02 ELECTION TO REDEEM..... 10

ARTICLE V

SALE OF BOND

SECTION 5.01 SALE OF THE BOND..... 11
SECTION 5.02 SUMMARY NOTICE OF SALE. 11

ARTICLE VI

DISPOSITION OF PROCEEDS OF SALE OF BOND

SECTION 6.01 DISPOSITION OF BOND PROCEEDS INCLUDING TEMPORARY INVESTMENTS.
12

ARTICLE VII

DEFEASANCE OF BOND

SECTION 7.01 DISCHARGE OF ORDINANCE - WHERE AND HOW THE BOND IS DEEMED TO
HAVE BEEN PAID AND DEFEASD. 13

ARTICLE VIII

CERTAIN TAX AND DISCLOSURE MATTERS

SECTION 8.01 COVENANTS TO COMPLY WITH REQUIREMENTS OF THE CODE 14
SECTION 8.02 ABILITY TO MEET ARBITRAGE REQUIREMENTS..... 15
SECTION 8.03 CONTINUING DISCLOSURE. 15
SECTION 8.04 QUALIFIED TAX-EXEMPT OBLIGATION. 16

ARTICLE IX

BORROWING IN ANTICIPATION OF BONDS

SECTION 9.01 GENERALLY..... 17
SECTION 9.02 TERMS OF BANS..... 17
SECTION 9.03 PAYING AGENT AND REGISTRAR FOR BANS; PLACE AND TIME OF
PAYMENT. 17
SECTION 9.04 SALE OF BANS. 18
SECTION 9.05 FORM AND EXECUTION OF BANS. 18
SECTION 9.06 EXCHANGE AND TRANSFER OF BANS..... 18
SECTION 9.07 OPTIONAL REDEMPTION OF BANS..... 18
SECTION 9.08 SECURITY FOR BANS. 18
SECTION 9.09 APPLICATION OF BAN PROCEEDS. 19
SECTION 9.10 TAX EXEMPTION FOR BANS..... 19

ARTICLE X

MISCELLANEOUS

SECTION 10.01 SAVINGS CLAUSE..... 20
SECTION 10.02 SUCCESSORS. 20
SECTION 10.03 ORDINANCE TO CONSTITUTE CONTRACT..... 20
SECTION 10.04 FILING OF COPIES OF ORDINANCE..... 20
SECTION 10.05 FURTHER ACTION BY OFFICERS OF TOWN. 20
SECTION 10.06 NOTICE PURSUANT TO SECTION 11-27-40, PARAGRAPH 8 OF THE SOUTH
CAROLINA CODE..... 21
SECTION 10.07 EFFECTIVE DATE OF ORDINANCE..... 21

EXHIBIT A – FORM OF BOND

EXHIBIT B – FORM OF BOND ANTICIPATION NOTE

Approved

BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SURFSIDE BEACH, SOUTH CAROLINA, IN COUNCIL DULY ASSEMBLED, AS FOLLOWS:

ARTICLE I

FINDINGS OF FACT

Section 1.01 Findings and Recitals

As an incident to the enactment of this ordinance (this “**Ordinance**”) and the issuance of the Bond (as hereinafter defined), the Town Council of the Town of Surfside Beach (the “**Town Council**”), the governing body of the Town of Surfside Beach, South Carolina (the “**Town**”), finds that the facts set forth in this Article exist and the statements made with respect thereto are in all respects true and correct.

1. The Town is a municipal corporation of the State of South Carolina (the “**State**”), located in Horry County, South Carolina, and as such possesses all general powers granted to municipal corporations.

2. By virtue of Chapter 21, Title 5 and the provisions of Section 11-27-40, South Carolina Code (together, the “**Enabling Act**”), the Town is empowered to issue general obligation bonds for any corporate and public purpose.

3. The Town Council, after due investigation and deliberation, has determined that it is necessary to issue general obligation debt in an amount not exceeding \$4,000,000 of the Town to defray the costs incurred in connection with all or a portion of: (1) the planning, designing, engineering, financing, and constructing of a new municipal pier and related structures and infrastructure to be located in the Town and which will include all costs necessary or convenient to replace the existing, heavily damaged, municipal pier, including any costs of demolition and removal thereof (the “**Project**”); and (2) issuing the Bond. It is presently estimated that the costs of the portion of the Project to be financed from the proceeds of the Bond, together with the costs of issuance of the Bond, will not be in excess of \$4,000,000.

4. The Project constitutes a corporate and public purpose within the meaning of the Enabling Act.

5. Section 14 of Article X of the Constitution of the State of South Carolina (“**Section 14 of Article X**”) provides that subsequent to November 30, 1977, the municipalities of the State may issue bonded indebtedness in an amount not exceeding 8% of the assessed value of all taxable property therein (the “**Debt Limit**”). According to the County Auditor, the assessed value of all taxable property in the Town for the fiscal year ended June 30, 2017, which is the most recent fiscal year for which a completed assessment has been completed, excluding property subject to a fee-in-lieu of *ad valorem* property taxes, is not less than the sum of \$63,544,855; thus the Debt Limit equals \$5,083,588. The Town presently has no outstanding general obligation indebtedness chargeable against the Debt Limit, and therefore, the Town presently is permitted to issue the principal amount of \$5,083,588 of general obligation debt. The Debt Limit is in excess of the

anticipated not exceeding \$4,000,000 principal amount intended to be borrowed by the Town under this Ordinance and under the provisions of Section 14 of Article X and the Enabling Act; therefore, the Town may borrow such money without the necessity of holding a referendum.

6. The Town Council has determined to issue general obligation debt of the Town in an amount not to exceed \$4,000,000 to finance certain costs of the Project as described above and the costs of issuance thereof.

[End of Article I]

Approved

ARTICLE II

DEFINITIONS AND AUTHORITY

Section 2.01 Definitions

As used in this Ordinance, unless the context shall otherwise require, the following terms shall have the following respective meanings:

“Authorized Investments” means any securities which are now or hereafter authorized legal investments for municipalities pursuant to the South Carolina Code.

“Authorized Officer” means the Mayor, Town Administrator, or the Finance Director and any other officer or employee designated from time to time as an Authorized Officer by resolution of the Town Council, and when used with reference to any act or document also means any other person authorized by resolution of the Town Council to perform such act or sign such document.

“BAN Act” means Title 11, Chapter 17 of the South Carolina Code.

“Bond” means the not exceeding \$4,000,000 General Obligation Bond issued in one or more Series in accordance with the provisions of this Ordinance.

“Bondholder” or **“Holder”** or **“Holder of Bond”** or **“Owner”** or similar term means, when used with respect to the Bond means any person who shall be registered as the owner of the Bond Outstanding as shown on the registration books of the Town maintained by the Registrar.

“Bond Payment” means the periodic payments of principal of, interest on and redemption premium, if any, on the Bond.

“Bond Payment Date” means each date on which a Bond Payment shall be payable.

“Clerk” means the municipal clerk of the Town.

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

“Enabling Act” means Title 5, Chapter 21 and the provisions of Section 11-27-40 of the South Carolina Code.

“Finance Director” means the finance director of the Town and includes any interim Town Finance Director or other official acting in such capacity.

“Government Obligations” means and includes direct general obligations of the United States of America or agencies thereof or obligations, the payment of principal or interest on which is fully and unconditionally guaranteed by the United States of America.

“Mayor” means the Mayor of the Town, or in his absence the Mayor Pro Tempore.

“Ordinance” shall mean this ordinance of the Town Council authorizing the issuance of the Bond.

“Original Issue Date” shall mean the date of delivery of the Bond to the initial purchaser thereof.

“Outstanding”, when used in this Ordinance with respect to the Bond, means as of any date, the Bond theretofore delivered pursuant to this Ordinance except:

(a) the Bond if cancelled or delivered to the Registrar for cancellation on or before such date;

(b) the Bond if deemed to have been paid in accordance with the provisions of Section 7.01 hereof; and

(c) the Bond if in lieu of or in exchange for which another Bond shall have been authenticated and delivered pursuant to Section 3.05 hereof.

“Paying Agent” means the Town.

“Person” means an individual, a partnership, a corporation, a trust, a trustee, an unincorporated organization, or a government or an agency or political subdivision thereof.

“Record Date” means either (1) the 15th day of the month in the month immediately preceding each Bond Payment Date for Bond Payment Date falling on the 1st day of a month or (2) the 1st day of the month for Bond Payment Dates falling on the 15th day of such month.

“Registrar” means the Town, acting through the Clerk.

“Series” means an issuance of Bonds authenticated and delivered on original issuance in a simultaneous transaction, and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds.

“South Carolina Code” means the Code of Laws of South Carolina 1976, as amended.

“Town” means the Town of Surfside Beach, South Carolina.

“Town Administrator” means the Town Administrator of the Town and includes any interim Town Administrator or other official acting in such capacity.

“Town Council” means the Town Council of the Town of Surfside Beach, the governing body of the Town or any successor governing body.

Section 2.02 Construction

In this Ordinance, unless the context otherwise requires:

1. Articles and Sections referred to by number shall mean the corresponding Articles and Sections of this Ordinance.
2. The terms “hereby”, “hereof”, “hereto”, “herein”, “hereunder” and any similar terms refer to this Ordinance, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of adoption of this Ordinance.
3. Words of the masculine gender shall mean and include correlative words of the female and neuter genders, and words importing the singular number shall mean and include the plural number and vice versa.
4. Any fiduciary shall be deemed to hold an Authorized Investment in which money is invested pursuant to the provisions of this Ordinance, even though such Authorized Investment is evidenced only by a book entry or similar record of investment.

[End of Article II]

ARTICLE III

ISSUANCE OF BOND

Section 3.01 Ordering the Issuance of the Bond

Pursuant to the provisions of the Enabling Act and for the purpose of obtaining funds to defray the costs of the Project, there shall be issued by the Town a general obligation bond in the principal amount of not exceeding Four Million Dollars (\$4,000,000) designated “General Obligation Bond, Series 2018 of the Town of Surfside Beach, South Carolina” (the “**Bond**”) or such other designation as determined appropriate by an Authorized Officer. The Bonds shall bear a Series designation as determined by an Authorized Officer, but in all cases shall include the calendar year of the issuance thereof. An Authorized Officer is hereby authorized to determine the principal amount of the Bond and other items related to the sale and marketability of the Bond. As determined by an Authorized Officer, the Bond may be sold in multiple Series bearing any such designation as appropriate.

Section 3.02 Maturity Schedule of the Bond

The Bond shall be dated as of the date of its delivery and shall bear interest from its dated date. The principal amount, term, rate of interest and payment details of the Bond shall be determined by an Authorized Officer, provided, however, that in no event shall the principal amount of the Bond exceed \$4,000,000. Bond Payments on the Bond shall be scheduled to occur no less frequently than annually, and may be scheduled more frequently if so determined by an Authorized Officer.

The Bond shall be dated and authenticated as of the Original Issue Date, unless an Authorized Officer and purchaser of the Bond agree otherwise.

Section 3.03 Medium of Payment; Form and Denomination of the Bond; Place of Payment

(a) The Bond shall be payable as to principal and interest on the basis of a 360-day year, consisting of twelve (12) thirty (30) day months each, in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

(b) The Bond shall be issued in the form of one (1) fully registered bond.

(c) The Town shall serve as Paying Agent for the Bond, and the Bond Payments shall be made by the Paying Agent to the Person appearing on each Record Date on the registration books of the Town, which books shall be held by the Town as Registrar, as provided in Section 3.06 hereof, as the registered owner thereof, by check or draft mailed from the Town to such registered owner at his or her address as it appears on such registration books in sufficient time to reach such registered owner on the Bond Payment Dates. Payment of the final Bond Payment shall be made when the same is due and payable upon the presentation and surrender for cancellation of the Bond at the administrative office of the Town, or upon such other condition or indicia of satisfaction as may be mutually agreed-upon by the Town and the purchaser of the Bond.

Section 3.04 Execution

The Bond shall be executed in the name of and on behalf of the Town by the manual or facsimile signature of an Authorized Officer, with its corporate seal impressed, imprinted or otherwise reproduced thereon, and attested by the manual signature of its Clerk or other Authorized Officer (other than the officer or officers executing the Bond). The Bond may bear the manual signature of any person who shall have been such an Authorized Officer authorized to sign the Bond at the time such Bond was so executed, and shall bind the Town notwithstanding the fact that his or her authorization may have ceased prior to the authentication and delivery of the Bond.

Section 3.05 Exchange of the Bond

The Bond, upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered Holder or his or her duly authorized attorney, may, at the option of the registered Holder thereof, be exchanged for a new Bond of the same interest rate and maturity. So long as the Bond remains Outstanding, the Town shall make all necessary provisions to permit the exchange of the Bond. Such new bond shall reflect the principal amount thereof as then yet unpaid.

Section 3.06 Transferability and Registry

The Bond shall at all times, when the same is Outstanding, be payable to a Person, and shall be transferable only in accordance with the provisions for registration and transfer contained in this Ordinance and in the Bond. So long as the Bond remains Outstanding, the Town (acting through the Clerk), as Registrar, shall maintain and keep, at its administrative office, books for the registration and transfer of the Bond, and, upon presentation thereof for such purpose at such office, the Town shall register or cause to be registered therein, and permit to be transferred thereon, under such reasonable regulations as it may prescribe, such Bond.

Section 3.07 Transfer of the Bond

The Bond shall be transferable only upon the books of the Registrar, upon presentation and surrender thereof by the Holder of the Bond in person or by his or her attorney duly authorized in writing, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered Holder or his or her duly authorized attorney. Upon surrender for transfer of the Bond, the Town shall execute, authenticate and deliver, in the name of the Person who is the transferee, a new Bond of the same principal amount and maturity and rate of interest as the surrendered Bond. Such new Bond shall reflect the principal amount thereof as then yet unpaid.

Section 3.08 Regulations with Respect to Exchanges and Transfers

The Bond surrendered in any exchange or transfer shall forthwith be cancelled by the Registrar. For each such exchange or transfer of the Bond, the Registrar may make a charge sufficient to reimburse itself for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which sum or sums shall be paid by the Holder requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The Town shall not be obligated to issue, exchange or transfer the Bond during the 15 days

next preceding any (a) Bond Payment Date, or (b) date upon which the Bond will be redeemed, if any.

Section 3.09 Mutilated, Destroyed, Lost and Stolen Bond

(a) If the Holder surrenders a mutilated Bond to the Registrar or the Registrar receives evidence to its satisfaction of the destruction, loss, or theft of the Bond, and there is delivered to the Registrar such security or indemnity as may be required by it to save it harmless, then, in the absence of notice that the Bond has been acquired by a bona fide purchaser, the Town shall execute and deliver, in exchange for the mutilated Bond or in lieu of any such destroyed, lost, or stolen Bond, a new Bond of like tenor, maturity, and interest rate bearing a number unlike that of such mutilated, destroyed, lost, or stolen Bond, and shall thereupon cancel any such mutilated Bond so surrendered. In case any such mutilated, destroyed, lost, or stolen Bond has become or is to become due for final payment within one month, the Town in its discretion may, instead of issuing a new Bond, pay the Bond.

(b) Upon the issuance of any new Bond under this Section 3.09, the Town may require the payment of a sum sufficient to cover any tax, fee, or other governmental charge that may be imposed in relation thereto and any other expenses, including counsel fees or other fees, of the Town or the Registrar connected therewith.

(c) Each new Bond issued pursuant to this Section in lieu of any destroyed, lost, or stolen Bond, shall constitute an additional contractual obligation of the Town, whether or not the destroyed, lost, or stolen Bond shall at any time be enforceable by anyone, and shall be entitled to all the benefits hereof equally and proportionately with the Bond duly issued pursuant to this Ordinance.

(d) The Bond shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement or payment of the mutilated, destroyed, lost, or stolen Bond and shall preclude (to the extent lawful) all other rights or remedies with respect to the replacement or payment of the mutilated, destroyed, lost, or stolen Bond or securities.

Section 3.10 Holder As Owner of the Bond

In its capacity as Registrar, the Town may treat the Holder of the Bond as the absolute owner thereof, whether the Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the Bond Payment on the Bond and for all other purposes, and payment of the Bond Payment shall be made only to, or upon the order of, such Holder. All payments to such Holder shall be valid and effectual to satisfy and discharge the liability upon the Bond to the extent of the sum or sums so paid, and the Town shall not be affected by any notice to the contrary.

Section 3.11 Cancellation of the Bond

The Registrar shall destroy the Bond when the same shall be surrendered to it for cancellation. In such event, the Bond shall no longer be deemed Outstanding under this Ordinance and no bond shall be issued in lieu thereof.

Section 3.12 Payments Due Saturdays, Sundays and Holidays

In any case where the Bond Payment Date shall be Saturday or Sunday or shall be, at the place designated for payment, a legal holiday or a day on which banking institutions are authorized by law to close, then payment of the Bond Payment need not be made on such date but may be made on the next succeeding business day not a Saturday, Sunday or a legal holiday or a day upon which banking institutions are authorized by law to close, with the same force and effect as if made on the Bond Payment Date and no interest shall accrue for the period after such date.

Section 3.13 Tax Exemption in South Carolina

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

Section 3.14 Order to Levy Ad Valorem Taxes to Pay Principal and Interest of the Bond

For Bond Payments on the Bond as the same become due and for the creation of such sinking fund as may be necessary therefor, the full faith, credit, and taxing power of the Town are hereby irrevocably pledged, and there shall be levied an ad valorem tax upon all taxable property located within the Town sufficient to pay the Bond Payments until the Bond is no longer Outstanding. Such levy shall be reduced to the extent that, at the time the amount of annual millage levy for the debt service is set, the Town has available other amounts for the payment of amounts due on the succeeding Bond Payment Date and has deposited the same into the sinking fund established for the payment of the Bond Payment.

Section 3.15 Form of the Bond

The form of the Bond and registration provisions to be endorsed thereon, shall be substantially as set forth in Exhibit A attached hereto and made a part of this Ordinance.

[End of Article III]

ARTICLE IV

REDEMPTION OF BOND

Section 4.01 Redemption of the Bond

The Bond shall be subject to redemption prior to maturity upon such terms as may be agreed to by an Authorized Officer and the purchaser of the Bond.

Section 4.02 Election to Redeem

In the event that the Town shall, in accordance with the provisions of Section 4.01 hereof, elect to redeem the Bond, it shall give notice to the Registrar and the Paying Agent of each optional redemption. Such notice shall specify the date fixed for redemption and the Bond which is to be redeemed. Such notice shall be given at least 30 days prior to the date fixed for redemption or such lesser number of days as shall be acceptable to the Registrar.

[End of Article IV]

APPROVED

ARTICLE V
SALE OF BOND

Section 5.01 Sale of the Bond

(a) Except as authorized by Section 5.01(b) below, the Bond shall be sold at public sale, at a price not less than par plus accrued interest to the date of delivery. Bids shall be solicited on the basis of an official notice of sale to be developed and circulated by an Authorized Officer. Unless all of the bids are rejected, the award of the Bond shall be made to the party offering the terms most advantageous to the Town. An Authorized Officer shall determine what grounds constitute the terms most advantageous to the Town.

(b) In accordance with Section 11-27-40(4) of the South Carolina Code and notwithstanding the provisions of Section 5.01(b) above, should the Bonds be sold as a Series in an amount not exceeding \$1,500,000 and mature not later than 10 years from its date of issuance, the sale of such Series of Bonds may be negotiated at private sale at an interest rate to be agreed to by an Authorized Officer and the purchaser of the Bond. In negotiating the sale of the Bond, an Authorized Officer is authorized to solicit bids from qualified lenders for the purchase of the Bond and the award of any such solicitation shall be made under the same standards as provided in Section 5.01(a) above. If the Bond is sold under the provisions of this Section 5.01(b), notice of the sale of the Bond meeting the requirements of 11-27-40(4) of the South Carolina Code shall be given not less than seven (7) days prior to delivery of the Bond.

Section 5.02 Summary Notice of Sale

In lieu of publishing the official notice of sale in its entirety, the an Authorized Officer may elect to publish an abbreviated form of such notice and provide the entire notice of sale to those parties who may request the same. The summary notice of sale shall be published, not less than seven (7) days prior to the date fixed for the sale, in a newspaper of general circulation in the State, and/or, if deemed appropriate by an Authorized Officer, in a financial publication published in the City of New York, New York.

[End of Article V]

ARTICLE VI

DISPOSITION OF PROCEEDS OF SALE OF BOND

Section 6.01 Disposition of Bond Proceeds Including Temporary Investments

The proceeds derived from the sale of the Bond shall be paid to the Town, to be applied as follows:

- (a) to pay the principal of and interest on any Outstanding BAN issued pursuant to this Ordinance when it is redeemed or otherwise matures, and
- (b) the remaining amount shall be deposited in a separate account, and shall be expended and made use of by the Town Council to defray the costs of the Project described in Section 1.01 hereof, and to pay the costs of issuance of any Bond.

Pending the use of Bond proceeds, the same shall be invested and reinvested by the Town in Authorized Investments. All earnings from such investments shall be applied, at the direction of an Authorized Officer, either (1) to defray the cost of the undertakings for which the Bond is issued and if not required for this purpose, then (2) to pay the next Bond Payment then falling due on the Bond; if any balance remains, it shall be held by the Town in a special fund, invested by an Authorized Officer in Government Obligations and other Authorized Investments, with a yield not in excess of the yield on such Bond and used to effect the retirement thereof.

Neither the purchaser nor Holder of the Bond shall be liable for the proper application of the proceeds thereof.

[End of Article VI]

ARTICLE VII

DEFEASANCE OF BOND

Section 7.01 Discharge of Ordinance - Where and How the Bond is Deemed to Have Been Paid and Defeased

If the Bond and the interest thereon shall have been paid and discharged, then the obligations of the Town under this Ordinance and all other rights granted hereby shall cease and determine. The Bond shall be deemed to have been paid and discharged within the meaning of this Article under each of the following circumstances:

- (a) a third party institution, which shall be any bank, trust company, or national banking association which is authorized to provide corporate trust services (the “*Fiduciary*”), shall hold, in trust and irrevocably appropriated thereto, sufficient moneys for the payment of all Bond Payments due thereunder; or
- (b) if default in the payment of the Bond Payment due shall have occurred on any Bond Payment Date, and thereafter tender of such payment shall have been made, and at such time a designated Fiduciary shall hold in trust and irrevocably appropriated thereto, sufficient moneys for the payment thereof to the date of the tender of such payment; or
- (c) if the Town shall elect to provide for the payment of the Bond prior to its stated maturity and shall have deposited with a Fiduciary, in an irrevocable trust, moneys which shall be sufficient, or Government Obligations, the principal of and interest on which when due will provide moneys, which together with moneys, if any, deposited with such Fiduciary at the same time, shall be sufficient to pay when due the Bond Payment due and to become due, together with any redemption premium applicable thereto.

Neither the Government Obligations nor moneys deposited with any Fiduciary pursuant to this Section nor the Bond Payments thereon shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Bond Payments and redemption premium, if any, on the Bond; provided that any cash received from such principal or interest payments on Government Obligations deposited with the Fiduciary, if not then needed for such purpose, shall to the extent practicable be invested and reinvested in Government Obligations maturing at times and in amounts sufficient to pay when due the Bond Payments and redemption premium, if any, to become due on the Bond on and prior to the Bond Payment Dates thereof, and interest earned from such reinvestments not required for the payment of the Bond Payments and redemption premium, if any, may be paid over to the Town, free and clear of any trust, lien or pledge.

[End of Article VII]

ARTICLE VIII

CERTAIN TAX AND DISCLOSURE MATTERS

Section 8.01 Covenants to Comply with Requirements of the Code

The Town acknowledges that it has on-going responsibilities with respect to the Code and the preservation of the tax-exempt status of the Bond. The Town hereby represents and covenants that it will comply with all relevant requirements of the Code, and that it will not take any action which will, or fail to take any action (including, without limitation, filing the required information reports with the Internal Revenue Service) which failure will, cause interest on the Bond to become includable in the gross income of the Holder thereof for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Bond. Without limiting the generality of the foregoing, the Town represents and covenants that:

(a) All property financed or refinanced with the net proceeds of the Bond will be owned for federal income tax purposes by the Town throughout the entire term of the Bond and until the Bond is paid in full.

(b) The Town shall not permit the proceeds of the Bond or any property financed or refinanced with the proceeds of the Bond to be used such that (i) ten percent (10%) or more of such proceeds are considered as having been used in a private business use; or (ii) an amount greater than the lesser of five percent (5%) of such proceeds or \$5,000,000 are considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit as provided in Section 141(c) of the Code.

(c) The Town is not a party to, will not enter into, or permit any other party to enter into, any contracts with any entity involving the management of any property provided with the proceeds of the Bond that do not conform to (i) the guidelines set forth in Revenue Procedure 2017-13, or a successor revenue procedure, or (ii) the Code.

(d) No property, nor any portion thereof, financed or refinanced with the proceeds of the Bond will be (i) sold, leased, or otherwise disposed of to (or for the benefit of) any private person engaged in a private trade or business, or, (ii) managed, serviced, or otherwise used (directly or indirectly) by (or on behalf of) any private person engaged in a private trade or business, unless the Town obtains an opinion of nationally recognized bond counsel that such sale, lease, other disposition to (or on behalf of) such private person, or such use in a private trade or business, will not adversely affect the tax-exempt status of interest on the Bond for federal income tax purposes.

(e) The Bond will not be “federally guaranteed” within the meaning of Section 149(b) of the Code. No property, nor any portion thereof, financed or refinanced with the proceeds of the Bond will be (i) sold, leased, or otherwise disposed of to (or for the benefit of) the federal government or any of its agencies, or (ii) managed, serviced or otherwise

used (directly or indirectly) by (or on behalf of) the federal government or any of its agencies, unless the Town obtains an opinion of nationally recognized bond counsel that such sale, lease, other disposition to, or such use by (or on behalf of), the federal government or any of its agencies will not adversely affect the tax-exempt status of interest on the Bond for federal income tax purposes.

(f) The Town covenants to file IRS form 8038-G at the time and in the place required therefor under the Code.

(g) Prior to the issuance of the Bond, the an Authorized Officer may designate the Bond or bonds as taxable under the Code. The election to issue a series of taxable bonds shall be clearly indicated by including the phrase “Taxable Series,” or words to that effect, in the series designation of such taxable bonds.

Section 8.02 Ability to Meet Arbitrage Requirements

(a) The Town hereby covenants that: (i) on the date of issuance of the Bond, it will reasonably expect that no use of the proceeds of the Bond, (ii) after the issuance date of the Bond, it will make no use of the proceeds of the Bond, that would cause the Bond to be an “arbitrage bond,” as defined in the Code, and (iii) it will comply with all of the requirements of Section 148 of the Code with respect to the Bond.

(b) In order to comply with the requirements of paragraph (a) of this Section, the Town further agrees to compute and pay arbitrage rebate required under Section 148(f) of the Code.

(c) Supplemental to the covenants of Section 8.01 hereof, and in no way in limitation thereof, an Authorized Officer is hereby authorized and directed to execute, at or prior to delivery of the Bonds, a certificate or certificates specifying actions taken or to be taken by the Town, and the reasonable expectations of such officials, with respect to the Bond, the proceeds thereof, or the Town.

Section 8.03 Continuing Disclosure

Pursuant to Section 11-1-85 of the South Carolina Code (“*Section 11-1-85*”), the Town covenants to file with a central repository for availability in the secondary bond market, when requested:

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

(b) Event-specific information within thirty days of an event adversely affecting more than five percent of revenue or the Town’s tax base.

The only remedy for failure by the Town to comply with the covenant in this Section 8.03 shall be an action for specific performance of this covenant. The Town specifically reserves the right to amend this covenant to reflect any change in Section 11-1-85, without the consent of any Bondholder.

Section 8.04 Qualified Tax-Exempt Obligation

The Town expects to issue no tax-exempt obligation in calendar year 2018 which, along with the Bond, would aggregate more than \$10,000,000. Accordingly, the Bond may be designated by an Authorized Officer as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3)(B) of the Code. An Authorized Officer may make a such representation and designation in future years as appropriate.

[End of Article VIII]

Approved

ARTICLE IX

BORROWING IN ANTICIPATION OF BONDS

Section 9.01 Generally

Pursuant to the BAN Act, there may be issued from time to time, at the discretion of an Authorized Officer, bond anticipation notes (“**BANs**”) in aggregate principal amount not exceeding \$4,000,000 in anticipation of the issuance of the Bond. If BANs are issued and if, upon the maturity thereof an Authorized Officer should determine that it would be in the best interest of the Town to renew or refund the BANs, they are authorized to renew or refund the BANs from time to time until an Authorized Officer determines to issue the Bond, and the Bond is issued.

Without limiting the generality or specifics of any other provision in this Resolution, the term “Bond” as used in Articles VI, VII, VIII, and X shall include BANs.

Section 9.02 Terms of BANs

The BANs shall be dated and bear interest from its date of issuance or from such other date or dates as may be agreed to by the Town and the purchaser thereof, payable upon the stated maturity thereof and shall mature on such dates as determined by an Authorized Officer, provided that no BAN shall mature on a date which is later than one year following the issuance thereof. Interest on the BANs shall be calculated on the basis of a 360-day year of twelve 30-day months. The BANs shall be payable, both as to principal and interest, in legal tender upon maturity, at the principal office of the Paying Agent. The BAN may be issued as a draw-down obligation with interest beginning to accrue thereunder as amounts are advanced from the purchaser. The BANs may be issued in denominations of \$1,000 and integral multiples thereof. The BANs shall be executed and sealed in the name and on behalf of the Town in the same manner as the Bond. BANs bearing the manual or facsimile signature of any Person who shall have been such an Authorized Officer at the time such BANs were so executed shall bind the Town notwithstanding the fact that he may have ceased to be such Authorized Officer prior to the authentication and delivery of such BANs or was not such Authorized Officer at the date of the authentication and delivery of the BANs.

Section 9.03 Paying Agent and Registrar for BANs; Place and Time of Payment

The Town shall serve as Paying Agent for the Bond, and the Bond Payments shall be made by the Paying Agent to the Person appearing on each Record Date on the registration books of the Town, which books shall be held by the Town as Registrar, as provided in Section 3.06 hereof, as the registered owner thereof, by check or draft mailed from the Town to such registered owner at his or her address as it appears on such registration books in sufficient time to reach such registered owner on the Bond Payment Dates. Payment of the final Bond Payment shall be made when the same is due and payable upon the presentation and surrender for cancellation of the Bond at the administrative office of the Town, or upon such other condition or indicia of satisfaction as may be mutually agreed-upon by the Town and the purchaser of the Bond.

Section 9.04 Sale of BANs

The BANs may be sold at public or private sale. Bids therefor shall be received until such time and date to be selected by an Authorized Officer. Notice of sale of the BANs shall be given in a manner determined by an Authorized Officer. Upon receipt of bids for the BANs, an Authorized Officer shall, and is hereby authorized to, award the BANs to the bidder offering the lowest interest cost therefor, the method of calculation of which shall be set forth in the notice of sale and determined at an Authorized Officer's discretion, without further action on the part of the Authority if an Authorized Officer shall determine that it is in the interest of the Town to make such award.

Section 9.05 Form and Execution of BANs

The BANs shall be issued in physical form registered the name of the Holder with such terms and conditions, not inconsistent with this Ordinance, as shall be determined by an Authorized Officer. No BAN shall be valid or obligatory for any purpose or shall be entitled to any right or benefit hereunder unless there shall be endorsed on such BAN a certificate of authentication duly executed by the manual signature of the Registrar and such certificate of authentication upon any BAN executed on behalf of the Town shall be conclusive evidence that the BAN so authenticated has been duly issued hereunder and that the Holder thereof is entitled to the benefit of the terms and provisions of this Ordinance. The form of the BAN is attached as Exhibit B and shall be substantially similar, with such amendments as may be authorized by an Authorized Officer.

Section 9.06 Exchange and Transfer of BANs

Conditions as to ownership, exchange, transfer, replacement and payment of BANs shall be as provided for Bonds herein, except as expressly provided in this Ordinance to the contrary.

Section 9.07 Optional Redemption of BANs

The BANs may, at the discretion of an Authorized Officer, be subject to redemption prior to their stated maturity, on such terms and conditions as an Authorized Officer may prescribe, except that the maximum premium to be paid for prior redemption shall not exceed one half of one per centum (1/2%).

Section 9.08 Security for BANs

For the payment of the principal of and interest on the BANs as the same shall fall due, the full faith, credit, and taxing power of the Town shall be pledged. In addition thereto, so much of the principal proceeds of the Bond when issued shall and is hereby directed to be applied, to the extent necessary, to the payment of the BANs; and, further, the Town covenants and irrevocably pledges to effect the issuance of the Bond or, in the alternative, to refund or renew Outstanding BANs in order that the proceeds thereof will be sufficient to provide for the retirement of any BANs issued pursuant hereto. Pursuant to Section 11-17-30 of the South Carolina Code, nothing shall prevent the Town in its discretion from appropriating other legally available funds to the payment of the principal of and interest on the BAN, consistent with the foregoing.

Section 9.09 Application of BAN Proceeds

Proceeds from the sale of the BANs shall be applied in the manner as provided by Section 6.01 herein for Bonds.

Section 9.10 Tax Exemption for BANs

Both the principal of and interest on the BANs shall be exempt from all State, county, municipal, school district, and all other taxes or assessments imposed within the State, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, except estate or other transfer taxes, and certain fees or franchise taxes.

[End of Article IX]

Approved

ARTICLE X
MISCELLANEOUS

Section 10.01 Savings Clause

If any one or more of the covenants or agreements provided in this Ordinance should be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Ordinance.

Section 10.02 Successors

Whenever in this Ordinance the Town is named or referred to, it shall be deemed to include any entity, which may succeed to the principal functions and powers of the Town, and all the covenants and agreements contained in this Ordinance or by or on behalf of the Town shall bind and inure to the benefit of said successor whether so expressed or not.

Section 10.03 Ordinance to Constitute Contract

In consideration of the purchase and acceptance of the Bond by those who shall purchase and hold the same from time to time, the provisions of this Ordinance shall be deemed to be and shall constitute a contract between the Town and the Holders from time to time of the Bond, and such provisions are covenants and agreements with such Holders which the Town hereby determined to be necessary and desirable for the security and payment thereof. The pledge hereof and the provisions, covenants, and agreements herein set forth to be performed on behalf of the Town shall be for the benefit, protection, and security of the Holders of the Bond.

Section 10.04 Filing of Copies of Ordinance

Copies of this Ordinance shall be filed in the offices of the Clerk of the Town and in the office of the Clerk of Court of Horry County, South Carolina (as a part of the Record of Proceedings for the Bond).

Section 10.05 Further Action by Officers of Town

The Authorized Officers and the Clerk are fully authorized and empowered to take the actions required to implement the provisions of this Ordinance and to furnish such certificates and other proofs as may be required of them. In the absence of any officer of the Town Council herein authorized to take any act or make any decision, the Town Administrator is hereby authorized to take any such act or make any such decision.

Section 10.06 Notice Pursuant to Section 11-27-40, paragraph 8 of the South Carolina Code

In order that the Town Council may proceed as expeditiously as possible to issue and deliver the Bond authorized hereby, the an Authorized Officer may determine that the Town avail itself of the provisions of paragraph 8 of Section 11-27-40 of the South Carolina Code. If such determination is made, the notice of enactment prescribed thereby shall be published in accordance with the relevant provisions of such Section.

Section 10.07 Effective Date of Ordinance

This Ordinance shall take effect upon its second reading.

[End of Article X]

Approved

DONE, RATIFIED AND ENACTED this 25th day of June 2018.

**TOWN OF SURFSIDE BEACH,
SOUTH CAROLINA**

(SEAL)

Robert F. Childs, III, Mayor

David L. Pellegrino, Mayor Pro Tempore

Bruce H. Dietrich, Town Council

Mark L. Johnson, Town Council

Ron Ott, Town Council

Debbie T. Scoles, Town Council

Randle M. Stevens, Town Council

Attest:

Clerk

First Reading: June 11, 2018
Second Reading: June 25, 2018

[FORM OF BOND]

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
TOWN OF SURFSIDE BEACH
GENERAL OBLIGATION BOND
SERIES 2018

No. R-1 \$[_____]

Registered Holder:

Principal Amount: _____ Dollars (\$_____)

THE TOWN OF SURFSIDE BEACH, SOUTH CAROLINA (the “Town”), a public body corporate and politic and a political subdivision of the State of South Carolina (the “State”), created and existing by virtue of the laws of the State, acknowledges itself indebted and for value received hereby promises to pay, solely as hereinafter provided, to the Registered Holder named above or registered assigns, the Principal Amount stated above.

This Bond is issued in the principal amount of _____ Dollars (\$_____) for purposes authorized by and pursuant to and in accordance with the Constitution and statutes of the State of South Carolina, including particularly the provisions of Sections 5-21-210 through 5-21-500 and Section 11-27-40, Code of Laws of South Carolina 1976, as amended, and an ordinance (the “Ordinance”) duly enacted by the Town Council of the Town (the “Council”) on June __, 2018.

[Insert Redemption Provisions, if any]

The principal and interest on this Bond shall be paid by way of an equal ____ amortized payment in the amount of \$_____ (each a “Bond Payment”) due and payable on _____ of each of the years 20__ through 20__, inclusive (the “Bond Payment Dates”). This Bond shall bear interest at the rate of _____% per annum, calculated on the basis of a 360-day year consisting of twelve 30-day months, from the date of this Bond and shall be paid by way of the Bond Payments to the person in whose name this Bond is registered at the close of business on the fifteenth day of the month next preceding each Bond Payment date. The Bond Payments shall be payable by check or draft mailed at the times provided herein from the Town to the person in whose name this Bond is registered at the address shown on the registration books. The Bond Payments are payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

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

For Bond Payments on the Bond as the same become due and for the creation of such sinking fund as may be necessary therefor, the full faith, credit, and taxing power of the Town are hereby irrevocably pledged, and there shall be levied an ad valorem tax upon all taxable property located within the Town sufficient to pay the Bond Payments until the Bond is no longer Outstanding. Such levy shall be reduced to the extent that, at the time the amount of annual millage levy for the debt service is set, the Town has available other amounts for the payment of amounts due on the succeeding Bond Payment Date and has deposited the same into the sinking fund established for the payment of the Bond Payment.

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

This Bond is issued in the form of one (1) fully registered bond and is transferable, as provided in the Ordinance, only upon the registration books of the Town kept for that purpose at the offices of the Town by the registered Holder in person or by his or her duly authorized attorney upon (i) surrender of this Bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered holder or his or her duly authorized attorney, and (ii) payment of the charges, if any, prescribed in the Ordinance. Thereupon a new fully registered bond of like interest rate and principal amount shall be issued to the transferee in exchange therefor as provided in the Ordinance. The Town 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 the Bond Payment due hereon and for all other purposes.

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

It is hereby certified and recited that all acts, conditions, and things required to exist, happen, and to be performed precedent to and in the adoption of the Ordinance and in the issuance of this Bond in order to make the legal, valid, and binding general obligation of the Town in accordance with its terms, do exist, have been done, have happened and have been performed in regular and due form as required by law; and that the issuance of this Bond does not exceed or violate any constitutional, statutory, or other limitation upon the amount of indebtedness prescribed by law.

IN WITNESS WHEREOF, the Town has caused this Bond to be signed by the manual signature of the Mayor of the Town, attested by the manual signature of the Clerk of the Town, and the seal of the Town impressed hereon.

**TOWN OF SURFSIDE BEACH,
SOUTH CAROLINA**

(SEAL)

Mayor

Attest:

Clerk
Town of Surfside Beach, South Carolina

Approved

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

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

(Authorized Officer)

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

Approved

[FORM OF BOND ANTICIPATION NOTE]

UNITED STATES OF AMERICA
STATE OF SOUTH CAROLINA
TOWN OF SURFSIDE BEACH
GENERAL OBLIGATION
BOND ANTICIPATION NOTE
SERIES 2018

No. 1 \$[_____]

Registered Holder:

Principal Amount: _____ Dollars (\$_____)

THE TOWN OF SURFSIDE BEACH, SOUTH CAROLINA (the “*Town*”), a public body corporate and politic and a political subdivision of the State of South Carolina (the “*State*”), created and existing by virtue of the laws of the State, acknowledges itself indebted and for value received hereby promises to pay, solely as hereinafter provided, to the Registered Holder named above or registered assigns, the Principal Amount stated above on _____, 2019, and to pay interest on said Principal Amount at the rate of _____ per annum (calculated on a 30-day month, 360-day year basis) payable at maturity of this Note. Both the principal of any interest on this Note are payable to the person in whose name this Note is registered at the address shown on the registration books. The Note payments are payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Note is issued pursuant to and in accordance with the Constitution and laws of the State of South Carolina, including, particularly, the provisions of Title 11, Chapter 17, Title 5, Chapter 21, and Section 11-27-40, of the Code of Laws of South Carolina 1976, as amended, and in accordance with an ordinance (the “*Ordinance*”) duly enacted by the Town Council of the Town (the “*Council*”) on June ____, 2018.

This Note is a general obligation of the Town and is issued in anticipation of and payable, both as to principal and interest, from the proceeds of the not exceeding \$4,000,000 of general obligation bonds of the Town authorized by the Ordinance (the “*Bonds*”), or if said Bonds are not issued prior to the stated maturity of this Note, from the sale, issuance, and delivery of an issue of renewal or refunding general obligation bond anticipation notes; and is secured by a pledge of the full faith, credit and taxing power of the Town.

[This Note is subject to redemption prior to maturity at the option of the Town upon 30 days written notice at [par] plus accrued interest to the redemption date.]

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

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

For every exchange or transfer of this Note, the Town may make a charge sufficient to reimburse itself for any tax, fee, or other governmental charge required to be paid with respect to such exchange or transfer.

IT IS HEREBY CERTIFIED AND RECITED that all acts, conditions, and things required to exist, happen, and to be performed precedent to and in the enactment of the Ordinance and in the issuance of this Note in order to make the legal, valid, and binding general obligation of the Town in accordance with its terms, do exist, have been done, have happened and have been performed in regular and due form as required by law; and that the issuance of this Note does not exceed or violate any constitutional, statutory, or other limitation upon the amount of indebtedness prescribed by law.

IN WITNESS WHEREOF, the Town has caused this Note to be signed by the manual signature of the Mayor of the Town, attested by the manual signature of the Clerk of the Town, and the seal of the Town impressed hereon.

TOWN OF SURFSIDE BEACH,
SOUTH CAROLINA

(SEAL)

Mayor

Attest:

Clerk
Town of Surfside Beach, South Carolina

(FORM OF ASSIGNMENT)

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

within Note and does hereby irrevocably constitute and appoint

attorney to transfer the within Note on the books kept for registration thereof, with full power of
substitution in the premises.

Dated: _____

Signature

(Authorized Officer)

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

Approved

Approved